44.17

START

FIRST

SIDE

XX-71

PIE DESLAURIERS R.

E.2. ARMY FORM B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
058101	Pte	Deslauriers R.	Royal 22 Regiment

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

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

The conduct sheets mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The sentences herein stated should correspond with the sentences of entries in the conduct sheets, references being given to the field service charge or acts certified to not constituted specific acts of gallantry or distinguished conduct.

Instructions.—If the charge is for frequently the entries for misdemeanors need not be totalled separately and dated.

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

Nil

Number of instances of gallantry or distinguished conduct,

or

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

2. The accused has not been previously convicted, or N A

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

3. The accused is not under sentence at the present time, or The accused at the present time is under sentence for N A beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges, for ..... days in civil custody, and 23 days in military custody, making a total of 23 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 25

6. The date of his ~~enlistment~~ attestation specified in his record of service / attestation paper is 25-7-40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 years

8. The accused is entitled to deferred pay or gratuity in respect of 3 years 4 months service.

9. The accused is entitled to reckon 3 years service for the purpose of determining his pension, etc.

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

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

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

(P 18230) W1 13662/140 125,000 8/42 A & E W Ltd Gp 698

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

No. D58101 Rank Pte Name Dalamore Lloyd of 22 Regiment (or as the case may be).

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

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

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

Signed this 11th day of October 43

Adjutant

ROYAL ULSTER RIFLES, G.A.O. 2

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

Date of Promotion.

To the rank of ..... years.

To the rank of ..... years.

To the rank of ..... years.

(Instruction—If any soldier be one of the above particulars cannot be stated from the regimental books the particulars must be stated as far as they can be ascertained, and the reference may be collected from such entries as are available.)

MEDICAL OFFICER'S CERTIFICATE

FORM (S.F.) 252

I certify that I have this morning examined
No. 24191 Rank Pte Name Rawlinson J.
of A Coy 24th Bn and in my opinion he is
fit/unfit to undergo trial by a Court Martial.
Station Mitchelstown
Date 11th Nov 1918.

Guy Talbot Capt
Medical Officer.

XX-21

Correspondence to be PINNED here.

Army Form A.3.

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

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighth day of November, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Third Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

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

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

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

*Omit if not applicable.

* [redacted]

Proceedings Reviewed
15 Jan 44
H.H. Mangle Capt.
Reviewing Officer (J.A.G.) C.M.H.Q.

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

President.

Rank	Name	Regiment
Major	R.S.E. Waterman	West NSR

Members.

Rank	Name	Regiment
Captain	J.N.K. Smeltzer	West NSR
Captain	N.R. Moore	West NSR
(Waiting) Lieutenant	F. Brunet	B 228 R

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

*Signed [signature] Brigadier,
Commanding 3 Cdn Inf Bde.
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D58101 Private Deslauriers, Roland. R 22è R	First Charge AA Sec (12)(1)(a)	Not guilty Rt	Guilty Rt	
	Second Charge AA Sec 12(1)(a)	Not guilty Rt	Guilty Rt	I reserve confirmation of the finding and sentence of the Court. Pte Deslauriers to undergo imprisonment with hard labour for a term of 3 years R I remit the remaining part of the sentence in order that the accused may be released forthwith. I confirm the sentence as remitted. P Mackenzie Brig

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

(Signed) A Kitchener Brigadier, (Signed) Katerman Major, Asst JAG
Commanding 3 Cdn Inf Bde. *President.*
Confirming Officer (d)

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

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

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

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

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

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

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 11th day of November 1943 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter) E 4923 Lt Girouard R R22eR
*(4. ~~The officers under instruction~~)

*Omit if not applicable.

were duly sworn.

Signed this 11th day of November 1943.

Katerman major
President of the Court Martial.

C. Certificate in case of death sentences.

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

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

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

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

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

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

Signed this 15th day of December 1943.

P Mackenzie Brig
Senior Officer
Canadian Military Headquarters
23 DEC 1943
Confirming Officer

Promulgated and extracts taken in the case of

Certified that F.G.C.M. Proceedings in the case of D 58101 Pte Deslauriers R. - R 22e R, have been duly Promulgated and extracts taken, on 21 December 43.

W Mcmonagle
(J. L. Bidwell) Capt.,
A/Adjutant,
4 Bn., 1 C. B. R. D.

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

Promulgated and extracts taken in the case of

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

Promulgated and extracts taken in the case of

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

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

(23579) W1.46179/950 50,000 2/42 A.& E.W.,Ltd. Gp.493

B.2

CHARGE SHEET

In the case of D.58101 Private Roland DESLAURIERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service is charged with:-

1st Charge: DESERTING HIS MAJESTY'S SERVICE,

A.A. Sec.12(1) (a) in that he,

In the Field, on the 9th of October 1943, when advancing towards the enemy did absent himself from 1230 hrs until he reported himself at 1300 hrs on the 17th of October 1943, with the intention to avoid battle with the enemy.

2nd Charge: DESERTING HIS MAJESTY'S SERVICE,

A.A. Sec.12(1) (a) in that he,

In the Field, on the 22nd of October 1943, when advancing towards the enemy did absent himself from 1545 hrs until he was apprehended at 1800 hrs the 28th of October 1943, with the intention to avoid battle with the enemy.

(J.P.E. Bernatchez), Lt-Col.,
Commanding Royal 22e Regiment.

In the Field

5th November 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
8 Nov 43

(T.G. Gibson), Brigadier,
Commanding 3 Cdn Inf Bde.

A

Army Form A 9.

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

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

Proceedings of a Field General Court-Martial held ~~at~~ in the field on the 11th day of November 1943, by order of

Brigadier J. G. Gibson

Commanding 3rd Cdn Inf Bde.

dated the 8th day of November 1943.

President.

Major R.E. Ackerman West NSR

Members.

Capt. J.A.R. Sanford West NSR

Capt. W.R. Moore West NSR

Trial of *D 58101 Pte Poland Restauteurs. ~~Judge Advocate~~ R 22e R.

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

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

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

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

The accused is brought before the Court.

Prosecutor.† Lt B.C. Jurisque R 22e R.

Counsel‡ or defending officer† Lt A. Letourneau R 22e R

At 1345 hrs o'clock the Trial commences.

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

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

Question by the President to the accused.

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

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

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

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

‡ Qualification to be stated.

W.E. Ackerman Maj

B

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

~~The following officers under instruction are duly sworn:~~

Do you object to L 4923 Lt. ~~Lt.~~ Leonard R. R 22 R acting as interpreter?

No, sir.

The interpreter is duly sworn.

Charge-Sheet.

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

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (3), the fact should be here recorded.

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

Are you guilty or not guilty of the [first] charge against you which you have heard read?

Question to the accused.

Answer Not Guilty

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

Question

Answer Not Guilty.

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

Question

Answer

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

Question

Answer

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

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

Instruction.

Reference page

C

Proceedings on Plea of Not Guilty.

*Instruction (See R. P. 39 (A))

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

Answer. No.

~~The prosecutor makes an opening address (hands in a written address which is read, marked _____, signed by the President, and attached to the proceedings.)~~ —

The prosecutor proceeds to call witnesses.

First witness for prosecution.

being duly sworn, is examined by the prosecutor.

Veterinary Major.

C,

Case of D52101, Pte. DESLAURIER,

First Witness for the Prosecution

P 48791 Sgt Cameron M Rank having been duly sworn states

The witness identifies the accused.

As platoon Sgt of No 17 Platoon on the 9 Oct 43 we were advancing towards the enemy. The accused was in my platoon, during the morning we were under enemy shelling which was not really for us. The accused was warned a few times to keep up with his section. About 1230 hrs I noticed that the accused was missing from the platoon. Before he left I warned him myself, he told me that he could not go any further forward because of the enemy shelling. He did not have the right to go further. He reported back to me at 1300 hrs 17 Oct 43. On the 22 Oct 43 the accused reported to me for duty. He told me that he had been the guard room serjeant and was relieved from that appointment. I was forming up the platoon to move forward to another position. I told him to get his kit back and then join the platoon. He then went back and failed to return.

Question Did he tell you on the 9 Oct 43 that he was afraid to go forward

Answer He told me he was afraid to go forward and would not go forward.

Cameron
Sgt

B

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

~~The following officers under instruction are duly sworn:~~

Do you object to 2E4923 Lyt. Leonard R. R22R acting as interpreter?

No, sir.

The interpreter is duly sworn.

Charge-Sheet.

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

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

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

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

Answer Not Guilty

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

Answer Not Guilty.

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

Answer

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

Answer

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

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

Paterson

A Army Form A 9.

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

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

Proceedings of a Field General Court-Martial held ~~at~~ in the field on the 11th day of November 1943, by order of Brigadier J. G. Gibson Commanding 3rd Cdn Inf Bde, dated the 8th day of November 1943.

President.

Major R. E. Ackerman Asst JAG

Members.

Capt J.D.K. Sinclair Asst JAG

Capt W.R. Moore Asst JAG

~~Judge Advocate~~

Trial of *D 58101 Pte Pfeil Restaurateur R22eR.

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

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

~~_____ waiting member takes his place as a member of the Court~~ R.E.

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

The accused is brought before the Court.

Prosecutor,† Lt S. E. Levesque R22eR.

Counsel‡ or defending officer* Lt A. Letourneau R22eR

At 1345 hrs o'clock the Trial commences.

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

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

Question by the President to the accused.

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

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

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

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

‡Qualification to be stated.

W.E. Ackerman Maj

B

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

~~The following officers under instruction are duly sworn.~~

Do you object to E 4923 Sgt. Gronvard R. R 22 R acting as interpreter?

No, sir.

The interpreter is duly sworn.

Charge-Sheet.

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

Instruction. If the accused has elected to be tried under Army Act, sec. 16 (3) the fact should be here recorded.

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

Are you guilty or not guilty of the [first] charge against you which you have heard read?

Question to the accused.

Answer. Not Guilty

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

Question.

Answer. Not Guilty.

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

Question.

Answer.

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

Question.

Answer.

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

Instruction.

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

C1

Case of D52101, Pte. DESLAURIER,

First Witness for the Prosecution

P 48791 Sgt Cameron M Rick having been duly sworn states

The witness identifies the accused.

As platoon Sgt of No 18 Platoon on the 9 Oct 43 we were advancing towards the enemy. The accused was in my platoon, during the morning we were under enemy shell fire which was not really for us. The accused was ordered a few times to keep up with his platoon. About 1230 hrs I noticed that the accused was missing from the platoon. Before he left I warned him myself, he told me that he could not go any further forward because of the enemy shelling. He did not come back to me at 1300 hrs 17 Oct 43. On the 22 Oct 43 the accused reported to me from the guardroom sergeant that he had been released from close arrest. I was forming up the platoon to move forward to another position. I told him to put his large pack in the truck and then join the platoon. He failed to return.

Witness then he told me on the 9 Oct 43 that he was afraid to go forward. He told me he was afraid to go forward and would not go forward.

C 2

Question by the defense.

Question Did you see the accused leave the platoon on the 9 Oct 43?

Answer. ~~He accused was told~~ No sir

Question Did the accused tell you he was afraid

Answer Yes sir

Question Did he tell you that he could not control his men?

Answer. He said he was nervous and could not stand the enemy shelling.

Question Was there an enemy barrage around when the accused reported to you on the 22 Oct 43

Answer No sir

Question Did you tell the accused on that date that you were going to attack the enemy

Answer No sir

RP 83.b Complied with.

Peterson
maj

Seind Witness for the Prosecution
Lieut Frederick P Rice R.A. Law, being duly
sworn states
Witness identifies the accused.
I am No 18 Platoon commander and the
accused was in my platoon on the 9th Oct 43
my platoon commander ordered shell fire
at approximately 1215 hrs. That is when
the accused started to fall back with his
platoon ~~as I ordered him to remain and~~
~~to follow~~ with his section. I left at about
1230 hrs the accused left the platoon and
reported back at No 18 Pl Oct 43 at 1300 hrs
Question When the accused left was the
platoon still under enemy shelling
Answer Yes.
Question Did he have with or without permission
Answer Without permission
Question Was you still command No 18
Platoon on the 9th Oct 43 when
Answer Yes.
Question Did any of the accused report himself
to you on that date.
Answer No.

Question by the defence
Question Did you see the accused when
the shelling started.
Answer No.
Question Did you see him at all during
the shelling.
Answer No.

Lieutenant
R.A. Signals

C 4

Question How far was necessary to check that the accused might have lost his way.

Answer No because the fix was not close enough

~~Re examination by the Prosecutor~~

~~Question by the Court~~

~~Question by the Court~~

Question by the Court

Question What leads you to believe the accused left at 1230 hrs

Answer The platoon Sgt reported the incident to the platoon Sgt

him.

RP 83(a) Complied with.

Third Witness for the Prosecution duly sworn states

Witness identifies the accused.

On the 22 Dec 43 I handed all the papers to Major Alland 2/Lt R.A.R. Major Alland then (the accused was present) I am sending you all back to your platoon because the regiment will advance forward against the enemy. Before Major Alland sent the back to the platoon Lt the accused left the platoon. I told them to all of you good soldiers during the next few days your privates (Lance Jacks) be destroyed and sent back to their

Platoon Area

our platoons.

Question by the Defence

Question Did Major Allard specify any particular time the regiment was advanced

Answer He said. I do not know exactly when but soon

Question by the Court

Question At what time did you parade the prisoners to Major Allard.

Answer At about 1400 hrs.

RP. 83(b) Complied with. Rd.

Fourth Witness for the Prosecution

C. 30760 L/cpl Nicholas A.K. No 1 Provost Coy (RCMP) having been duly sworn was Witness identified & examined.

At approx 1300 hrs 28 Oct 43 I was ordered by Lt Hargie Acting Sgt that I was to proceed with three other ranks to Casa Conotto in a motor Company lorry for the purpose of apprehending two soldiers of the Regt I proceeded to said locality and took the two soldiers in custody. We returned on our return journey we passed our detachment at Campobasso and I apprehended them at 1530 hrs.

Defence declines to cross examine the witness

RP 83(b) Complied with Rd

D

The prosecution is closed.

Defence.

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

Answer. No.

Question. Do you intend to call any other witness in your defence?

Answer. No.

Question. ~~Is he a witness as to character only? Answer~~

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (ii) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(*Where any evidence is given for the defence.*)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(*Where the accused does not give evidence upon oath.*)

Question to the accused. Have you anything to say in your defence?

Answer. No

The accused in his defence says:*

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

Instruction

* In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. [For any additional address which he is entitled to make, *see* Instructions to the Court above.]

The evidence of the witnesses for the defence, excluding that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

Summary of C-in-C of Deslauriers 11-11-43

On Oct 9th 1943 being under enemy shelling the accused was advised more than once that he had to follow up with his section, which he did not. He then left his section without support and returned to Canada. He also admitted to wrongfully failing to proceed to the front when ordered. Previous to the 9th he showed a persistent desire that he would like to meet the enemy. He refused to advance by not showing up at his section and a considerable distance to rear.

In the awarding of an important duty, the accused can be guilty of desertion according to Army Act Sec 12 Sub 20 and Sub 2 which I am asking the Court to find him guilty of.

Charles E. Lamoureux Lt

Witness

Closing up address.

On the 9th of Oct. 1943. the accused complained several times that his nerves where in very bad shape and that he was loosing control.

No witnes here proved that the accused left his PL during actual shelling.

I really think that the accused had no intention of ~~avoiding~~ an important duty, but I think that the accused nerves failed to give him support, and that it is the reason why he left his Platoon.

On the 22nd of October 1943. the accused was sent to his coy. There was no enemy activity. There nobody told him that his coy was to meet the enemy on that day. Major Allard before dismissing the accused did not specifiy any time as when his coy was going to ~~not~~ meet the enemy. The accused left that 22nd of Nov.

Arbournear.

E

Finding.*

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

The Court is closed for the consideration of the finding.

The Court find that the accused is Guilty of deserting Her Majesty's Service on the 1st & 2nd Charges as laid. It is noted that there is a Katimavik discrepancy of the 30 min in commencement of absence 2nd charge.

R.S.

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

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

Lt & A.C. Levesque. R22eR. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked E-1-C-2 signed by the President, and annexed to the proceedings.

Question by the President.

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

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes as far as available

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes, to my best knowledge & belief

~~Cross-examined by the accused.~~

R.S.

Question. If by reason of the nature of the evidence it is expedient in the interests of the public that the Court should be cleared before the taking of the evidence, the Court should be cleared before the taking of the evidence, and the Court should be cleared before the taking of the evidence, and the Court should be cleared before the taking of the evidence, and

F

Sentence.

The Court sentence the accused D 58101 Pte Pond Des Lauriers Sentence. R 22e R.

to suffer Penal Servitude for a term of three years.

Kitchener
Maj Gen

SUMMARY OF EVIDENCE

In the case D.58101 Private Roland DELAURIERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

By direction of the Commanding Officer this summary of evidence was taken under oath.

1st Witness: For the Prosecution.

P.48791 Sgt. Careau, M. Royal 22e Regiment, posted to "D" coy having been duly sworn states:-

" I am P.48791 Sgt. Careau, M. R.22e.R. posted to "D" coy, Platoon Sergeant of No.18 Platoon. On the 9th of October 1943, at 1230 hrs, my Platoon was under enemy shelling. The accused whom I now recognize, and who was in my Platoon, was told several time to keep up with his section. The last time I told him to keep up with his section, he said that on account of the enemy shelling he could not move forward, or something to that effect. A few minutes later, I noticed that he was missing without permission. He reported himself to me at 1300 hrs on the 17th of October 1943.

M. Careau Sgt.

The accused declines to cross examine the witness.

2nd Witness: For the Prosecution.

Lieut. Frechette, P. Royal 22e Regiment, posted to "D" coy. having been duly sworn states:-

" I am Lieut. Frechett, P. R.22e.R. posted to "D" coy. I command No.18 Platoon, and the accused, whom I now recognize, is in my platoon. On the 9th of October 1943, at 1230 hrs, my Platoon was under enemy shelling. At this time, the accused was told several times by my Sergeant to keep up with his section. A few minutes afterwards, my Sergeant told me that the accused was missing. He had no permission whatsoever to leave the Platoon. He reported himself back at 1300 hrs on the 17th of October 1943.

Pierre Frechette Lieut.

The accused declines to cross examine the witness.

SUMMARY OF EVIDENCE

In the case of D.58101 Private Roland DESLAURIERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

By direction of the CommandingOfficer this Summary of Evidence was taken under oath.

3rd Witness: For the Prosecution. P.48791 Sgt. Careau, M. Royal 22e Regiment, posted to "D" coy. having duly sworn states:-

" I am P.48791 Sgt. Careau, M. R.22e.R. posted to "D" coy. I am Platoon Sgt. of No.18 Platoon. On the 22nd of October 1943, at 1545 hrs, ~~xx~~ I was forming up the platoon to leave this sector, when the accused, whom I now recognize, reported himself to me as being released from Close Arrest. I told him to place his pack in one of the trucks which was near by, and to report back to me. He did not report to me afterwards.

M Careau Sgt.

The accused declines to cross examine the witness.

4th Witness: E.4188 P/Sgt. Lebel, L.P. Royal 22e Regiment having been duly sworn states:-

" I am E.4188 P/Sgt. Lebel, L.P. R.22e.R. On October 22nd 1943, Pte. Deslauriers, R. whom I now recognize, was released from Detention by Major Allard, 2 i/c Royal 22e Regiment. Major Allard told him that he had to report to his former platoon. He further advised him that his coy was moving forward towards the enemy, andthat he would have to carry on with his normal duties. This was at about 1430 hrs.

Lebel P/S

The accused declines to cross examine the witness.

SUMMARY OF EVIDENCE

In the case of D.58101 Private Roland DESLAURIERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

By direction of the Commanding Officer this summary of evidence was taken under oath.

5th Witness For the Prosecution. C.30760 L/Cpl. Nicholas, A.R. ~~Rxyxlx22exRxgimxnt,~~ xpNo.1 Provost coy RCMP having been duly sworn states:-

" I am C.30760 L/Cpl. Nicholas, A.R. of No.1 Provost Coy RCMP. At about 1730 hrs on the 28th of October 1943, I was informed by Sgt. Henzie, orderly sergeant to proceed to a vicinity in CAMPOBASSO where, Sgt. Henzie said, we would pick up two A.W.L. D.58101 Pte. Deslauriers, R., whom I now recognize was one of the two A.W.L. On the journey back to our detachment, the two prisoners did not give us any trouble at all.

Nicholas L/Cpl.

The accused declines to cross examine the witness.

The accused having been duly cautioned in French in accordance R.O. 1424 reserves his defence.

I certify that the foregoing of Summary of Evidence consisting of three (3) pages was taken down in the presence and hearing of the accused and that rules of procedure ~~rxx~~ 4 (c), (d), (e), (f) and (g) were duly complied with.

C Lindsay Lieut
Officer taking Summary.

In the Field
5th November 1943.

No. 1

List of Witnesses for the Prosecution

Conf: D-ST 101, Pte Delaunois R.

P-48 791 Sgt. Carson M. "D" Coy, R.22.R.

instr. P Fredette, "D" Coy R.22.R.

P-46 791 Sgt. Carson M. "D" Coy R.22.R.

E-4144 P/Sgt Lebel L.P. R.22.R.

C-20760 L/Cpl. Nicholas, A.R. No 1 Provost Coy. R.C.M.P.

Defence

Nil

Pte

Temporary Sheet

FIELD CONDUCT SHEET

Date of Enlistment 23-7-40

Army Form B.199
Sheet No.

*No. D58101 Name Delaurier Rk. (Batty., Company) D. Corps R.A.S.C.

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Badges | Long Service and G.C. Pay | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of cases discharging with trial	By whom awarded	Remarks
Field	12-7-43	Pte		Certified true copy W.O.A.C. Brandon Order of Barracks West Lewes confined to barracks A.A. (C.O.)			3 Aug 43		
					C.S.M. Leclaire	14 days C.B.	17-7-43	Capt. V. Thomas R.C.O.	

Certified true copy
Lieut.

Adjutant
Major

*Serial Number in case of enemy prisoner of war.

(P.T.O.

HR-102

Tpr. Deslauriers P.

RECORDED AT CMHQ IN AB 160. 10/ HR-102

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA2) 40/P & S 1098 (2804)

Convened by Order of Brigadier N.G.H.Roef. Comd 0/c Cdn Sec G.H.Q 12th R.A.I. dated Dec 30/44

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D36023	Tpr	PAUL	DESLAURIERS	12 R.A.I.

Rank Lieutenant Capt

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY. on (date) Jan 8/45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order. CF AP5, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is brought before the Court. At 1000 hours trial commences.

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

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 561(c). Delete, if not applicable.)

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

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

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

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

Ans No (2)

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

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

President	Capt Jones G.S.G.	C.A.C.T.U.
Member	Capt Cummings R.	L.S.H. (2 Cdn Armd Regt).
Member	Capt Morrison R.B.	L.S.H. (2 Cdn Armd Regt).
~~Judge-Advocate~~	~~J.A.G.T.~~	
Prosecutor	Lt Faucher G.E.	C.A.C.T.U.
Defending Offr	Lt Allen J.B.	C.A.C.T.U.

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros is lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 31.)

A8. The accused D36023 Tpr Deslauriers P. before arraignment make(s) (no) ~~(1)~~ plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

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

(1. RP 31, 112. See para 1 of Instrs p 2. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.) (3. When more than one Charge Sheet see RP 62, when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: D36023 Tpr Deslauriers P.

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

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

~~At present under sentence for~~ F.E.G.T beginning on (date) 6.6.44 (1)

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

Time in confinement awaiting present trial—a total of 96 days, of which 14 days were spent in hospital.(1)

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

Sentence Awarded by the Court:

Two hundred seventy days Detention less time spent in confinement awaiting trial and to be charged with stoppages of pay amounting to $89.31 for Deficiencies of kit at time of arrest.

(Sgd) Judge-Advocate, if any. 28/45. Date awarded. (Sgd) G.S.G. Jones (Capt). President. (RP 45, 50.)

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

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

Date (Sgd) Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally: AA 172 fn 1.)

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

I vary this sentence so that it shall be as follows: "To undergo detention for 174 days," and I confirm the findings and the sentence as so varied.

~~I direct that the accused be released from custody on the expiration of the period of his remand.~~ ~~(1. AA 57A. Delete if not used.)~~

Date 19 Jan 45. (Sgd) (H G H Roef) Brigadier Commanding Officer 1 Can Sec CMHQ Confirming Officer

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

Accused.	Date	Signature of Offr.
D36023 Tpr Deslauriers P.	24 Jan 45	Kenneth Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 4.

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

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

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

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

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

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

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

President to accused : Do you wish to make a statement ? Ans. No (4)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 25(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (~~their~~) plea(s) of Guilty ~~to Not Guilty on~~ ~~charge(s)~~. The accused is (~~are~~) so informed, ~~and he (they)~~ ~~change(s) his (their) plea(s) on~~ ~~charge(s)~~. ~~Para 4 of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

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

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 17(E). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 144, KR Can 355. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

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

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

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 3.*)

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

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 137(A). See Notes in Part I of Schedule.* 2. *RP 44(B).*)

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(~~s~~), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused (because they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to ~~a soldier~~ having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "C" and Ex "D" respectively.(2)
(1. *AFB 255 or AFB 294.* 2. *RP fn 2.* 3. *RP 46, KR Can 358. If above documents not produced, see RP 46 fn 1 para 1.*)

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

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(4), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and also by JA, if present~~.
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provisos, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44. (3)E. (2). RP 46-80, 69, 118, (96)K, KR Can 328, 345-346. Overleaf as RO 309, 1323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 98(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of persons after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

G.S.G.J.

The accused, D36023, Trooper Paul DESLAURIERS, on strength of Canadian Armoured Corps Training Unit, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field in Italy at about 2200 hrs 3 Aug 44 absented himself without leave until apprehended at about 1000 hrs 4 Oct 44 (total absence 61 days 12 hrs).

In the Field
27 Dec 44

(G.F. Smith) Major,
Commanding
Cdn Armd Corps Trng Unit

To be tried by Field General Court Martial.

In the Field
30 Dec 44

(W G H Roaf) Brigadier
Officer IC
Cdn Sec GHQ 1 Ech AAI

No covering L. to: 10/DESLAURIERS/P//
G.S.G.J. LEGAL

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA3)
400-P&R/1607 (2008)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(5).

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D36023	Tpr		Paul	Deslauriers	CACTU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 30 Dec 44 endorsed by me, (~~as the case may be~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence (s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to convene a Special General Court-Martial for the trial of the accused person(s) named above.~~

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

The reason I am unable to appoint a field officer as president is that no field officer eligible to sit as president of the Court is available at CACTU.

W G H R

PRESIDENT.

Capt G S G Jones CAC
(Rank.) (Must be named. RP 106.) (Unit.)

MEMBERS.

A Capt or Lt to be detailed by OC CACTU.

A Capt or Lt to be detailed by OC CACTU.
(Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

A Capt or Lt to be detailed by OC CACTU.
(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Italy
(Country.)

Date 30 Dec 44

W G H Roaf
(Signed personally. RP 105 fn 2.)
Brigadier
(Rank.)
Commanding OIC Cdn Sec GHQ 1 Sch AAI
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

10/DESLAURIERS/P1
G.S.G.J
LEGAL

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFAB) 40/PAM/1951 (2068)

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

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

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D36023	Tpr	Paul	Deslauriers	CACTU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 30 Dec 44 endorsed by me, (~~A.A.G.~~ [illegible]), "To be tried by Field General Court-Martial".

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

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

4. I am unable to appoint (a) ~~FIELD OFFICERS (AS THE CASE~~ [illegible] a Fd Offr as President, for the reasons I have attached hereto. (AA 49, RP 106(B), 107(A). Delete the whole or parts, if not applicable.)

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

PRESIDENT.

(Rank.)		(Unit.)
Capt	G S G Jones	CAC

(Must be named. RP 106.)

MEMBERS.

A Capt or Lt to be detailed by OC CACTU.

A Capt or Lt to be detailed by OC CACTU.

(Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

A Capt or Lt to be detailed by OC CACTU.

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

JUDGE-ADVOCATE.

(Rank.)		(Unit.)
	N/A	

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

On Active Service in the Fd

in Italy (Country.)

Date 30 Dec 44

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(W G H Roaf)
OIC Cdn Sec GHQ 1 Echn AAI
Commanding Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

Ex 6.

MEDICAL OFFICER'S CERTIFICATE

G.f.a.J.

I certify that No. D36023 Tpr Deslauriers, P., Canadian Armoured Corps Training Unit, is ~~unfit~~ fit to undergo trial by Court-Martial.

(C.E. Robinson) Capt.

In the field
8 Jan 45.

Plea of Mitigation E x E
in the case of 4567.
D. 36023 Tpr. Declauries P.

May it please the Court, in considering the case of the accused, to take the following factors under advisement,-

1. The accused has had only one conviction entered on his AF 116 in over five years service in the Army

2 He has been under close arrest for ninety-seven (97) days.

3. His sole purpose of leaving this Unit was to rejoin his Regt. He went to his Regt, hoping to be taken on strength immediately, but found that there were no vacancies. After waiting around he gave up all hope and returned to Rome. When he was in Sicily he had done the same thing on leaving hospital without being punished, so he thought the same device would work again.

4 He holds the 1939-43 Star

5 During the whole time of close arrest, the accused has been kept at work every day along with personnel undergoing sentence

Ex "A"

SUMMARY OF EVIDENCE in the case of D36023 Tpr DESLAURIERS, P. of Canadian Armoured Corps Training Unit.

G.G.T.

FIRST WITNESS: G208 SQMS Webber, C.H., having been duly sworn states:

I am G208 SQMS Webber, C.H. on strength of Tank Squ, Canadian Armoured Corps Training Unit and hereby certify that the following documents in the case of absence without leave of D36023 Tpr Deslauriers, P. were obtained by me:

X List CAC Sec "D" Pt II Orders issued by Cdn Sec GHQ, 2 Echelon, AAI.

1. No. 124 - 21 Aug 44 - 8th day posting
2. No. 128 - 29 Aug 44 - 22 nd day posting
3. No. 135 - 7 Sep 44 - SOS - Desertion
4. No. 164 - 13 Oct 44 - TOS - Desertion
5. Certificate of apprehension
6. AFB 115

attached.

And I certify that I checked the kit of D36023 Tpr Deslauriers, P. on 23 Nov 44 and found him to be deficient of the following clothing and regimental necessaries:

		25 per cent less	Vocabulary Price
Boots, Ankle	1	3.82½	6.10
Blouses B.D.	1	3.93¾	5.25
Drawers, Woollen	1	.90	1.20
Greatcoat	1	8.48¾	11.31
Jersey Pullover	1	1.34¼	1.79
Shirts Angola	1	1.52¼	2.03
Socks, prs	2	.55½	.74
Trousers B.D.	1	4.04¼	5.39
Bags, Kit	1	.76½	1.02
Braces, prs	1	.21	.28
Brass Cleaning	1	.03	.04
Brushes, Button	1	.19½	.26
Brushes, Clothes	1	.36	.48
Brushes, Hair	1	.25½	.34
Brushes Shoe Polish	1	.21	.28
Cap Comforter	1	.25½	.34
Dressing F.F.	1	.18	.24
Knife Clasp	1	.64½	.86
Towels, Hand	1	.24	.32
Attach. Brace @ .17	2	.25½	.34
Belts, Waist	1	.50¼	.62
Bottles, Water	1	.61¾	.82
Braces W.E. Left	1	.22½	.30
Braces W.E. Right	1	.22½	.30
Carriers W.E.	1	.27¾	.37
Haversack	1	1.34¼	1.79
Helmets, Steel	1	2.49	3.32
Packs	1	1.38	1.84
Straps, Haversack	2 @ .32	.48	.64
Straps, Supporting	2 @ .13	.19½	.26
Blankets	2 @ 3.72	5.58	7.44
Capes, A/G	1	2.07	2.76
Respirator, Compl	1	4.02¾	5.37
TOTALS		47.89	63.86
		46.64	63.44

The accused declines to question this witness.

C.H. Webber SQMS

G-208 SQMS Webber, C.H.

I certify that the above Summary of Evidence was taken down by me in the presence and hearing of the accused in accordance with R.P. 4 (c)(d)(e)(f) and (g) on this 27th day of November 1944.

In the Field
Italy
27 Nov 44

John P. McKay Lt

(J.F. McKay) Lieut
Officer detailed to take Summary

Last Order No. 123 dated 18 Aug 44

"M" LIST CANADIAN ARMOURED CORPS (SEC "D") PART II ORDERS ISSUED BY CANADIAN SUBAREA, C.M.H.Q. 2nd ECHELON, A.A.I.

This order No. 124 dated 21 Aug 44

"AS" NOTICES

1. STRENGTH INCREASE

(a) T.O.S. K-3 List from 5 C.A.R.
Lieut. D.... Gass — 15 Aug 44

(b) T.O.S. K-4 (5 Bn) from 2 NDTD (B)
(Auth: CLC 3-1-0/Paris M.R./1, d/1 Aug 44)
Lieut. H.N. Park — 5 Aug 44

(c) T.O.S. K-3 List from 12 C.A.R.
Capt. W.R. Crooks — 5 Aug 44

2. INTERNAL POSTINGS

(a) Posted from K-4 (C.A.O.T.U) to K-4 ("G" Sqn-/DR)
(Auth: TX/23 d/9 Aug 44) — 13 Aug 44
Lieut. A.E. Dingle
Lieut. R.G.F. MacLellan

(b) Posted from K-4 (C.A.O.T.U) to K-4 ("A" Sqn-/DR)
(Auth: TX/23 d/12 Aug 44) — 14 Aug 44
Lieut. H.C. Cameron
Lieut. R.E. Hyde
Lieut. W.... Stewart

(c) Posted from K-3 List to K-4 (5 Bn) — 17 Aug 44
Capt. A.J. Greene
Capt. C.L. Henry
Lieut. W.... Hoodin
Lieut. R.R. McLeod

(d) Posted from K-4 (5 Bn) to K-4 ("G" Sqn-/DR) — 29 Jul 44
(Auth: [illegible]/43)
Lieut. S.R. Conway

3. NEXT OF KIN

(a) N. of K. verified as shown.
Lieut. J.C.W. Weldon - Clara Eliza Weldon (Mother)
118 Codington St.,
Barrie, Ont.,
Canada.

4. STRENGTH DECREASE

(a) S.D.S. K-4 ("A" Sqn-/DR) to 14 CAR Trg. Inc. — 11 Aug 44
(Auth: 2 ELO/Post Order/C/100 d/9 Aug 44)
Capt. D.C. Matthews

(b) DELETED

(c) S.D.S. K-4 ("G" Sqn-/DR) to 2 C.R Trg Inc. — 11 Aug 44
(Auth: TS/43 d/12 Aug 44)
Lieut. R.H. Grant
Lieut. S.R. Conway

4. SUBSIDIARY DUCHIES (Cont'd)

(d) S.O.S. X-4 ("A" Sqn-LDR) to 14 C...R. 11 Aug 44
(Auth: C.C/Depots/1 d/14 May 44)
Lieut. J.V. Davies

(e) S.O.S. X-4 ("G" Sqn-LDR) to 2 C...R. 13 Aug 44
(Auth: TS1/42 C.C Rfts Sec(HQ 1 .C) d/12 Aug 44)
Lieut. L.L. Craig

(f) S.O.S. X-4 (5 Bn) to 9 C...R. 17 Aug 44
(Auth: 2 BCH/Dom/802 d/14 Aug 44)
Lieut(A/Capt) R.H. Sellars

(g) AMENDMENT: Part II Order No. 78 para. 3 (b) of 30 May 44 insofar as it refers to the w/m is amended by delete "25 May 44" and sub. "24 May 44"
Lieut. C.W. Chandler

"BY OTHER RANKS

5. SUBSIDIARY DUCHIES

(a) T.O.S. X-4 (C.C&U) from X-4 C.C "E" (R.C'TD) 15 Aug 44
(Auth: TM 25 d/15 Aug 44)
B-69977 Tpr. Burgess, C.P.
L-3[illegible]259 Tpr. Jacobs, D.A.
B-59754 Tpr. McBeath, K.S.
M-102801 Tpr. Maltais, R.

(b) T.O.S. X-4 (R.C'TD) from X-4 (R.C'TD) C.C "E" 14 Aug 44
(Auth: CBCH/43/Post C.C/1 (A.T) d/29 May 44)
B-134698 Tpr. Barry, F.G.
F-55171 Tpr. Gunning, R.J.
B-42981 Tpr. Smuck, L.E.

(c) T.O.S. X-3 List from 12 C...R. 11 Aug 44
A-4300 Tpr. Wall, L.J. M.(TK) "C"

(d) T.O.S. X-4 ("C" Sqn-LDR) from 2 C...R. 11 Aug 44
(Auth: 5 C.B/less A-11/ d/6 Aug 44)
M-52062 Tpr. Bryant, J.D. M.(TK) "C"

(e) T.O.S. X-3 List from 12 C...R. 13 Aug 44
B-[illegible]518 Tpr. Massey, J.H.

(f) T.O.S. X-3 List from 11 C...R. 14 Aug 44
B-[illegible]1044 Tpr. Powell, W. M.(TK) "C"

(g) T.O.S. X-4 ("G" Sqn-LDR) from 2 C...R. (Auth: 5 LO 15 Aug 44
H-145 Cpl. Duhamel, J.W. 844 d/2 Aug 44)
M-[illegible]1006 Sgt. Giroux, L.J.
P-[illegible]3474 Cpl. MacDowell, S.E.
[illegible]-59080 Cpl. Spring, M.A.

5. STRENGTH INCREASE (Cont'd)

(h) T.O.S. X-4 ("A" Sqn-LDR) from 11 C.A.R. 10 Aug 44
(Auth: 2 ELO/Reinf Con/1 d/30 Jun 44)

K-15015	Tpr.	Anderson, R.A.	M(TK)"C"	
G-18740	Tpr.	Barter, W.G.	M(TK)"C"	
K-33753	Tpr.	Hanson, L.	M(TK)"C"	
K-166[illegible]	Tpr	Olson, O.	M(TK)"C"	
L-54715	Tpr.	Thomaruk, M.C.L.	Gnr Opr "C"	

(i) T.O.S. X-3 List from 9 C.A.R. on dates shown.

B-52071	Tpr.	Donley, J.	Gnr Opr "C"	15 Aug 44
K-862	Tpr.	Cronnan, W.R.	M(LV)"C"	15 Aug 44
K-833	Sgt.	Johnson, E.	Ftr(LV)"A"	15 Aug 44
K-55555	Tpr.	Oborg, W.L.	M(TK)"C"	15 Aug 44
B-102810	Tpr.	Stringer, G.B.		15 Aug 44

(j) T.O.S. X-3 List from No. 2 T.R. Gp. 15 Aug 44
D-35585 Tpr. Edon, P.R.

(k) T.O.S. X-3 List from 14 C.A.R. on dates shown.

K-20515	Tpr.	Bartlett, T.	M(MK)"C"	15 Aug 44
B-66223	Tpr(A/Cpl)	Peplow, A.C.	Gnr Op "C"	1 Aug 44

(l) T.O.S. X-3 List from 12 C.A.R. on dates shown.

B-50086	Tpr.	Anderson, A.J.	Gnr Opr "C"	12 Aug 44
D-36459	Sgt.	Barbeau, J.C.R.		11 Aug 44
G-55495	Tpr.	Cochrane, C.		11 Aug 44
B-55555	Tpr.	Jones, F.G.	Gnr Opr "C"	10 Aug 44
D-71119	Tpr.	Kelly, T.		10 Aug 44
K-37428	Tpr.	Kotsley, A.J.		10 Aug 44
G-087	Tpr.	Lanteigne, H.		11 Aug 44
H-26558	Tpr.	Lawrence, R.A.	M(LV) "C"	14 Aug 44
D-36508	Tpr.	Mailhot, O.		14 Aug 44
H-95502	Tpr.	Mominick, W.		11 Aug 44
B-51775	Tpr.	Nows, J.G.		11 Aug 44
G-53857	Tpr.	Nool, J.E.		12 Aug 44
K-4327	Tpr.	Orr, D.A.		11 Aug 44
B-57818	Sgt.	Walker, R.B.		14 Aug 44

(m) T.O.S. X-3 List from 5 C.A.R. on dates shown.

H-33749	Tpr.	Calleroe, J.A.	Gnr Opr "C"	15 Aug 44
F-75011	Tpr.	Graham, C.R.		15 Aug 44
G-271	Tpr(A/Cpl)	Holt, W.C.		14 Aug 44

(n) T.O.S. X-3 List from HQ. 5 CAD 15 Aug 44
F-77815 Tpr. Gallant, T.A.

(o) T.O.S. X-3 List from 11 C.A.R. on dates shown.

K-37405	Tpr.	Noakes, L.A.	Gnr Opr "C"	15 Aug 44
K-[illegible]99	Tpr.	Hope, [illegible]		15 Aug 44
B-60556	Cpl.	Simmons, R.A.	Gnr Opr "C"	15 Aug 44

(p) T.O.S. X-3 List from HQ. 1 C.I.B 14 Aug 44
G-18818 Tpr. Briggs, C.E. Mtr Mech "B"

5. STRENGTH INCREASE (Contd)

(q) T.O.S. X-3 List from HQ 5 CAD 14 Aug 44
L-53858 Tpr. Frapo, H.V. DR(INV)"C"

(r) T.O.S. X-3 List from desertion 5 Aug 44(No hrs given) on adm. to 94 (Br) Gen. Hosp.
C-58515 Tpr. Pelletier, G.G.

(s) T.O.S. X-4 ("A" Sqn-LDR) from 14 C.A.R. 13 Aug 44
(Auth: Evac. of LAVs)
M-102820 Tpr. Dyson, A.G. Gnr Opr "C"
B-74049 Tpr. Rogers, J.H.S. Gnr Opr "C"
F-30534 Tpr. Theriault, A.J. DR(INV)"C"
L-102047 Tpr. White, H.W.

(t) T.O.S. X-3 List from 2 C.A.R. 4 Aug 44
C-49252 Tpr. LaPointe, A.J.

(u) T.O.S. X-3 List from 14 C.A.R. on dates shown.
M-55555 Tpr. Halley, A. DR(TK)"C" 14 Aug 44
K-55712 Tpr. Loo, W.H. 12 Aug 44
M-35074 Tpr. Miller, L.C. Gnr Opr "C" 14 Aug 44
B-133538 Tpr. Thompson, B.K. Opr C.C "C" 14 Aug 44

(v) T.O.S. X-4 ("A" Sqn-LDR) from 14 C.A.R. 6 Jul 44
(Auth: Evac. of LAV)
M-15199 Tpr. Johnson, A.A. Gnr Opr "C"

(w) ~~CANCELLED:~~ Part II Order No. 108 para. 4 (b) of 12 Jul 44 is cancelled.
M-53921 Tpr. Lawrence, K.B.

(x) ~~CANCELLED:~~ Part II Order No. 79 para. 4 (i) of 31 May 44 is cancelled.
D-36263 L/Cpl. Hodson, J.

6. ~~INTERNAL POSTINGS~~

(a) Posted from X-3 List to X-4 (5 Bn) 17 Aug 44
F-75939 Tpr. Kollam, D.F.

(b) Posted from X-10 List to X-4 (C.L.M.U) 4 Aug 44 on ceasing att. to Army Del Sqn (Br)(275)
M-55517 Tpr. Keith, H.E.

(c) Posted from X-4 (R.H.Q) to X-4 (C.L.M.U) 15 Aug 44
(Auth: T.M.(25)
B-134598 Tpr. Barry, F.G.
F-51171 Tpr. Gunning, R.J.
B-42961 Tpr. Smuck, L.E.

(d) Posted from X-4 ("A" Sqn-LDR) to X-3 List 15 Jun 44
B-29304 Tpr. Clark, J.

(e) Posted from X-4 (5 Bn) to X-10 List 14 Aug 44 on att. to "B" Sqn. 25 C.D.R. (Auth: CMH/55/44/C.L.C.Rft/1 (A3) d/14 Apr 44)
B-144794 Tpr. Levoie, M.E.

6. INTERNAL POSTINGS (cont'd)

(f) Posted from K-4 (C.L.T.U) to K-4 ("C" Sqn-ADR) 13 Aug 44
(Auth: TM-23 d/9 Aug 44)

B-135490 Tpr. Adams, H.R.
B-133495 Tpr. Allen, J.R.
K-49337 Tpr. Anderson, G.
B-49374 Tpr. Ayotte, A.J.
B-42747 Tpr. Boudliou, R.
B-32811 Tpr. Bodford, H.
F-32091 Tpr. Campbell, G.M.
B-88302 Tpr. Caperchione, F.
K-69857 Tpr. Cardinell, W.R.
F-43899 Tpr. Coleman, W.H.
B-135017 Tpr. Cook, J.M.
M-43854 Tpr. Curtiss, J.M.
D-33093 Tpr. Davis, A.L.
F-33085 Tpr. Fletcher, R.J.
L-100329 Tpr. Ford, T.
F-77855 Tpr. Galkeat, B.J.
B-144734 Tpr. Hoard, G.M.
F-30470 Cpl. Konnickell, M.L.
A-104840 Tpr. Miller, H.M.
F-79980 Tpr. Mcdonald, J.A.
B-135176 Tpr. Potter, R.T.
G-121 Sgt. Scott, J.J.
B-113422 Tpr. Staley, R.B.
A-13330 Tpr. Watson, A.M.
B-39078 Tpr. Weeks, E.D.
F-33720 Tpr. Wilson, D.R.
F-5258 Tpr. Zmarkiewicz, J.A.

(g) Posted from K-4 (R.L.C.T.D) to K-4 (C.L.T.U) 15 Aug 44
(Auth: TM/25)

B-75440 Tpr. Morel, W.G.
L-13543 Tpr. Murray, W.
M-105702 Tpr. Pfund, A.J.
H-8393 Tpr. Poirier, R.
K-49210 Tpr. Preston, L.T.
D-133502 Tpr. Roggler, J.T.
L-17355 Tpr. Rielly, D.G.
H-338 Tpr. Roberge, C.A.
M-45587 Tpr. Stewart, W.R.
B-145577 Tpr. Stonehouse, G.J.
B-97847 Tpr. Tuohy, C.
A-115696 Tpr. Turner, L.R.
H-1771 Tpr. Vic, E.A.
H-101964 Tpr. Waldemburger, E.E.
B-79893 Tpr. Willett, F.H.
A-115979 Tpr. Whillier, C.C.

(h) Posted from K-4 ("C" Sqn-ADR) to K-3 List 15 Aug 44

F-30088 Tpr. Josey, L.E.
L-51183 Tpr. Smith, L.D.

(i) Posted from K-3 List to K-4 (4 Bn) 12 Aug 44

K-70945 Tpr. Reid, H.D.

5. INTERNAL POSTINGS (Cont'd)

(j) Posted from X-4 ("A" Sqn-ADR) to X-4 ("C" Sqn-ADR) 13 Aug 44
(Auth: 2 BCH/LO/ARG d/13 Aug 44)

F-77763	Tpr.	Abbott, R.W.	F-30088	Tpr.	Josey, L.E.
K-15015	Tpr.	Anderson, R.A.	L-53770	Tpr.	Kane, J.W.J.
K-52520	Cpl.	Armstrong, D.R.	L-101441	Tpr.	Labboe, G.F.
L-53799	Tpr.	Bannister, R.R.	K-49440	Tpr.	Lothoman, J.
C-18740	Tpr.	Barter, W.G.	D-122858	Tpr.	Lafferty, W.P.
K-2454	Sgt.	Bell, J.	K-82227	Tpr.	LaFlocho, J.
F-91056	Tpr.	Brown, A.F.	K-70513	Tpr.	MacFaddon, C.F.
K-52332	Tpr.	Bowen, L.D.	A-69289	Tpr.	Memos, P.
K-73902	Tpr.	Barron, C.P.	K-308	Cpl.	Nichol, W.M.
F-75719	Tpr.	Byrne, L.W.	K-1555	Tpr.	Olson, O.
A-103923	Tpr.	Cornell, C.E.	K-111	Tpr.	Prescott, F.
B-132735	Tpr.	Dosilest, B.W.	K-103828	Tpr.	Ramsey, G.E.
C-101571	Tpr.	Drummond, E.L.	G-38247	Tpr.	Rombough, D.G.
B-133005	Tpr.	Forrester, D.D.	K-1144	Cpl.	Stutt, R.J.
B-70157	Tpr.	Ford, C.J.	K-42384	Tpr.	Sharp, R.S.
K-355	Tpr.	Vargey, D.	K-55400	Tpr.	Schmidt, B.
L-41365	Tpr.	Glass, R.A.	K-67380	Tpr.	Skinty, C.
K-53758	Tpr.	Hanson, L.	L-51103	Tpr.	Smith, L.D.
K-103479	Tpr.	Horner, L.	L-54715	Tpr.	Thomarat, N.C.A.
B-134751	Tpr.	Hanlon, J.E.	K-185	Cpl.	Tall, S.
G-84	Tpr.	Harvey, A.B.	D-155	Tpr.	Theriault, E.
K-104758	Tpr.	Hubbell, P.A.	K-23061	Sgt.	Winder, R.A.
A-117785	Tpr.	Ireland, G.A.	L-105030	Tpr.	Young, R.R.

(k) Posted from X-3 List to X-4 (5 Bn) on dates shown

K-53223	Tpr.	Cano, E.F.	14 Aug 44
F-29589	Tpr.	Hindle, R.W.	14 Aug 44
D-145	Tpr.	Lapierre, G.	14 Aug 44
K-67476	Tpr.	MacPherson, R.J.	14 Aug 44
K-152	Tpr.	Nash, C.	15 Aug 44
K-37433	Tpr.	Minderlen, S.W.	15 Aug 44
K-49280	Tpr.	Pearson, E.G.P.	14 Aug 44
L-53241	Tpr.	Evans, R.L.	14 Aug 44
G-49242	Tpr.	LaPointe, L.J.	14 Aug 44
K-69767	Tpr.	Webbs, A.F.	15 Aug 44

(l) Posted from X-3 List to X-4 ("A" Sqn-ADR) 14 Aug 44

B-60600	SSM.	Fox, G.A.	
B-60822	Tpr.	Moore, G.A.	

(m) ~~AMENDMENT~~: Part II Order No. 111 para. 5 (q) of 22 Jul 44 is cancelled.

H-53921 Tpr. Lawrence, H.B.

(n) ~~AMENDMENT~~: Part II Order No. 112 para. 5 (w) of 27 Jul 44 is cancelled.

H-53921 Tpr. Lawrence, H.B.

7. ~~HONOURS AND AWARDS~~

(a) Awarded 1939-43 Star.

C-70589 Tpr. Tennant, W.C.

8. ABSENCE WITHOUT LEAVE

(a) AWL from 2200 hrs 5 Aug 44. Returned from AWL 2245 hrs 14 Aug 44.

L-101855 Tpr. Oakman, F.L.
H-43515 Tpr. Preston, A.

(b) AWL from 2200 hrs 3 Aug 44. Still absent 2200 hrs 11 Aug 44.
D-35375 Tpr. St. Yves, R. (8th Day)
D-35023 Tpr. Desloriers, P. (8th Day)

(c) AWL from 1930 hrs 12 Aug 44. Returned from AWL 1645 hrs 15 Aug 44.

B-88023 Tpr. Tostero, O.C.

(d) AWL from 1900 hrs 5 Jul 44. Cases to be AWL 27 Jul 44 (No hrs. given) Adm 3 C.G.H.
H-43944 Tpr. Cocklo, R.C.

(e) AWL from 1500 hrs 4 Aug 44. Returned 2130 hrs 14 Aug 44.
C-37302 Tpr. Bonubo, J.

(f) AMENDMENT: Part II Order No. 115 para. 12 (b) of 2 Aug 44 is cancelled.
H-43944 Tpr. Cocklo, R.C.

(g) AMENDMENT: Part II Order No. 101 para. 5 (a) of 25 Jun 44 is cancelled.
H-41487 Tpr. Chaykowsky, W.

(h) AMENDMENT: Part II Order No. 104 para. 5 (c) of 1 Jul 44 is cancelled.
H-41487 Tpr. Chaykowsky, W.

(i) AMENDMENT: Part II Order No. 121 para. 10 (d) of 14 Aug 44 is amended by adding "Kit Deficiencies" "B-88114 Tpr Fischer, R. (Kit deficiencies $11.87)" and "A-59392 Tpr Hill, W.A. - Kit deficiencies $35.85)"
B-88114 Tpr. Fischer, R.
A-59392 Tpr. Hill, W.A.

(j) AMENDMENT: Part II Order No. 88 para. 7 (a) insofar as it refers to the u/m is cancelled.
D-41044 Tpr. Groton, J.L.M.

(k) AMENDMENT: Part II Order No. 72 para. 8 (c) of 24 May 44 insofar as it refers to the u/m is amended to read "AWL from 1900 hrs 3 Apr 44. Still absent 1900 hrs 11 Apr 44" (8th day)
D-41044 Tpr. Groton, J.L.M.

9. TRADESMEN'S RATES OF PAY

(a) Granted Tradesman's rates of pay MM(MV)"C" 17 Aug 44
M-15943 Tpr. Reid, M.F.

(b) Granted Tradesman's Rates of Pay as Opr C.C. "C" 4 Aug 44
C-755 Tpr. Minor, C.A. Gnr Opr "C"

9. TRADESMEN'S RATES OF PAY (Cont'd)

(c) Reverts to Regt'l rates of pay 15 Aug 44. To draw $1.50 per diem
G-48207 Tpr. Bannister, F.W. Gnr Opr "C"

(d) AMENDMENT: Part II Order No. 109 para. 8 (a) d/17 Jul 44 insofar as it refers to the a/m is cancelled.
G-38247 Tpr. Rombough, D.G. Gnr Opr "C"

10. TRADESMEN'S QUALIFICATIONS

(a) Qualified DM(TK)"C" 5 Aug 44
(Auth: TTB Report d/2 Aug 44)
A-105840 Tpr. Craig, S.W.
F-76311 Tpr. Crowe, E.J.
F-66852 Tpr. McKenna, A.R.
K-75987 Tpr. Young, D.
A-102984 Tpr. Lee, J.E.

(b) Qualified Opr CAC "C" 4 Aug 44
(Auth: TTB Report d/2 Aug 44)
B-133078 Tpr. Elliott, J.A.
B-88023 Tpr. Teatero, O.C.
M-104719 Tpr. Baker, E.R.
L-9878 Tpr. Cheeseman, W.W.
K-72650 Tpr. Desrosier, F.
B-38274 Tpr. Chenier, A.R.
B-139194 Tpr. Rolfe, F.W.
K-45274 Tpr. Watt, J.

(c) Ceases to be qualified Gnr Opr "C" 3 Aug 44
and remustered as Opr CAC "C" 4 Aug 44.
(Auth: TTB Report d/4 Aug 44)
G-766 Tpr. Miner, C.A.

(d) Ceases to qualify as Dvr Mech"C"4 Aug 44 and remustered as DM (TK) "C" 5 Aug 44.
(Auth: TTB Report d/5 Aug 44)
B-74016 Tpr. Hughes, V.R.

(e) Qualified DM(TK)"C" on re-test 5 Aug 44.
(Auth: TTB Report d/5 Aug 44)
A-102824 Tpr. Renaud, W.M.
A-102827 Tpr. Secord, W.C.

(f) Qualified Gnr Opr "C" on re-test 5 Aug 44.
(Auth: TTB Report d/2 Aug 44)
M-107010 Tpr. Corney, C.L.
B-139133 Tpr. Shoare, G.E.
M-106500 Tpr. Viney, R.F.
A-55028 Tpr. Wilhelms, H.L.

(g) Ceases to be qualified as DM(MV) "C" 4 Aug 44 and remustered as DM(TK)"C" 5 Aug 44.
A-43039 Tpr. McGratton, S.J.

10. TRADESMEN'S QUALIFICATIONS (Cont'd)

(h) Qualified DM(TK) "C" 5 Aug 44
(Auth: TTD Report d/2 Aug 44)
G-24217 Tpr. Graves, G.E.P.
M-101149 Tpr. Loader, J.
F-87251 Tpr. Bonnett, G.R.

(i) Qualified Gnr Opr "B" 4 Aug 44
(Auth: TTD Report d/2 Aug 44)
M-27067 Tpr. Donaldson, A.B.
G-52870 Tpr. Fitzgerald, A.
L-74848 Tpr. Forrester, P.L.
M-107018 Tpr. Lefevre, E.
D-138897 Tpr. Rathbone, R.J.
D-58859 Tpr. Smart, D.R.
F-86212 Tpr. Swim, D.A.
D-134788 Tpr. Speechley, L.E.
G-37128 Tpr. Wrigley, W.L.
C-52103 Tpr. Williams, H.R.
K-50233 Tpr. Ray, E.A.

11. PROMOTIONS

(a) To be A/Sgt 15 Aug 44.
L-36110 Cpl. Puttock, G.N. Ftr. "A"

12. PUNISHMENTS

(a) On 15 Aug 44 awarded a forf. of 28 days pay for (1) an offence under A.A. Sec. 15 (1) AWL from 1500 hrs 4 Aug 44 to 2130 hrs 14 Aug 44. (Absent 10 days 6 hrs 30 mins) (2) For an offence under A.A. Sec. 10 (4). Forfs 11 days pay under FR&I 149 (1) (a) - Forfs. 28 days pay under FR&I 149 (2). TOTAL FORF. 39 days pay.
C-37302 Tpr. Borube, J.R. (X-3)

(b) On 15 Aug 44 awarded 3 days C.B. for an offence under A.A. Sec. 15 (1) AWL from 0715 hrs 13 Aug 44 to 1900 hrs 13 Aug 44. (Absent 11 hrs 45 mins) Forfs. 1 days pay under FR&I 149 (1) (a).
A-116696 Tpr. Turner, L.R. (RACTD)

(c) On 15 Aug 44 awarded a forf. of 1 days pay for an offence under A.A. Sec. 11. Forfs. 1 days pay under FR&I 149 (2)
D-134698 Tpr. Darry, F.G. (RACTD)

(d) On 15 Aug 44 awarded 10 days F.P. and a forf. of 10 days pay for an offence under A.A. Sec. 15 (1) AWL from 1930 hrs 12 Aug to 1950 hrs 13 Aug 44. (Absent 24 hrs 20 mins) Forfs. 10 days pay under FR&I 149 (2) - Forfs. 2 days pay under FR&I 149 (1) (a) - TOTAL FORF. 12 days pay.
D-89003 Tpr. Frost, G. (CACTU)

12. PUNISHMENTS (Cont'd)

(e) On 15 Aug 44 awarded 16 days F.P. and a forf. of 16 days pay for an offence under A.A. Sec. 15 (1) AWL from 2200 hrs 5 Aug 44 to 2245 hrs 14 Aug 44. (Absent 9 days 45 mins) Forfs. 16 days pay under FR&I 149 (2) - Forfs. 10 days pay under FR&I 149 (1) (a). TOTAL FORF. 26 days pay.

L-101865 Tpr. Oakman, F.L. (CACTU)
H-46615 Tpr. Preston, A. (CACTU)

(f) On 9 Aug 44 tried by FGCM.

CHARGES: A.A. Sec. 15 (1) AWL from 2200 hrs 27 Jun 44 until surrendering himself at 1710 hrs 4 Jul 44 (Absent 6 days 19 hrs 10 mins)
A.A. Sec. 22 - Escaping when in confinement at 2315 hrs 21 Jul 44
A.A. Sec. 15 (1) AWL from 2315 hrs 21 Jul 44 to 1140 hrs 25 Jul 44. (Absent 3 days 12 hrs 25mins

FINDINGS: Guilty of all charges.

SENTENCE: To undergo 6 months detention.

CONFIRMATION: Findings and sentence confirmed by Cond. ICHRDp

CLOSE ARREST: In close arrest from 1710 hrs 4 Jul 44 to 2315 hrs. 21 Jul 44 and from 1140 hrs 25 Jul 44 to date of trial.

FORFEITURES: Forfs. 11 days pay under FR&I 149 (1) (a).
Forfs. 32 days pay under FR&I 149 (1) (c) (i).
Forfs. 184 days pay under FR&I 149 (1) (b).
TOTAL FORF. 227 days pay.

D-53931 Tpr. Laird, J.E. (CACTU)

13. STRENGTH DECREASE

(a) S.O.S. X-3 List to X-9 List (Auth: Pending Re-board) 16 Aug 44
L-69852 Tpr. Duplessis, K.A. Gnr Opr "C"
H-59 Cpl. McNeil, L.D. DM(TK) "C"

(b) S.O.S. X-3 List to X-8 List (Evac. Cert. 4/10 Aug 44) 11 Aug 44
D-29304 Tpr. Clark, J.

(c) S.O.S. X-3 List to X-8 List (Auth: Evac. Cert. 4/10 Aug 44. 14 Aug 44
C-32166 Tpr. Fournell, D.L. Gnr Opr "C"
M-100479 Tpr. O'Kane, W.J.

(d) S.O.S. X-4 (CACTU) to X-4 (3 Dn) 4 (PLDG) 16 Aug 44
(Auth: CEME/44/Trans Gen/11 (A7) 4/15 Aug 44)
C-5621 Tpr. Butler, L.D.

(e) S.O.S. X-3 List to 5 C.A.R. 12 Aug 44
C-866 Cpl. McCrae, J.K.

13. STRENGTH DECREASE (Cont'd)

(f) S.O.S. X-4 ("A" Sqn-ADH) to 14 C.A.R. 13 Aug 44
(Auth: CAC/Depots/1 d/14 May 44)

M-26951	Tpr.	Chalmers, J.H.	DM(TK)"C"
F-79956	Tpr.	Fraser, K.G.	Gnr Opr "C"
M-100564	Tpr.	Gibson, D.R.	DM(TK)"C"
M-27005	Tpr.	Lapp, H.R.	Dvr Opr "C"
M-105472	Tpr.	Lund, W.G.	Gnr Opr "C"
M-56902	Tpr.	Malling, A.	Gnr Opr "C"
K-53873	Cpl.	Tiffin, W.V.	Gnr Opr "C"
L-54887	Tpr.	Wilday, G.	

(g) S.O.S. X-4 (CACTU) to 14 C.A.R. 14 Aug 44
(Auth: TSA/45 d/12 Aug 44)

M-63681	Tpr.	Day, W.	
A-55617	Tpr.	Kolth, H.E.	

(h) S.O.S. X-3 List to 5 C.A.R. on dates shown.

C-36872	Tpr.	Forrest, L.	Gnr Opr "C" 11 Aug 44
F-66367	Tpr.	Patriquin, L.K.	Gnr Opr "C" 25 Jun 44

(i) S.O.S. X-3 List to 12 C.A.R. 11 Aug 44

A-4300	Tpr.	Wall, L.J.	DM(TK)"C"

(j) S.O.S. X-4 ("A" Sqn-ADH) to 14 C.A.R 14 Aug 44
(Auth: CAC/Depots/1 d/14 May 44)

L-53926	Tpr.	Imbeau, I.L.	
K-48892	Tpr.	McLean, L.F.	
M-27004	Tpr.	Twoton, V.	DM(MV)"C
K-50267	Tpr.	Wood, D.J.	

(k) S.O.S. X-3 List to 14 C.A.R. 13 Aug 44

M-27090	Tpr.	Kent, W.R.	

(l) S.O.S. X-5 List to 14 C.A.R. 7 Aug 44 on return from Sherman Gnr Mech. Course Scr. CR/510 at RACTD.

A-587	Tpr	Rogers, J.	M.M. "D"

(m) S.O.S. X-3 List to 14 C.A.R. on dates shown.

L-60915	Tpr.	Drumelle, C.V.	DM(TK)"C" 11 Aug 44
M-46471	Tpr.	Daniar, A.	DM(TK)"C" 12 Aug 44
M-102960	Tpr.	Lyall, R.J.	DM(TK)"C" 2 Aug 44

(n) S.O.S. X-3 List to 2 C.A.R. on dates shown.

M-193	Tpr.	Morrison, A.	13 Aug 44
L-58855	Tpr.	Wilson, M.D.	GnrOpr"C" 11 Aug 44

(o) S.O.S. X-4 (5 Dn) to HQ. 5 CAD 17 Aug 44
(Auth: 2 Sch Demand/681 d/15 Aug 44)

A-3283	Cpl.	Burgess, H.	Opr CAC "C"
C-30696	Cpl.	Kemp, F.G.	
D-146	Tpr.	Lapierre, G.	
C-30678	Cpl.	Wiley, J.A.	Opr CAC "C"
D-161	Tpr.	Treau, J.G.	
C-70589	Tpr.	Tennant, N.C.	

13. STRENGTH DECREASE (Cont'd)

(p) S.O.S. X-3 List to "D" Sqn-25 CADR 13 Aug 44
B-4608 Tpr. Shirton, D.C.

(q) S.O.S. X-3 List to X-9 List on dates shown.
(Auth: Pending Re-board)
B-405 Tpr. Moltke, E. DM(TK)"C" 14 Aug 44
L-54617 Tpr(A/Cpl) Robertson, R.J. 12 Aug 44

(r) S.O.S. X-4 (5 Dn) to 1 Cdn. Ass. Tp CAC 4 Aug 44
(Auth: 2 Ech. Demand 630)
C-70473 Sgt. Thomson, G.

(s) S.O.S. X-3 List to X-8 List 9 Aug 44
(Auth: Evac. Cert. d/1 Aug 44)
G-102 Tpr. Stanley, F.M. DM(TK)"C"

(t) AMENDMENT: Part II Order No. 91 para. 18 (y) of 14 Jun 44 is cancelled.

(u) AMENDMENT: Part II Order No. 77 para. 11 (q) of 29 May 44 is amended to read "Gnr Opr "C"
K-49550 Tpr. Wood, N.J. Dvr. Opr "C"

(W.H. Laughlin) Lieut.
for Officer i/c
/HJP Canadian Section G.H.Q. 2nd Echelon - A.A.I.

SPARE

Last Order No. 127 28 Aug 44

"X" LIST CANADIAN ARMOURED CORPS (SEC "D")
PART II ORDERS ISSUED BY
CANADIAN SECTION G.H.Q. 2nd ECHELON - A.A.I.

This Order No. 120 29 Aug 44

"A" OFFICERS

1. STRENGTH INCREASE

(a) T.O.S. X-4 ("A" Sqn-ADR) from 12 C.A.R. — 31 Jul 44
(Auth: 2 ELO/T.O. C-43 d/31 Jul 44)
Lieut. J.P. McKay

(b) T.O.S. X-3 List from 12 C.A.R. — 22 Aug 44
Capt. J.H. Pratt

2. INTERNAL POSTINGS

(a) Posted from X-4 (5 Dn) to X-4 (RACTD) — 25 Aug 44
(Auth: 2 BCH/Dem CAC/144 d/23 Aug 44)
Lieut. R.W. Mockin

(b) Posted from X-4 (CACTU) to X-4 ("G" Sqn-ADR) — 25 Aug 44
(Auth: TX/32 d/21 Aug 44)
Lieut. W.B. Ralston

(c) Posted from X-4 (5 Dn) to X-4 (RACTD) — 27 Aug 44
(Auth: CAC/144 d/23 Aug 44)
Capt. D.J. Duncan

(d) Posted from X-4 ("A" Sqn-ADR) to X-4 (5 Dn) — 6 Aug 44
(Auth: 2 ELO/T.O. C-43 d/31 Jul 44)
Lieut. J.P. McKay

(e) Posted from X-3 List to X-4 (5 Dn) — 24 Aug 44
Lieut. J. Black
Lieut. W.R.R. Newberry
Lieut. R.G. Mulcaster

3. STRENGTH DECREASE

(a) S.O.S. X-4 (5 Dn) to (TE) CAC Trg Unit — 19 Aug 44
(Auth: TD/104 d/15 Aug 44)
Lieut. J.P. McKay

"B" OTHER RANKS

4. STRENGTH INCREASE

(a) T.O.S. X-4 ("A" Sqn-ADR) from 14 C.A.R. — 21 Aug 44
(Auth: Evac. of AFV)
H-63941 Tpr. Frederick, A. — DM(MV)"C"
M-60477 Tpr. Wanglsness, H.

(b) T.O.S. X-3 List from 12 C.A.R. on dates shown.
D-118149 Tpr. Decker, W. — DM(TK)"C" — 22 Aug 44
D-88992 Tpr. Coleman, L.W. — 24 Aug 44
D-62577 Tpr. Little, K.L. — Gnr Opr "C" — 24 Aug 44
C-31171 Tpr. Lynch, J.R. — 24 Aug 44
D-68081 Tpr. McFarland, H. — 24 Aug 44
G-907 Tpr. Whitney, J.A. — Mtr Mech "B" — 23 Aug 44

(c) T.O.S. X-3 List from HQ 1 CAD — 22 Aug 44
H-102300 Tpr. Kunyk, M.

4. STRENGTH INCREASE (Cont'd)

(d) T.O.S. X-3 List from 14 C.A.R. on dates shown.
H-64012 Tpr. Greenberg, N.M. Gnr Opr "C" 21 Aug 44
H-26830 Tpr. Guilbault, A.R. 18 Aug 44
M-45071 Tpr. Lochhead, D.L. 23 Aug 44
A-4185 Tpr(A/Cpl) McCormick, E.S. OpC.C"C" 21 Aug 44

(e) T.O.S. X-3 List from 5 C.A.R. 13 Jul 44
D-136902 Tpr. Emory, F.S.

(f) T.O.S. X-4 (5 Dn) from X-9 List 27 Aug 44
(Auth: P.O. Wis/1289 d/25 Aug 44)
G-342 Tpr. Everett, C.G.

(g) T.O.S. X-3 List from HQ 1 CAD 23 Aug 44
G-37058 Tpr. Jonah, D.R. DM(MV)"C"

(h) T.O.S. X-3 List from HQ 5 CAD 24 Aug 44
D-48783 Tpr. Stanley, L.G. Opr CAC "C"

(i) T.O.S. X-4 ("A" Sqn-ADR) from 11 C.A.R. 23 Aug 44
(Auth: Evac. of AFVs)
D-60798 Cpl. Emery, F.V. Gnr Opr "C"
D-61667 Tpr. Desjardins, E.L. DM(TK)"C"

(j) T.O.S. X-3 List from HQ 5 CAD 21 Aug 44
D-61182 Sgt. Sanderson, E.R.

(k) T.O.S. X-3 List from (TE) 7 Dn 2 C.D.A.D. 23 Aug 44
H-100501 Tpr. Simmons, S.

(l) T.O.S. X-3 List from HQ 5 CAD 25 Aug 44
F-76092 Tpr. Schnare, P.L.

(m) T.O.S. X-3 List from 11 C.A.R. 22 Aug 44
D-61082 Sgt. Jackson, J.

(n) T.O.S. X-3 List from 2 C.A.R. 22 Aug 44
D-49510 Tpr. Gill, G.W.

(o) T.O.S. X-4 ("A" Sqn-ADR) from HQ 1 CAD 22 Aug 44
(Auth: 2 ELO/Posting Order/C-97 d/21 Aug 44)
G-37095 SSM. Weatherby, H.C.

(p) T.O.S. X-3 List from 5 C.A.R. 23 Aug 44
D-63312 Tpr. Burns, L.F.J.

(q) T.O.S. X-3 List from 12 C.A.R. 22 Aug 44
D-38007 Tpr. Harrison, R.
F-76218 Tpr. Taylor, I.J. DM(MV)"C"

(r) T.O.S. X-3 List from 1 Graves Reg. Unit 22 Aug 44
D-76758 Cpl. Fenwick, W.C. Photo. "A"

4. STRENGTH INCREASE (Cont'd)

(s) T.O.S. X-3 List from 11 C.A.R. on dates shown.

D-60794	Cpl.	East, S.W.	Ftr. "A"	23 Aug 44
D-74516	Cpl.	Hayes, C.H.	Mtr Mech "B"	21 Aug 44
H-26323	Tpr.	Love, J.	Gnr Opr "C"	18 Aug 44
K-37736	Tpr.	Pearson, E.W.	DM(MV)"C"	23 Aug 44
D-62289	Tpr.	Seeley, J.J.	DM(TK)"C"	23 Aug 44
H-8530	Tpr.	Durzuik, P.		23 Aug 44
C-30335	Tpr.	Packard, R.A.	Gnr Opr "C"	23 Aug 44
M-28367	Tpr.	Anderson, L.		23 Aug 44
D-60956	Tpr.	Corbett, R.H.		23 Aug 44
C-50163	Tpr.	Osborne, O.F.	Opr C/C "C"	10 Aug 44
D-60598	Tpr.	Mason, J.W.		23 Aug 44
A-104988	Tpr.	Martin, K.G.	Gnr Opr "C"	22 Aug 44
D-133281	Tpr.	Lawlor, S.M.	Gnr Opr "C"	20 Aug 44

(t) T.O.S. X-3 List from 11 C.A.R. on dates shown.

A-55089	Tpr.	Brogan, E.W.	Gnr Opr "C"	25 Aug 44
D-68015	Tpr.	Carisdale, H.G.	Gnr Opr "C"	25 Aug 44
K-50108	Tpr.	Durfey, W.L.		25 Aug 44

(u) T.O.S. X-4 (5 Bn) from C. Pro. C. X-4 (8 Bn) 25 Aug 44 ontrans from C. Pro. C. to C.A.C.
(Auth: CBCH/43/Post Pro/1 (A7) d/17 Aug 44)
D-122969 Tpr. Griffiths, J.E.

(v) T.O.S. X-5 List from HQ 5 CAD 21 Aug 44 proceeding on Learner's Clerk's Course No. 4 at RCASC Trg School (4 weeks)
M-36981 Tpr. Reed, G.R.

(w) AMENDMENT: Part II Order No. 116 para. 4 (a1) dated 5 Aug 44 insofar as it refers to the u/m is cancelled.
C-70624 Tpr. Vosdingh, J.

(x) AMENDMENT: Part II Order No. 11 para. 5 (af) of 23 Feb 44 is amended by deleting "Gnr Opr "C"
D-40749 Cpl. Dobson, L.G.

5. INTERNAL POSTINGS

(a) Posted from X-3 List to X-4 ("A" Sqn-ADR) 22 Aug 44

D-105807	Tpr.	Baird, A.J.	
M-27095	Tpr.	Lapp, H.R.	

(b) Posted from X-3 List to X-4 ("A" Sqn-ADR) 23 Aug 44

D-63419	Tpr.	Boucher, D.J.	
D-61243	Tpr.	Davis, D.R.	
D-62486	Tpr.	Gill, J.H.	
L-8800	Tpr.	Grothe, W.J.	
D-74623	Tpr.	McInnis, C.H.	
A-44105	Tpr.	Rodrigues, M.J.	
D-19568	Tpr.	Wilson, A.	

(c) Posted from X-4 (4 Bn) to X-4 ("C" Sqn-ADR) 22 Aug 44
(Auth: Cdn O2E/ARS/2340 d/22 Aug 44)

A-102706	Sgt.	Garvey, E.J.	
F-64824	Tpr.	Harding, J.F.	

5. INTERNAL POSTINGS (Cont'd)

(d) Posted from X-3 List to X-4 (5 Dn) on dates shown.

M-17479	Tpr.	Arthur, T.E.	LM(INV)"C"	24 Aug 44
K-67035	Tpr.	Sleasman, F.E.		24 Aug 44
R-62522	Tpr.	Wurmlinger, F.	Gnr Opr "C"	22 Aug 44
F-64024	Tpr.	Harding, J.F.		21 Aug 44

(e) Posted from X-4 (5 Dn) to X-4 (RACTD) 26 Aug 44
(Auth: CAC/14[illegible] d/23 Aug 44)

G-37126	Tpr.	Chisholm, G.A.	
B-113159	Tpr.	Stronghan, M.H.	
M-16996	Tpr.	Logan, D.	
H-37660	Tpr.	Abbott, K.J.	
M-27164	Tpr.	Ashley, [illegible]	
B-133535	Tpr.	Colwill, [illegible].C.	
F-56080	Tpr.	Cameron, G.J.	
A-221	Tpr.	Foster, W.B.	
B-134703	Tpr.	Ferguson, J.A.	
L-34253	Tpr.	Witbeck, M.C.	
B-144415	Tpr.	Bramhill, D.R.	

(f) Posted from X-4 (CACTU) to X-4 ("C" Sqn-ADA) 25 Aug 44
(Auth: TX/32 d/21 Aug 44)

L-103041	Tpr.	Appelt, D.H.	B-135460	Tpr.	McGregor, H.W.
C-101428	Tpr.	Anderson, H.W.	K-2436	Cpl.	McLaughlin, A.T.
A-116162	Tpr.	Airriess, H.E.	M-101601	Tpr.	Neville, W.J.
L-102376	Tpr.	Benson, H.A.	M-105702	Tpr.	Pfund, A.J.
A-117491	Tpr.	Barber, V.T.	A-80191	Tpr.	Payne, J.G.
K-50324	Tpr.	Burt, F.	K-1136	Tpr.	Powarchuck, F.
G-28700	Tpr.	Cavanaugh, C.C.	H-101827	Tpr.	Roberts, W.H.
G-52003	Tpr.	Chase, P.G.	F-45353	Tpr.	Royles, [illegible].B.
F-35759	Tpr.	Chapman, A.	A-102024	Tpr.	Ronaud, W.H.
C-31079	Tpr.	Clyne, L.C.	L-104535	Tpr.	Reynolds, H.K.
A-42469	Tpr.	Dalby, A.F.	F-87077	Tpr.	Parker, L.J.
M-89003	Tpr.	Frost, G.	M-101810	Tpr.	Simon, K.W.
B-142061	Tpr.	Fairbarn, H.E.	K-51[illegible]	Tpr.	Shuter, D.
R-73006	Tpr.	Godfrey, C.G.	A-102827	Tpr.	Secord, W.E.
M-106018	Tpr.	Possum, C.F.	B-75049	Tpr.	Sawchuk, C.C.
F-65995	Tpr.	Herrett, G.E.	B-27154	Tpr.	Shepherd, J.A.
B-61355	Tpr.	Hammond, F.W.	B-139133	Tpr.	Sheard, G.B.
L-54922	Tpr.	Hillstad, H.B.	A-42333	Tpr.	Tribble, J.E.
C-120949	Tpr.	Jnquith, C.N.	A-3[illegible]70	Tpr.	Thomson, W.W.
R-50276	Tpr.	Landstrum, E.A.	M-106500	Tpr.	Winey, M.F.
F-33066	Tpr.	Lalusic, E.P.	H-317	Cpl.	Ward, F.H.
[illegible]-22264	Tpr.	Lalonde, E.J.	C-119002	Tpr.	Warren, G.R.
H-101630	Tpr.	Mortier, D.O.	L-2479	Tpr.	Watson, H.W.
B-19771	Tpr.	Moldowan, W.	B-62176	Cpl.	Wilkins, H.
K-46019	Tpr.	Myers, C.G.	A-55820	Tpr.	Wilhems, H.L.
A-117061	Tpr.	Marchand, R.J.	A-44200	Tpr.	Lessard, J.E.
L-4753	Tpr.	McDonald, G.E.	L-50697	Tpr.	Wilson, [illegible].B.
B-63435	Tpr.	McKinley, R.	H-10101	Tpr.	Randle, R.G.
G-800	Tpr.	MacCallum, G.E.			

(g) Posted from X-4 (CACTU) to X-3 List 25 Aug 44

L-101065	Tpr.	Oakman, F.L.	
B-145678	Tpr.	Stonehouse, G.J.	

5. INTERNAL POSTINGS (Cont'd)

(h) Posted from X-10 List to X-3 List 23 Aug 44 on ceasing att. to"A"
(273) Corp Dol. Sqn. (Dr)
M-36036 Tpr. Gosling, I.J. DM(HV)"C"

(i) Posted from X-3 List to X-4 (5 Dn) 6 Aug 44
D-136902 Tpr. Emery, F.S.

(j) DELETED

(k) Posted from X-3 List to X-4 ("A" Sqn-AHQ) 10 Aug 44
A-503 Tpr. Doland, J.F. Opr C&C "C"

(l) Posted from X-4 (5 Dn) to X-4 (RALCTD) 25 Aug 44
(Auth: 2 BCH/Dom/C&C/142 d/23 Aug 44)
M-12030 Tpr. Whitford, R.B. Opr C&C "C"

(m) Posted from X-4 (5 Dn) to X-4 (RALCTD) 25 Aug 44
(Auth: 2 BCH/Dom C&C/144 d/23 Aug 44)

D-320	Tpr.	Burton, D.W.
M-27274	Tpr.	Bartlett, N.A.
K-25570	Sgt.	Bouvette, S.M.
G-536	Tpr.	Craig, J.H.
F-59766	Tpr.	Gallant, F.J.
D-16760	Tpr.	Hill, F.L.
D-3022	Tpr.	Hunter, J.M.
H-63729	Tpr.	Ledoux, L.L.
D-58600	Tpr.	Lenhart, A.F.
H-132	Tpr.	Mack, C.
L-2707	Tpr.	Misener, R.E.
G-695	Tpr.	Mitchell, S.W.
D-42	Tpr.	Morris, H.
G-19716	Cpl.	MacDonald, M.R.
H-90	Cpl.	McGregor, F.J.M.
D-1372	Tpr.	Ostapuk, J.
D-133692	Tpr.	Skidmore, J.N.
C-100752	Tpr.	Stewart, C.A.
A-105036	Tpr.	Walters, F.C.

(n) Posted from X-3 List to X-4 (5 Dn) 21 Aug 44
K-859 Tpr. Ali, D.H.

(o) Posted from X-4 (5 Dn) to X-4 (RALCTD) 24 Aug 44
(Auth: CBCH/40/AWL/4 (A8) 4/10 Aug 44)
K-859 Tpr. Ali, D.H.

(p) Posted from X-10 List to X-3 List 21 Aug 44 on ceasing att. to"B"
(274) Corp Dol. Sqn (Dr)
M-27186 Tpr(A/Cpl) MacPherson, G.C. DM(TK)"C"

(q) Posted from X-4 ("A" Sqn-AHQ) to X-3 List 22 Aug 44
D-62136 Tpr. Gallagher, E.T.

5. INTERNAL POSTINGS (Cont'd)

(r) Posted from X-4 (5 Dn) to X-3 List 21 Aug 44
K-69767 Tpr. Nobbs, A.F.

(s) Posted from X-4 ("A" Sqn, ADR) to X-3 List 21 Aug 44
L-100964 Tpr. Holliday, R.J.

(t) Posted from X-4 (4 Dn) to X-3 List 23 Aug 44
A-55047 Tpr. Jaquith, H.W.

(u) Posted from X-3 List to X-4 (4 Dn) 23 Aug 44
D-61102 Sgt. Sanderson, E.R.
M-63583 Tpr. Walsh, R.G.

(v) Posted from X-3 List to X-4 (5 Dn) 23 Aug 44

H-37666	Tpr.	Abbott, K.J.	Gnr Opr "C"
M-27164	Tpr.	Ashley, D.	
D-61099	Tpr.	Birnie, J.D.	
D-144415	Tpr.	Bramhill, D.A.	Gnr Opr "C"
D-102702	Tpr.	Chapman, D.J.	
M-26807	Cpl.	Court, E.O.	DM(TK)"C"
A-55185	Tpr.	Dugal, M.L.	Mtr Mech "D"
D-113076	Tpr.	Fecteau, T.E.	DM(TK)"C"
D-134703	Tpr.	Ferguson, J.A.	
M-17358	Tpr.	Gerhardt, T.H.	
D-67933	Sgt.	Giroux, C.A.	
D-128031	Tpr.	Gillespie, N.L.	Opr C/C "C"
M-74395	Cpl.	Heaney, S.T.	
D-36203	L-Cpl(A/Sgt)	Hodson, J.	
M-20638	Tpr.	Hutchins, E.J.	Clerk "C"
A-55504	Tpr.	Knowles, G.F.	Opr C/C "C"
H-26437	Cpl.	Lindquist, P.	
D-67944	Tpr.	Lee, S.	Gnr Opr "C"
L-54055	Tpr.	McCrendie, T.D.	
H-23703	Tpr.	Munro, C.G.	DM(TK)"C"
M-104911	Tpr.	Makus, E.	
D-60016	Tpr.	McCleery, T.	DM(TK)"C"
G-37007	Tpr.	Smith, L.F.	DM(MV)"C"
D-60051	Cpl.	Topping, H.E.	Opr C/C "C"
D-36464	Tpr.	Turnbull, W.	Dvr. Opr "C"
L-34253	Tpr.	Witbeck, M.C.	Gnr Opr "C"

(w) Posted from X-3 List to X-4 (RACTD) 16 Aug 44
D-62489 Tpr. Lumchick, J.J.

(x) Posted from X-4 (RACTD) to X-3 List 24 Aug 44
C-75642 Tpr. Lefontaine, R.

(y) Posted from X-3 List to X-4 (5 Dn) 5 Aug 44
C-50800 Tpr. Monerieff, A.H. Opr C/C "C"

(z) Posted from X-3 List to X-4 (5 Dn) 10 Aug 44
L-36552 MQMS. Clark, A. Mechanist "A"

5. INTERNAL POSTINGS (Cont'd)
(aa) Posted from X-3 List to X-2 List 15 Aug 44 on re-adm. to 56 N.P. and D.B. (Awarded 1 yrs. Detention on 10 Apr 44.
A-44221 Tpr. Shepherd, A.C.

6. TRADESMEN'S RATES OF PAY
(a) Reverts to daily regt'l rates of pay $1.50 16 Aug 44
M-103400 Tpr. Quattrocchi, A. Gnr Opr "C"

(b) Reverts to daily regt'l rates of pay $1.50 25 Aug 44
M-65320 Tpr. Carson, J.T.A. Gnr Opr "C"

7. HONOURS AND AWARDS
(a) Awarded 1939-43 Star.
[illegible]-03375 Tpr. Donaldson, G.J.

8. ABSENT WITHOUT LEAVE
(a) AWL from 0000 hrs 21 Aug 44. Returned from AWL 2200 hrs 25 Aug 44
C-37302 Tpr. Dorube, J.M. (1 CCD)

(b) AWL from 2200 hrs 4 Aug 44. Returned from AWL 10 Aug 44 on adm. to 2 (UK) CCS.
D-36375 Tpr. Saint Yves, R. (CACTU)

(c) AWL from 22[illegible] hrs 3 Aug 44. Still absent 2200 hrs 25 Aug 44. (22nd day)
D-36023 Tpr. Deslauriers, P. (CACTU)

9. APPOINTMENTS
(a) DELETED

(b) DELETED

(c) Vacates the appt. of A/L/Cpl. 25 Aug 44. To draw tradesmen's rates of pay of $1.75.
D-[illegible]3435 Tpr(A/L/Cpl) McKinley, R. Gnr Opr "C"

(d) Vacates the appt. of L/Cpl 25 Aug 44. To draw daily regt'l rates of pay of $1.50 per diem.
A-42333 Tpr(L/Cpl) Trimble, J.R.

(e) Vacates the appt. of A/L/Cpl 25 Aug 44. To draw daily regt'l rate of pay of $1.50 per diem.
L-2479 Tpr(A/L/Cpl) Watson, R.W.

10. REVERSION
(a) Reverts to Tpr. 25 Aug 44. To draw daily regt'l rates of pay of $1.50 per diem.
A-44200 Tpr(L/Cpl) Lessard, J.E.

11. LEAVE OF ABSENCE

(a) Granted 7 days P.L. from 21 Aug 44 until 28 Aug 44.

D-77992	Tpr.	Mason, J.C.
L-54075	Tpr.	Hamill, J.
A-55070	Tpr.	Wallace, C.E.
D-60766	Tpr.	Owles, E.A.
D-102509	Tpr.	Gibbs, J.
A-9633	Tpr.	Little, W.
H-63799	Tpr.	Benoit, A.A.

(b) Granted 7 days P.L. from 25 Aug 44 to 1 Sep 44.

D-67933	Sgt.	Giroux, C.A.
D-36464	Tpr.	Turnbull, W.

12. PUNISHMENTS

(a) On 24 Aug 44 awarded a forf. of 3 days pay for an offence under A.A. Sec. 15 (1) AWL from 2230 hrs 23 Aug 44 to 0600 hrs 24 Aug 44. (Absent 7 hrs 30 mins) Forfs. 1 days pay under FR&I 149 (1) (a) - Forfs. 3 days pay under FR&I 149 (2). TOTAL FORF. 4 days pay.

C-50173 Tpr. Bouchard, A.G. (X-3)

(b) On 14 Aug 44 admonished for an offence under A.A. Sec. 15 (1). AWL from 2145 hrs 10 Aug 44 to 1215 hrs 11 Aug 44. (Absent 14 hrs. 30 mins) Forfs. 1 days pay under FR&I 149 (1) (a).

D-136902 Tpr. Emery, F.S. (5 Bn)

(c) On 16 Aug 44 tried by F.G.C.M.

CHARGES: (1) A.A. Sec. 15 (1) AWL from 1030 hrs 17 May 44 to 2045 hrs 18 May 44. (Absent 1 day 2 hrs 15 mins)
(2) A.A. Sec. 15 (1) AWL from 1030 hrs 16 Jun 44 to 2200 hrs 20 Jun 44. (when in open arrest). Absent 4 days 3 hrs. 30 mins)

FINDINGS: Guilty on all charges.

SENTENCE: 6 months Detention.

CONFIRMATION: Findings confirmed by Comdr. 1 CAD but sentence reduced 120 days F.P. and Forf. 120 days pay.

CLOSE ARREST: In close arrest from 2200 hrs 20 Jun 44 to date of trial.

FORFEITURES: Forfs. 7 days pay under FR&I 149 (1) (a).
Forfs. 56 days pay under FR&I 149 (1) (c) (i).
Forfs. 120 days pay under FR&I 149 (1) (b).
TOTAL FORFEITURE: 183 days pay.

K-79129 Tpr. Simonds, W.D. ("A" Sqn-ADR)

(d) On 24 Aug 44 awarded a forf. of 7 days pay for an offence under A.A. Sec. 40. Forfs. 7 days pay under FR&I 149 (2).

L-36070 Tpr. McKenzie, A.M. (5 Bn)

12. PUNISHMENTS (Cont'd)
(c) On 24 Aug 44 awarded 5 days F.P. and forf. of 5 days pay for an offence under A.A. Sec. 15 (1) AWL from 2130 hrs 10 Aug 44 to 1900 hrs 12 Aug 44. (Absent 1 days 21 hrs 30 mins). Forfs. 5 dys. pay under FR&I 149 (2) - Forfs. 2 days pay under FR&I 149 (1)(a).
K-059 Tpr. Ali, D.R. (RACTD) Total Forf 7 days pay.

13. NEXT OF KIN
(a) N. of K. verified as shown.
H-77192 Tpr. Matthews, C.W. - Minnie Matthews (Mother)
Kimberley, B.C.,
Canada.

14. STRENGTH DECREASE 1 CBRD
(a) S.O.S. X-10 List to 4 Dn (Spec. Inc) 15 Jun 44. Census att. to (PE) 4 Dn).
(Auth: 1 Sch/Adm Men/56)
D-63404 Tpr. Hillson, A.M.

(b) S.O.S. X-4 (5 Dn) to (PE) CACTU 25 Aug 44
(Auth: CBCH/43/Post CAC/2 (A7) d/24 Aug 44)
D-19070 Sgt. Wilson, J.H. Clerk "C"

(c) S.O.S. X-4 (5 Dn) to (PE) 5 Dn 25 Aug 44
(Auth: WIS 1270 d/24 Aug 44)
A-22607 Tpr. Shapple, E.C. DM(MV)"C"

(d) S.O.S. X-3 List to HQ 5 CAD 21 Aug 44
D-84911 Tpr. Moroney, W.G.

(e) S.O.S. X-3 List to 11 C.A.R. 10 Aug 44
D-82460 Tpr. Thurston, J. Opr.CAC "C"

(f) S.O.S. X-3 List to HQ 5 CAD. on dates shown.
F-77016 Tpr. Gallant, T.A. 23 Aug 44
D-91749 Tpr. Wilbur, E.W. 20 Aug 44
C-93060 Tpr. Delaney, F. 20 Aug 44

(g) S.O.S. X-5 List to HQ 5 CAD 6 Aug 44 on return from D. & M. Course No. 7 at RACTD.
A-57432 Tpr. Furlong, A.M.

(h) S.O.S. X-4 (5 Dn) to CAC"E" X-4 (RACTD) 21 Aug 44
(Auth: CAD/139 d/16 Aug 44)
C-50000 Tpr. Monerieff, A.H.

(i) S.O.S. X-4 (4 Dn) to HQ 5 CAD 24 Aug 44
(Auth: C&n 02E/MMS/2302 d/24 Aug 44.
D-61102 Sgt. Sanderson, E.R.

(j) S.O.S. X-4 (5 Dn) to X-4 (6 Dn) R.C.E.M.E. 24 Aug 44
(Auth: CBCH/44/Trans Gen/12 (A7) 21/X-4 CAC"P"/1 d/25 Aug 44)
C-70551 Tpr. Decary, L. DM(MV)"C"
M-16415 Tpr. Turchinsky, M.K. DM(MV)"C"

14. STRENGTH DECREASE (Cont'd)

(k) S.O.S. X-4 ("A" Sqn-ADR) to 12 C.A.R. 22 Aug 44
(Auth: 2 ELO Posting Order C-98 d/22 Aug 44)
D-36670 Cpl. Forget, R.

(l) S.O.S. X-4 ("A" Sqn-ADR) to 12 C.A.R. 22 Aug 44
(Auth: CAC/Depots/1 d/14 Aug 44)
D-105807 Tpr. Baird, A.J. Opr CAC "C"

(m) S.O.S. X-4 ("A" Sqn-ADR) to 11 C.A.R. 22 Aug 44
(Auth: 2 ELO Posting Order C-92 d/21 Aug 44)
D-19052 Cpl. Rollinson, E.A.

(n) S.O.S. X-4 ("A" Sqn-ADR) to 1 Cdn. Ass. Tp. CAC 22 Aug 44
(Auth: 2 ELO Posting Order C-99 d/22 Aug 44)
K-37406 Tpr. Nonkes, L.A. Gnr Opr "C"

(o) S.O.S. X-4 ("C" Sqn-ADR) to X-4 CAC "E" "C" Sqn-ADR 21 Aug 44
(Auth: CACRS/Rfts Gen/1 d/22 Aug 44.
D-135490 Tpr. Adams, H.R.
D-132736 Tpr. Desilest, D.W.
D-70157 Tpr. Ford, C.J. DM(MV)"C"
D-136006 Tpr. Forrester, D.D. DM(TK)"C"
L-41366 Tpr. Glass, R.A. Gnr Opr "C"
D-134751 Tpr. Hanley, J.E. DM(MV)"C"
H-103479 Tpr. Werner, L.
M-104750 Tpr. Hubbel, R.M.
M-117706 Tpr. Ireland, C.A.
L-53770 Tpr. Kane, J.J.J. DM(TK)"C"
H-82227 Tpr. Laflesche, J. DM(MV)"C"
K-49440 Tpr. Letkeman, J. DM(TK)"C"
M-09209 Tpr. Nemes, T.
K-42304 Tpr. Sharp, R.S. DM(TK)"C"
L-105030 Tpr. Young, R.R.

(p) S.O.S. X-4 (4 Dn) to HQ. 1 Cdn. Corps 22 Aug 44
(Auth: Cdn G2E/ARS/2327 d/21 Aug 44)
D-69604 Tpr. Back, F.C.

(q) S.O.S. X-3 List to 12 C.A.R. on dates shown.
D-80992 Tpr. Coleman, A.W. 13 Aug 44
G-007 Tpr. Lanteigne, N. 19 Aug 44

(r) S.O.S. X-4 (5 Dn) to X-4 CAC "E" (RECTD) 25 Aug 44
(Auth: 2 ECH/Den/CAC/144 d/23 Aug 44)
L-54605 Tpr. Bell, W.L. DM(MV)"C"
G-491 Tpr. Goss, L.W.
D-132446 Tpr. McKean, D. Opr CAC "C"
M-56999 Tpr. Young, G.H.

(s) S.O.S. X-4 (5 Dn) to X-4 (5 Dn) CAC "F" 25 Aug 44
(Auth: 2 ECH/Men 40/ d/9 Aug 44)
M-104702 Tpr. Driscoe, K.S.

(t) S.O.S. X-4 (5 Dn) to X-4 (6 Dn) RCA ("A") 23 Aug 44
(Auth: CBCH/44/Trans Gen/10 (ORG) d/1 Aug 44)
D-77920 Tpr. Shoffey, N. Gun Ftr "C"

14. STRENGTH DECREASE (Cont'd)

(u) S.O.S. X-4 (5 Dn) to (TE) CACTU 25 Aug 44
(Auth: CAC/2 (A7) d/24 Aug 44)
F-39673 Sgt. O'Brion, W.F.

(v) S.O.S. X-4 (CACTU) to X-4 (2 Dn) Loyal Edmonton Reg't. 25 Aug 44
(Auth: CECH/44/Trans Gen/12 (A7) d/20 Aug 44)
M-65320 Tpr. Carson, J.T.A.

(w) S.O.S. X-4 (CACTU) to X-4 CAC "C" (CACTU) 24 Aug 44
(Auth: CECH/44/Trans Gen/ d/29 May 44)
D-57 Tpr. Mains, E.M.

(x) S.O.S. X-4 (5 Dn) to X-4 (3 Dn) 48 Highlanders of Can. 24 Aug 44
(Auth: CECH/44/Trans Gen/2 (ORG) d/27 May 44)
A-3603 Tpr. Johnston, V.F.

(y) S.O.S. X-3 List to 12 C.A.R. 10 Aug 44
D-102730 Tpr. Wakegijig, J.J.

(z) S.O.S. X-3 List to HQ 5 CAD 19 Aug 44
D-38000 Sgt. Flack, T.R.

(aa) S.O.S. X-3 List to X-9 List 24 Aug 44
(Auth: Pending Re-board)
L-66020 Tpr. MacKenzie, R.

(ab) S.O.S. X-4 ("A" Sqn-ADR) to 11 C.A.R. 23 Aug 44
(Auth: CAC/Depots/1 d/14 May 44)
K-5 Tpr. Brooks, T. DM(TK)"C"
A-103231 Tpr. Hopper, H.E.
D-74623 Tpr. McInnis, C.R. DM(TK)"C"

(ac) S.O.S. X-4 (5 Dn) to X-4 (3 Dn) 4 PLDG 24 Aug 44
(Auth: CECH/44/Trans Gen/10 (A7) 21/X 4 CAC"A"/11 d/31 Jul 44)
H-19317 Tpr. King, A.J. DM(MV)"C"

(ad) S.O.S. X-4 ("A" Sqn-ADR) to 12 C.A.R. 21 Aug 44
(Auth: CAC/Depots/1 d/14 May 44)
A-503 Tpr. Doland, J.F. Opr CAC "C"

(ae) AMENDMENT: Part II Order No. 91 para. 18 (a) of 14 Jun 44 is amended by deleting "Gnr Opr "C"
D-40749 Cpl. Dobson, L.G.

(af) AMENDMENT: Part II Order No. 79 para. 9 (h) of 31 May 44 is amended by deleting "DM(TK)"C"
G-355 L/Cpl. Mullett, V.R.

(W.H. Laughlin) Lieut.
for Officer i/c

/HJP Canadian Section G.H.Q. 2nd Echelon - A.A.I.

Last Order No. 134 6 Sep 44

"X" LIST CANADIAN ARMOURED CORPS (SVC "D")
PART II ORDERS ISSUED BY
CANADIAN SECTION G.H.Q. 2nd ECHELON - A.A.I.

This Order No. 135 7 Sep 44

"A" OFFICERS

1. INTERNAL POSTINGS

(a) Posted from X-1 (CACTU) to X-4 ("C" Sqn-ADR) 3 Sep 44
(Auth: TC/40 d/27 Aug 44)
Lieut. R.W.L. Ellerbeck
Lieut. J.C. McKinnon
Lieut. R.R. McLeod

(b) Posted from X-1 (CACTU) to X-4 ("A" Sqn-ADR) 3 Sep 44
(Auth: TC/43 d/29 Aug 44)
Lieut. J. Black
Lieut(A/Capt) F.W. Rainey
Lieut. J.A. Sheriff

(c) Posted from X-4 (CACTU) to X-4 ("A" Sqn-ADR) 3 Sep 44
(Auth: TC/45 d/2 Sep 44)
Lieut. W.R.R. Newberry

2. HONOURS AND AWARDS

(a) Awarded O.B.E. & Clasp.
Lieut. R.A. London 4 Mar 44

"B" OTHER RANKS

3. STRENGTH INCREASE

(a) T.O.S. X-5 List from HQ 1 C&B 5 Sep 44
B-60602 Cpl. Stillman, F.M.
C-817 Tpr. Young, C.B.

(b) T.O.S. X-4 ("C" Sqn-ADR) from 9 C.A.R. 2 Sep 44
(Auth: C&M/84/8/Ranks/1/3 (Ael)
B-180444 Tpr(A/Cpl) Baldassaro, L.J. Gnr Opr "C"
K-[illegible] Tpr. Dragani, T.J. Gnr Opr "C"
K-1092 Tpr. Lewis, A.F. DM(TK)"C"

(c) T.O.S. X-1 (CACTU) from desertion 15 Aug 44 on surrendering himself to Military Police, Lagonegro, at 1000 hrs 15 Aug 44.
B-36738 Tpr. Dearness, J.H.

(d) T.O.S. X-3 List from 5 C.A.R. on dates shown.
C-[illegible] Tpr. Hay, J. DM(TK)"C" 2 Sep 44
B-32076 Tpr. McLeod, R.H. 3 Sep 44
B-106[illegible] Tpr. McPatton, C.F. Gnr Opr "C" 2 Sep 44

(e) T.O.S. X-5 List (Missing) from 9 C.A.R. 1 Sep 44
(Auth: CMF Sqn. 387 D-29 d/4 Sep 44)
K-[illegible] Tpr. Cornbell, D.S. Gnr Opr "C"
C-[illegible] Tpr. Cmd S. A. Gnr Opr "C"
L-[illegible] Tpr(A/Cpl) Bulgarno, A.E.C. Gnr C&C "C"
K-[illegible] Tpr. Hynes, B.J. DM(TK)"C"
K-[illegible] Tpr. Mauch, P.J. DM(TK)"C"

(f) T.O.S. X-5 List from (TC) CACTU 30 Aug 44 proceeding on M/T Instr. Course at CACTU.
K-[illegible] Cpl. Freeman, A. Gnr Opr "C"

3. STRENGTH INCREASE (Contld)

(g) T.O.S. X-3 List from 14 C.A.R. 23 Aug 44
H-27072 Tpr. Phillips, W.H. DM(MV)"C"

(h) T.O.S. X-3 List from 2 C.A.R. 4 Sep 44
H-94510 Tpr. Karpinski, P. DM(TK)"C"
R-30363 Tpr. Smith, H.W. DM(TK)"C"

(i) T.O.S. X-3 List from X-9 List 7 Sep 44
A-56796 Tpr(A/Cpl) Putman, S.J. Gnr Opr "C"

(j) T.O.S. X-4 (CACTU) from (pr) CACTU on dates shown.
(Auth: CAC/Depots/1-4/14 May 44)
R-26087 Tpr. Breese, R.J. Clerk "C" 4 Sep 44
R-69803 Tpr. Shaw, J.T. 3 Sep 44

(k) T.O.S. X-4 ("A" Sqn-ADR) from 14 C.A.R. 1 Sep 44
(Auth: Tvac. of AFVs)
K-15019 Tpr. MacDonald, A.J. DM(TK)"C"
K-98608 Tpr. Newman, A.B.
M-29015 Tpr. Sokoloski, W.M. Gnr Opr "C"
M-26848 Tpr. Vestrum, O.C. Gnr Opr "C"

(l) T.O.S. X-4 (# Rn) from (pr) RACTD 1 Sep 44
(Auth: C&n/44/22 RACTD/1 (CIC) 4/15 Aug 44)
C-5260 Tpr. Sover, J.A.

(m) T.O.S. X-4 ("A" Sqn-ADR) from 14 C.A.R. 3 Sep 44
(Auth: Surplus to W.E.)
H-69698 Tpr. Grage, F.M. Gnr Opr "C"
M-44068 Tpr. Davies, C. Gnr Opr "C"
H-56343 Tpr. Macklen, E.H. Gnr Opr "C"
B-74006 Tpr. Lattan, W. Opr.CIC "C"
L-36053 Tpr. Kirkham, P.H.
M-27009 Tpr. Nelson, N.L.
A-102757 Tpr. Logan, W.J.
L-58661 Tpr. Schnell, C.N.
H-64026 Tpr. Smart, W.J.
H-63921 Tpr. Lawrence, F.B.
H-101099 Tpr. Foley, W.J.

4. INTERNAL POSTINGS 29 Aug 44
(a) Posted from X-4 (CACTU) to X-4 (RACTD)
(Auth: C in C/proceedings/1 8/2 Jun 44)
B-42051 Tpr. Britton, L.H.

(b) Posted from X-4 (CACTU) to X-5 List 29 Aug 44 on proceeding to RACTD (W/T40/4 Sherman Gnr Opr W/T Course from 30 Aug 44 to 30 Sep 44)
B-61811 Tpr. Morris, I.D.

(c) Posted from X-4 (CACTU) to X-5 List 29 Aug 44 on proceeding to RACTD (W/T10/5 Wireless Upgrading Course from 30 Aug 44 to 30 Sep 44)
B-76940 Tpr. Dunn, J.W.D.
R-68270 Tpr. Lindsay, G.T.

4. INTERNAL POSTINGS (Cont'd)

(d) Posted from X-4 (CACTU) to X-5 List 29 Aug 44 on proceeding to RACTD "W/T Instructors Course from 30 Aug 44 to 30 Sep 44.
A-6089 Tpr. Pope, E.D.P.

(e) Posted from X-4 (CACTU) to X-5 List 29 Aug 44 on proceeding to RACTD (S/810/B Electrician Course from 30 Aug 44 to 11 Nov 44.
A-43039 Tpr. McGratten, S.J.

(f) Posted from X-4 (5 Bn) to X-4 (CACTU) 19 Jun 44
(Auth: CMG/69-3/17 Jun 44)
L-101069 Tpr. Woolsey, M.P.

(g) Posted from X-5 List to X-4 (5 Bn) 31 Aug 44
P-65069 Tpr. Hill, F.M.

(h) Posted from X-3 List to X-4 (RACTD) 5 Sep 44
C-75642 Tpr. Lafontaine, R.

(i) Posted from X-3 List to X-4 (5 Bn) 5 Sep 44
B-135432 Tpr. Chapdelaine, L.W. Gnr Opr "C"
H-[illegible] Tpr. Miner, V.A.
L-101865 Tpr. Oakesh, F.L.
M-69767 Tpr. Mobbs, A.P.

(j) Posted from X-3 List to X-4 (4 Bn) 2 Sep 44
L-51949 Tpr. Clarke, H.W. DM(TK)"C"
M-1187 Tpr. Bengs, L.G. Gnr Opr "C"
P-75983 Tpr. Rooney, J.O.

(k) Posted from X-3 List to X-4 (5 Bn) on dates shown.
M-63864 Tpr(A/Cpl) Haines, W.C. Gnr Opr "C" 2 Sep 44
B-[illegible] Tpr. LeGros, W.A. DM(MV)"C" 2 Sep 44
B-145676 Tpr. Stonehouse, G.N. 4 Sep 44
B-61062 Tpr. Nightingale, J. 4 Sep 44
D-36508 Tpr. Mailhot, O. 4 Sep 44

(l) Posted from X-4 (CACTU) to X-3 List on dates shown.
B-133566 Tpr. Vleurie, G.E. 4 Sep 44
B-61923 Tpr. Pinlack, L.J. 4 Sep 44

(m) Posted from X-4 (RACTD) to X-3 List 5 Sep 44
B-139372 Tpr. Terry, C.W. Gnr Opr "C"

(n) Posted from X-3 List to X-4 (5 Bn) 9 Aug 44
L-1277 Tpr. Selinger, R.

(o) Posted from X-1 (5 Bn) to X-2 List 1 Sep 44 on commitment to No. 2 Cdn P.T. Comp (Awarded 28 days F.P. on 1 Sep 44)
P-65069 Tpr. Hill, F.M.

5. HONOURS AND AWARDS

(a) Mentioned in Despatches, 6 Clasp on dates shown.
C-4602 Tpr(A/Cpl) Pirlotte, W.J. 3 Aug 44

5. HONOURS AND AWARDS (Cont'd)

(a)(Cont'd)

B-136032	Tpr.	Lawrence, W.M.	23 May 44
B-138447	Tpr.	Pollock, C.F.	5 Jul 44
A-104575	Tpr.	Snell, P.G.	22 Mar 44
K-49621	Tpr.	Vandergrift, C.F.	21 Jun 44
F-[illegible]566	Tpr.	Wadden, C.J.	[illegible] Jun 44
A-44726	Tpr.	Williams, D.J.	10 Jan 44
H-101810	Tpr.	Foster, J.	10 Jan 44
A-102939	Tpr.	Emisch, F.	10 Apr 44
M-27062	Tpr.	Goldie, W.	10 Jan 44
C-[illegible]380	Tpr.	Mason, C.F.	10 Sep 44
B-[illegible]3713	Tpr.	Knight, J.W.	10 Jan 44
L-[illegible]9618	Tpr.	Ahlstrom, N.	17 Jun 44
A-116468	Tpr.	Bratt, H.T.	2 May 44
F-[illegible]744	Tpr.	Page, A.A.	5 Jul 44
L-103060	Tpr.	Frogner, H.	20 May 44
B-97864	Tpr(A/Cpl)	Keyes, E.J.	27 Mar 44
F-28446	Tpr.	Morehouse, W.W.	10 Jan 44
B-82041	Tpr.	Woolhead, J.H.	19 Apr 44
L-104477	Tpr.	Allen, T.A.	18 Jul 44
C-120447	Tpr.	Baycroft, W.	28 Jul 44
H-1274	Tpr.	Bryden, A.	11 Jul 44
C-4553	Tpr.	Feran, T.C.	5 Sep 44
M-104931	Tpr.	Humphrey, A.G.	16 Mar 44
L-104874	Tpr.	Kozma, J.	2 Aug 44
B-138504	Tpr.	Morris, G.B.	30 Mar 44
M-104269	Tpr.	Stokes, B.M.	7 Jul 44
K-49473	Tpr.	Wilson, C.L.	8 Jul 44
B-136173	Tpr.	Wesley, J.J.	3 Jul 44
F-76349	Tpr.	Beaudreau, L.J.	13 Jun 44
C-120869	Tpr.	Bridges, J.A.	14 Jul 44
D-132334	Tpr.	Cummings, R.A.	15 May 44
B-18911	Tpr.	Finlayson, A.B.	10 Jan 44
M-104234	Tpr.	Hibblewhite, A.M.	3 Jul 44
B-136038	Tpr.	Judson, E.W.	23 May 44
F-30019	Tpr.	MacDonald, H.M.	10 Jan 44
F-30315	Tpr.	Rus ton, W.L.	10 Jan 44

6. ABSENT WITHOUT LEAVE

(a) AWL from 1700 hrs 13 Aug 44. Still absent 1700 hrs 4 Sep 44.
D-36457 Tpr. Barrer, H.B. (CACTU) (22nd day)

(b) AWL from 1430 hrs 25 Aug 44. Still absent 1430 hrs 2 Sep 44.
A-102086 Tpr. McDaniel, W.T.(RCCTD) (8th day)

(a) AMENDMENT: Part II Order No. 131 para. 7 (a), (b) of 1 Sep 44 is cancelled.
L-1397 Tpr. Solinger, R. (X-3 List)

7. PUNISHMENTS

(a) CR 1 Sep 44 awarded 28 days F.P. and a forf. of 28 days pay for an offence under A.A. Sec. 40. Forfs. 28 days pay under FR&I 149 (2).

P-65069 Tpr. Hill, F.M. (X-5)

7. PUNISHMENTS (Cont'd)

(b) On 4 Sep 44 awarded a forf. of 7 days pay for an offence under A.A. Sec. 15 (1) A/L from 1530 hrs 1 Sep 44 to 2100 hrs 1 Sep 44. (Absent 5 hrs 30 mins) Forfs. 7 days pay under FR&I 149(2)
H-16628 Tpr. Robie, S.F. (CACTU)

8. STRENGTH DECREASE

(a) S.O.S. X-3 List to X-9 List 4 Sep 44
(Auth: Pending Re-board)
A-55796 Tpr(A/Cpl) Putman, S.J. Gnr Opr "C"

(b) S.O.S. X-3 List to 11 C.A.R. on dates shown.
H-74516 Cpl. Hayes, C.H. Mtr Mech "B" 27 Aug 44
H-26582 Tpr. Henry, D.B. 28 Aug 44
C-58163 Tpr. Osborne, O.F. 26 Aug 44

(c) S.O.S. X-4 (CACTU) as a Deserter 25 Aug 44 having been declared illegally absent by a Court of Inquiry from 2200 hrs. 3 Aug 44. Deficiencies in Kit in the Amount of $69.31. (100% Vocab. Price)
D-36023 Tpr. Deslauriers, P.

(d) S.O.S. X-4 ("C" Sqn-ADR) to 9 C.A.R. 2 Sep 44
(Auth: CAC/Depots/1 d/14 May 44)
K-821 Tpr. Schubert, E.A.F. DM(TK)"C"
K-1185 Tpr. Green, W.H. Opr CAC "C"
K-49848 Tpr. Bloxom, A.C. Opr CAC "C"
L-58706 Cpl. Birtwistle, F.E.

(e) S.O.S. X-4 ("C" Sqn-ADR) to 9 C.A.R. 31 Aug 44
(Auth: CAC/Depots/1 d/14 May 44)
F-70470 Cpl. Kennickell, M.L.
A-103923 Tpr. Cornell, C.C.
B-42747 Tpr. Beaulieu, R.
C-120442 Tpr. Bell, R.R. Gnr Opr "C"

(f) S.O.S. X-4 ("C" Sqn-ADR) to 9 C.A.R. 1 Sep 44
(Auth: CAC/Depots/1 d/14 May 44)
A-104025 Tpr. Hook, L.W.

(g) S.O.S. X-4 (Dn) to CAC"C" X-4 RACTD 3 Sep 44
(Auth: CAC/149.)
L-1277 Tpr. Solinger, R. DM(TK)"C"

W.H. Laughlin Lt
(W.H. Laughlin) Lieut.
for Officer i/c
Canadian Section G.H.Q. 2nd Echelon - A.F.

Last Order No. 163 11 Oct 44

"X" LIST CANADIAN ARMOURED CORPS (SEC "D") PART II ORDERS ISSUED BY CANADIAN SECTION G.H.Q. 2nd ECHELON - 4 A.I. 13 Oct 44.

This Order No. 164

1. STRENGTH INCREASE "A" OFFICERS

(a) T.O.S. X-3 List from 9 C.A.R.
Lieut. R.J. Clarke 8 Oct 44

(b) T.O.S. X-3 List from 9 C.A.R.
Lieut. M.K. Conklin 7 Oct 44

2. INTERNAL POSTINGS

(a) Posted from X-3 List to X-4 ("A" Sqn-ADR)
Lieut. L.K. Murray 7 Oct 44

(b) Posted from X-4 (5 pr. to A-10 List for period 23 Sep 44 to 3 Oct 44 on att. to HQ 2 Cdn. Corps.
(Auth: 1 Cdn. Corps MS 8/60)
Lieut. C.H. Bowman

3. STRENGTH DECREASE

(a) T.O.S. As ("C" Sqn-ADR) to X-9 List
(Auth: G 10/1250 d/6 Oct 44)
Lieut. R.F. Sawyer 7 Oct 44

"B" OTHER RANKS

4. STRENGTH INCREASE

(a) T.O.S. X-3 List from 12 C.A.R. on dates shown.

B-67020	Tpr.	Cooke, W.H.		7 Oct 44
B-48345	Tpr.	Hodgkinson, C.E.	Gnr Opr "C"	7 Oct 44
G-43643	Tpr.	Kelly, R.H.	DM(AT)"C"	7 Oct 44
M-106131	Tpr.	Lunde, W.M.	Gnr Opr "C"	8 Oct 44
B-88820	Tpr.	McIntosh, R.K.	Storeman "C"	8 Oct 44
M-102632	Tpr.	Seabolt, W.	DM(ZK)"C"	7 Oct 44
B-71175	Tpr.	Thornton, K.L.		7 Oct 44
B-48294	Tpr.	Watt, [illegible]	DM(TT)"C"	7 Oct 44
B-4407	Tpr.	Whan, [illegible]	DM(AW)"C"	8 Oct 44
D-122035	Tpr.	Yarnold, C.R.		7 Oct 44

(b) T.O.S. X-3 List from 9 C.A.R.
K-43 Cpl. Blagborne, D.W. Gnr Opr "C" 7 Oct 44

(c) T.O.S. X-4 (C.CIU) from Desertion on being apprehended by 75 Coy. CMP on 3 Oct 44 (hc hrs. given)
D-35025 Tpr. Desiaurliers, P. (2 CTU)

(d) T.O.S. X-4 (5 Bn) from X-9 List
(Auth: [illegible] WDF 2182 46 Cat (a))
B-[illegible] Tpr. West, R.A. 9 Oct 44

(e) T.O.S. X-3 List from 9 C.A.R.
B-[illegible] Tpr. [illegible] 8 Oct 44

(f) T.O.S. X-4 (7 Bn) from 11 C.A.R.
(Auth: CMHQ/43/Post CMP/2 (A) dtd 21 Sep 44)
B-136476 Tpr. [illegible] 29 Sep 44

4. STRENGTH INCREASE (Cont'd)

(g) T.O.S. X-3 List from 2 C.A.R. 8 Oct 44
K-53891 Sgt. Barr, P.S.
L-58660 Tpr.(A/Cpl) Brovig, I.A.

(h) T.O.S. X-4 (5 Bn) from 7 Bn., 2 C.B.R.D. 10 Oct 44 on trans. from RCASC to CAC.
(Auth: CECH/44/Trans Gen/15 (A7) 27/X-RCASC/1 d/7 Oct 44)
M-63744 Tpr. Bruce, D.R.

(i) AMENDMENT: Part II Order No. 32 para. 4 (h) of 10 Apr 44 is amended to read "A/Cpl"
D-36483 L/Cpl. Gotro, V.A.

(j) AMENDMENT: Part II Order No. 160 para. 4 (g) of 8 Oct 44 is amended to include "DM(TK)"C"
H-313 Tpr(A/Cpl) Stein, H.G.

(k) AMENDMENT: Part II Order No. 116 para. 4 (a) of 5 Aug 44 is amended to read "5 Aug 44"
L-36859 Tpr. Laing, A.H.
C-70756 Cpl. Leblanc, C.E.
C-120305 Tpr. McGuirm, R.E.
B-62534 Tpr. Taylor, O.F.

(l) AMENDMENT: Part II Order No. 156 para. 4 (b) d/4 Oct 44 insofar as it refers to the u/m is cancelled.
B-138178 Tpr. Conta, J. Capp. "C" 29 Sep 44

5. INTERNAL POSTINGS

(a) Posted from X-4 (4 Bn) to X-4 ("A" Sqn-ADR) 7 Oct 44
(Auth: 1 Cdn Armd. Bde. Mess. 16 d/3 Oct 44)
A-7 Sqn.SM(WOII) Wells, E.G.

(b) Posted from X-3 List to X-4 ("A" Sqn-ADR) on dates shown.
B-74423 Tpr. Dixon, P.G. 7 Oct 44
M-26841 Tpr. White, M.A. DM(TK)"C" 8 Oct 44

(c) Posted from X-3 List to X-4 (4 Bn) 8 Oct 44
B-62332 Tpr. Bower, L.D. Gnr Opr "C"
P-14341 Tpr. McAskill, J.R. Gnr Opr "C"
P-3509 Sgt. Williams, A.H.(MM)

(d) Posted from X-2 List to X-3 List 7 Oct 44 on adm. to 67 Gen. Hosp (Br)
B-62620 Tpr. Munger, C.E.

(e) Posted from X-4 (4 Bn) to X-3 List 1 Oct 44
C-28398 Tpr. Lynch, R.L.

(f) Posted from X-3 List to X-4 ("A" Sqn-ADR) on dates shown.
B-134779 Tpr. Kolari, V.W. DM(TK)"C" 8 Oct 44
M-45468 Tpr. Davies, G. Gnr Opr "C" 9 Oct 44
B-68000 Sgt. Stafford, R.T.A. 9 Oct 44
D-36675 Tpr. Campeau, J.P.G. 9 Oct 44

(g) Posted from X-4 ("G" Sqn-ADR) to X-3 List 6 Oct 44
L-67513 Tpr. Loken, O.W. DM(TK)"C"

5. INTERNAL POSTINGS (Cont'd)

(h) Posted from X-3 List to X-4 (5 Bn) 10 Oct 44

H-403	Tpr.	Allison, J.E.	
G-641	Tpr.	Carter, A.H.	Gnr Opr "C"
K-5	Tpr.	Brooks, T.	DM(TK)"C"
M-50347	Tpr.	Campbell, W.L.	Gnr Opr "C"
H-53374	Tpr.	Campbell, N.H.	
A-104041	Tpr.	Fryfogel, J.F.	Mtr Mech "C"
K-2460	Tpr.	Fetterly, H.M.	DM(TK)"C"
B-133529	Tpr.	Haynes, A.E.	
G-37056	Cpl.	Horsman, O.N.	Gnr Opr "C"
L-91602	Tpr.	L'Arrivee, E.G.	Opr CAC "C"
H-26658	Tpr.	Lawrence, R.A.	DM(MV)"C"
K-1660	Sgt.	Lipinski, E.V.	
K-2442	Cpl.	Mather, E.E.	Opr CAC "C"
L-17355	Tpr.	Rielly, D.G.	DM(TK)"C"
B-61154	Tpr.	Russell, H.	Mtr Mech "B"
K-67583	Tpr.	Stewart, W.I.	Storeman "C"
D-27174	Tpr.	Wattling, J.M.	

(i) Posted from X-4 (5 Bn) to X-4 (CACTT) 10 Oct 44
(Auth: 2nd ECH Dem. No. CAC/191 d/6 Oct 44)

B-61471	Tpr.	Bacon, E.E.	
B-4521	Tpr.	Bowden, A.J.	
K-84	Cpl.	Hayter, C.E.	
B-61501	Tpr.	McKay, R.C.	
K-65	Cpl.	Stuart, R.	

(j) Posted from X-3 List to X-4 (5 Bn) 10 Oct 44

F-5622	Tpr.	Cassley, J.L.	
G-19572	Tpr.	Mason, R.M.	

(k) Posted from X-4 (RACTD) to X-3 List 9 Oct 44

B-1945	Tpr.	Asselin, P.A.	DM(MV)"C"
C-30906	Tpr.	Oxley, J.M.	

6. TRADESMEN'S QUALIFICATIONS

(a) Qualified Clerk Tp. "B" (Typist) 30 Sep 44
(Auth: 5 CAD T.T.B. Report 797 d/30 Sep 44)

A-43062	Cpl.	Durrant, E.C.	Clerk "C"

7. TRADESMEN'S RATES OF PAY

(a) Granted Tradesman's Rates of Pay Clerk "B" (Typist) 30 Sep 44

A-43062	Cpl.	Durrant, E.C.	Clerk "C"

8. HONOURS AND AWARDS

(a) Awarded CVSM & CLASP 11 Jul 44

H-1275	Tpr.	Shiel, R.C.	Opr CAC "C"

(b) Awarded two (2) Good Conduct Badges 10 Oct 44

B-29837	Tpr.	McLeod, A.	

9. REVERSIONS

(a) Reverts to Cpl 3 Oct 44

K-1011	Cpl(A/Sgt)	Forsyth, G.D.	

(b) Reverts to L/Cpl. 7 May 44.

D-36483	L/Cpl(A/Cpl)	Sotro, V.A.	

10. ABSENT WITHOUT LEAVE

(a) AWL from 1200 hrs 4 Oct 44. Returned from AWL 1700 hrs 6 Oct 44.
B-60039 Tpr. Rushford, E. ("A" Sqn-ADR)

(b) AWL from 0615 hrs 27 Sep 44. Returned from AWL 1700 hrs 10 Oct 44.
B-60642 Tpr. Gibbs, D.J. (RACTD)

(c) AWL from 2359 hrs 27 Aug 44. Still absent 2359 hrs 4 Sep 44 (8th day)
D-72166 Tpr. Chaney, V. (5 Bn)

(d) AWL from 2359 hrs 27 Aug 44. Still absent 2359 hrs 18 Sep 44. (22nd day)
D-72166 Tpr. Chaney, V. (5 Bn)

11. PUNISHMENTS

(a) On 9 Oct 44 awarded 7 days F.P. and a forf. of 7 days pay for an offence under A.A. Sec. 40. Forfs. 7 days pay under FR&I 149 (2).
L-53218 Tpr. Farton, R.R. (RACTD)

(b) On 6 Oct 44 tried by FGCM.
CHARGE: A.A. Sec. 15 (1) AWL from 2230 hrs 29 Aug 44 to 1820 hrs 19 Sep 44. (Absent 20 days 19 hrs. 50 mins)

FINDINGS: Guilty.

SENTENCE: To be reduced to the ranks and to undergo 90 days Detention.

CONFIRMATION: Findings and sentence confirmed by Comdr. 1 CBRGp. 7 Oct 44.

CLOSE ARREST: In close arrest from 1820 hrs 19 Sep 44 to date of trial.

FORFEITURES: Forfs. 21 days pay under FR&I 149 (1) (a).
Forfs. 17 days pay under FR&I 149 (1) (c) (i).
Forfs. 90 days pay under FR&I 149 (1) (b).
TOTAL FORF. 128 days pay.
B-48798 Cpl. Brigham, A.H. (X-3)

(c) AMENDMENT: Part II Order No. 160 para. 9 (k) of 8 Oct 44 is cancelled.
B-62089 Tpr. Lumchick, J.J.

(d) AMENDMENT: Part II Order No. 134 para. 12 (f) of 21 Aug 44 is amended to read "FORFEITURES: Forfs. 11 days pay under FR&I 149 (1) (a) (4 days concurrent with the award of 3 Jun 44 vide Part II Order No. 57 d/1 Jun 44. Not Forf. 223 days pay"
B-53931 Tpr. Laird, J.E.

11. PUNISHMENTS (Cont'd)

(c) AMENDMENT: Part II Order No. 128 para. 12 (c) of 29 Aug 44 insofar as it refers to w/m is amended to read.

"CONFIRMATION: Findings confirmed by Comdr. 1 CAB but sentence reduced to 120 days F.P. and Forfs. 120 days pay, and further reduced to 90 days F.P. 27 Sep 44 by P.J. Montague, Maj-Gen. i/c Administration C.M.H.Q."

"FORFEITURES: Forfs. 7 days pay under FR&I 149 (1) (a).
Forfs. 56 days pay under FR&I 149 (1) (a) (i)
Forfs. 90 days pay under FR&I 149 (1) (b).
TOTAL FORF. 153 days pay"

M-79129 Tpr. Simonds, W.D.

12. NEXT OF KIN

(a) N. of K. verified as shown.

K-49614 Tpr. Biggers, H. - Mrs. Ruth Irma Biggers (Wife)
General Delivery,
Harmond, B.C.,
CANADA.

M-28760 Tpr. Lomsdal, O. - Mrs. Mable Lomsdal (Mother)
Rogers,
North Dakota,
U.S.A.

13. STRENGTH DECREASE

(a) S.O.S. X-4 ("A" Sqn-ADR) to 21 C.A.R. 4 Oct 44
(Auth: CAC/Depots/1 d/14 May 44)

B-143722 Tpr. Cooper, G.M. Gnr Opr "C"
M-106529 Tpr. Hillert, L.E. Gnr Opr "C"
B-14672 Tpr. Jackson, R.C.
A-55035 Tpr. Majors, J.A. DM(TK)"C"
B-87821 Tpr. Noah, J.B.
A-42049 Tpr. Tottle, J.G.

(b) S.O.S. X-4 ("A" Sqn-ADR) to 12 C.A.R. 5 Oct 44
(Auth: CAC/Depots/1 d/14 May 44)

D-128603 Tpr. Hoys, J. Gnr Opr "C"
B-133278 Tpr. Lee, A.R.C. DM(TK)"C"
B-130154 Tpr. O'Brien, E.F. DM(TK)"C"
F-76218 Tpr. Taylor, I.J. DM(MV)"C"
B-135425 Tpr. Ward, J.B. Gnr Opr "C"

(c) S.O.S. X-4 (CACTU) to 12 C.A.R. 5 Oct 44
(Auth: TU/118 d/30 Sep 44)

M-20636 Tpr. Hutchins, E.J. Clerk "C"
D-36338 Tpr. Rathbone, J.N.T. Clerk "C"
B-23562 Tpr. Urqhart, T.M. Clerk "C"

(d) S.O.S. X-4 (CACTU) to 11 C.A.R. 5 Oct 44
(Auth: TU/117 d/30 Sep 44)

B-61044 Cpl. Youdell, J. Fitter MV "M"
L-1960 Tpr. Turner, E.H. Clerk "C"

(e) S.O.S. X-4 (5 Bn) as a deserter 5 Oct 44 having been declared illegally absent by a Court of Inquiry from 2359 hrs 27 Aug 44. Deficiencies in kit not shown.

D-72168 Tpr. Chaney, V. Clerk "C" (5 Bn)

13. STRENGTH DECREASES (Cont'd)

(f) S.O.S. X-4 (5 Bn) to X-4 (5 Bn) CAC "D" 6 Oct 44
(Auth: CMCH/43/Post CAC/2 (47) d/21 Sep 44)
B-138170 Tpr. Conti, J. Carp. "C"

(g) S.O.S. X-3 List to X-9 List
(Auth: Pending Re-board) 11 Oct 44
F-76092 Tpr. Schnare, P.L.

(h) S.O.S. X-4 ("A" Sqn-ADR) to 12 C.A.R. 9 Oct 44
(Auth: CAC/Depots/1 d/14 May 44)
B-134279 Tpr. Kolari, W.W.
B-67266 Cpl. Wilson, G.C. DM(TK)"C"
B-771 Tpr. Hendrickson, D.A. DM(TK)"C"
F-30753 Tpr. Grandy, G.J.
D-36557 Tpr. Dumontier, G.H. Gnr Opr "C"
F-1145 Tpr. Doherty, S.F.

(i) S.O.S. X-4 ("A" Sqn-ADR) to 11 C.A.R. 9 Oct 44
(Auth: CAC/Depots/1 d/14 May 44)
B-62200 Cpl. Costello, K.C. Gnr Opr "C"
B-60556 Cpl. Simmons, R.E. Gnr Opr "C"

(j) S.O.S. X-4 ("A" Sqn-ADR) to "A" Sqn-25 CADR 6 Oct 44
(Auth: 2BLO/Posting Order/E-42 d/7 Oct 44)
B-62410 Tpr. Taylor, W.F. DM(MV)"C"

(k) S.O.S. X-3 List to (FE) RLOTD 6 Oct 44
C-70452 Sgt. Slooth, D.A.

(l) S.O.S. X-3 List to X-4 (5 Bn) CAC "B" 8 Sep 44
H-37458 Tpr. Stewart, G.A.

(m) S.O.S. X-4 ("C" Sqn-ADR) to 5 C.A.R. 7 Oct 44
(Auth: CAC/Depots/1 d/14 May 44)
F-30449 Cpl. Burd, W.H.
C-12141 Tpr. Lague, S.W. DM(TK)"C"
L-102781 Tpr. Steedsman, L.A.
C-36717 Tpr. Folow, J.L.A.C. DM(TK)"C"
G-450 Tpr. Wright, C.M. DM(TK)"C"
G-385 Tpr. Reid, R.W. Gnr Opr "C"
K-65707 Tpr. Hamilton, H. Gnr Opr "C"
B-146068 Tpr. Moore, J.D. Gnr Opr "C"
B-135487 Tpr. Wonner, G.F. Gnr Opr "C"
B-148999 Tpr. Walker, A. Gnr Opr "C"
F-56310 Tpr. Ashton, R.
B-77192 Tpr. Matthews, C.W. DM(TK)"C"

(n) S.O.S. X-4 ("A" Sqn-ADR) to 12 C.A.R. 5 Oct 44
(Auth: CAC/Depots/1 d/14 May 44)
B-338 Tpr. Roberge, C.A. DM(MV)"C"

(o) AMENDMENT: Part II Order No. 160 para. 9(g)d/6Oct44 is canc.
B-338 Tpr. Roberge, C.A. DM(MV)"C"

(F.P. Knight) Lieut.
for Officer i/c
Canadian Section, G.H.Q. 2nd Echelon - A.A.I.

Certificate in accordance with the Army Act Sec.163(1)(JJ)

I certify that
No. D.36023 Rank TROOPER Name DESLEURIERS P.
of the 12th ARMOURED REGIMENT OF CANADA
was arrested at ROME at 1000 hrs.
on the 4th day of OCTOBER 1944.

Signature of P.M. A.P.M. or other officer) [signature]
into whose custody the above named person) Rank D.A.P.M.
was taken on arrest.

Appointment (if any) ROME AREA COMMAND

Date 5th Oct 44. Command OFFICE OF

GGJ

Exp.

In Lieu of AFB 116

RECORD of the Declaration of a Court of Inquiry assembled at Field CMP on the 25 day of Aug 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D36023 Tpr Deslauriers, P.

DECLARATION

The Court declare that No. D36023 Tpr Deslauriers, P. Canadian Armoured Corps Training Unit illegally absented himself without leave (and is still so absent) at Field on the 3 day of Aug 44; and that on the 25 Aug 44 he was deficient, and that he is still deficient of the following articles;-

Articles		Value		Articles		Value	
Blouse B.D.	1	6	22	Shorts K.D.	1	2	08
Boots Ankle	2	12	66	Trousers K.D.	1	1	86
Cap F.S.	1		72	Shirts Bush	2	2	30
Drawers Cotton	2	2	28	Hose Tops	2	1	00
Greatcoat Drab	1	15	00	Knife Table	1		20
Pullover Jersey	1	2	42	Spoon N.S. Dessert	1		11
Overalls	1	2	30	Towels Hand	2	1	10
Shoes Canvas	1		90	Comb Hair	1		06
Socks Woollen	2	1	34	Housewife	1		18
Trousers B.D.	1	5	94	Cape A.G.	1	3	15
Bags Kit	1	1	51	Vest Cotton	2	1	10
Braces	1		41				
Badges Cap	1		08				
Gloves Knitted	1		65			69	31
Brushes Hair	1		72				
" Shaving	1		42				
" Tooth	1		14				
Caps Comforter	1		49				
Blanket G.S.	1	3	72				
Mugs Drinking	1		28				

(Signed) Capt D.L. Kropf President

Signed at FIELD

(Signed) Lieut J.P. McKay Member

this 28 day of Aug 1944

(Signed) Lieut A.E. Browne Member

Signature of Commanding Officer (Signed) G.C. Smith Major

Certified True Copy of the Regimental Records in my possession.

(S.A. Nicol) Capt & Adjt
Cdn Armd Corps Trng Unit

RECEIPT FOR SUMMARY OF EVIDENCE

I, D36023 Tpr Deslauriers, P. hereby acknowledge receipt of a true copy of the Charge Sheet and Summary of Evidence in connection with the charges pending against me.

P Deslauriers
D36023 Tpr Deslauriers, P.

Witnessed by A.E. Armstrong Lieut.
(A.E. Armstrong) Lieut & A/Adjt
Cdn Armd Corps Trng Unit

In the field
1 Dec 44

LIST OF WITNESSES

Witnesses in the case of D36023 Trooper DESLAURIERS, P. Canadian Armoured Corps Training Unit.

FOR THE PROSECUTION

G208 SQMS Webber, C.H. - Cdn Armd Corps Trng Unit

FOR THE DEFENCE

N I L

A.E. Armstrong Lieut

(A.E. Armstrong) Lieut & A/Adjt
Cdn Armd Corps Trng Unit

In the field
1 Dec 44

REQUEST FOR A DEFENDING OFFICER

I, D.36023 Tpr P. DesLauriers, request that in the event of a Court Martial being held, that Lieut. J.B. Allen of Cdn Armd Corps Trg Unit, be appointed to defend me.

P. DesLauriers.
D.36023 Tpr P. DesLauriers

I certify that in the event of a Court Martial Lieut. J.B. Allen will be available to defend Tpr. P. DesLauriers.

(S.A. Nicol) Capt. & Adjt.
Cdn Armd Corps Trg Unit.

In the Field
16 Dec 44

EA'C

ARMY FORM B.296.

G.G.J.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D.36023	Trooper	Desleuriers, P.	Cin Armd Corps Arty Unit

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

	* Within last 12 months.	*Since Enlistment.
For AA Sec 15 (1)	one times	one times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct.

or

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

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

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

3. The accused is not under sentence at the present time, *or* the present sentence is [illegible] beginning on the ____ day of ____

4. The accused has been in confinement, awaiting trial on the present charges, for 7 days in civil custody, and 96 days in military custody, making a total of 96 days, of which 14 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 20

6. The date of his attestation specified in his attestation paper is 4 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 5 yrs 4 mons 4 days

8. The accused is entitled to deferred pay or gratuity in respect of 5 yrs 4 mons 4 days service.

9. The accused is entitled to reckon 5 yrs 4 mons 4 days service for the purpose of determining his pension, etc.

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

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

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

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

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

† See para. 577, K.R. 1940.

* The particulars herein stated should agree with the number of entries in the conduct sheets given in the most recent return, or each entry, and in any recognised special rule of gallantry or distinguished conduct.

Instructions.—If the accused has had breaks note the entries for [illegible] must be stated separately and dated.

No. D36023 Name DESLAURIERS, P. | Sqn., Battery, or Company | Corps CAC | Date of enlistment 4 SEP 39 | Badges | Service or Proficiency Pay | Character

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (if any) remitting or varying award	By whom awarded	Remarks
FIELD	1 JUN 1944	TPR.		WOAS AWL FROM 0830 HRS. 1 JUN 44 UNTIL 1330 HRS. 22 JUN 44. ADMIT 1 DAY 5 HRS. AA SEC (5)	DOCTY.	14 DYS F.D. & T.D. FOR F 2 DAYS PAY	19 JUL 1944	LT-COL. J.D. WINING	TOTAL FOR F 16 DAYS PAY FR 42 149

CERTIFIED TRUE COPY
Capt & Adjt
O/C Pay & Records

(FIO)

Ex "C"

ARMY FORM B.296.

G.G.7.

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
D.36025	Trooper	Deslauriers, P.	6th Armd Corps Arty Unit

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

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

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

† See rule 107, A.R. 1940.

* The expiration dates of each conduct sheet with the number of the current charge, the offences being given in the case of military officers in red ink, and to any recognised special long-service gallantry or distinguished conduct.

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

	* Within last 12 months.	*Since Enlistment.
For AA Sec 15 (1)	one times	one times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused

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

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

3. The accused is not under sentence at the present time, *or* The sentence of the [illegible] is under remission for [illegible] beginning on the [illegible] day of [illegible]

4. The accused has been in confinement, awaiting trial on the present charges, for [illegible] days in civil custody, and 96 days in military custody, making a total of 96 days, of which 14 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 20

6. The date of his attestation specified in his attestation paper is 4 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 5 yrs 4 mons 4 days

8. The accused is entitled to deferred pay or gratuity in respect of 5 yrs 4 mons 4 days service.

9. The accused is entitled to reckon 5 yrs 4 mons 4 days service for the purpose of determining his service, etc.

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

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

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

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

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

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

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

Name Regiment (or as the case may be)

No. Rank of

(INSTRUCTION.—*A verbatim extract from the regimental books, stating their conclusions and dispositions with trials, must be inserted.*)

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

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

Signed this 8th day of

4D-116

Pte DESMARAIS A.J.

4

GM
No 28

SCHEDULE.

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

Accused: B-102666 Pte A. J. Desmarais 5 Cdn Hvy Regt RCASC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (1)	GUILTY	GUILTY	
2nd AA 15 (1)	GUILTY	GUILTY	
3rd AA 40	GUILTY	GUILTY	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 403 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ ~~Ever F.~~

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

Time in confinement awaiting present trial—a total of 29 days, of which Nil days were spent in hospital.(1)

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

Sentence Awarded by the Court:

To suffer Field Punishment for 90 days and to forfeit all ordinary pay for a period of 90 days.

15 Oct 1944 (Sgd) Ever Dagnaud President. (RP 45, 50.)

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

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

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

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

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

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

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

Confirmed.

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

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

(Sgd) Ever Dagnaud Brig

Date 19 Oct 44 Commanding COMD, CORPS ADMIN AREA Confirming Officer

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

Accused.	Date.	Signature of Offr.
B-102666 Pte Desmarais A J 5 Cdn Inf. Bty Pl. RCASC.	22 Oct/44	A.F. Langhorne Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ IN A3 160 Part 1 40-115

RECEIVED 6 NOV 1944 A.G. BRANCH CMHQ

CFAMS (To End of AFAR) 40/P.A.B./1608 (2604)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt. Col E W Whelpton, Comd, Cdn Corps Admin Area dated 17 Oct 44

ACCUSED.

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

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-102666	Pte	Alphonse Joseph	Desmarais	5 Cdn Hvy Regt RCASC

PROCEEDINGS REVIEWED 20 Nov 44

JCFC

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 16 Oct 44

2C142

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

Ans No (2)

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

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

President	Major	E.W. Bourg	17 Cdn Spec Emp Coy.
Member	Capt	W.W. Leach	1 Cdn Corps Admin Area
Member	Lieut	L.W. McNabb	16 Cdn Spec Emp Coy.
Judge-Advocate			
Prosecutor	Lieut	F.D. McCaffrey	5 Cdn Hvy Regt RCASC
Defending Offr	Capt	D.H. Snowball	2 Hvy Regt RCASC

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 21.)

A8. The accused ..... before arraignment makes(s) (no) (2) objection(s).

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

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

(1. RP 26, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A9s to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

3/103

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

(1. RP 25 fn 3. 2. MML p 54 para 47.)

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

President to accused : Do you wish to make a statement ? Ans. No ..... [5]

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

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

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

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

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

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.[1] If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B).

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

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

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

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

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

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

D3. The evidence for the Prosecution is taken.[1]

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

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

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

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

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

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 46 fns 2, 9.)

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

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

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

(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(3).)

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

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

(1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?[1] Ans. Call witnesses as to character

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

E2. The Prosecutor produces Statement(s)[1] as to Character and Particulars of Service[2], and certified true copy of Conduct Sheet(s)[3], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. A and Ex. B respectively.[4]

(1. MFB 255 or AFB 294. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

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

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

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

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

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

(1. When several accused tried separately see RP 77(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 40. As to sentences see AA 44, 138, 182, RP 46-50, 68, 118, 119(A), KR Con 308, 330, 563-564, Overseas AC 308, 1323, MML p 66, 752-756. As to sentences assigned for civil offences by the law of England see AA 4(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(4)(5), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B 102666, Pte Aldoria Joseph Desmarais, 5 Cdn Medium Regiment Platoon, R.C.A.S.C., a soldier of the Canadian Army Overseas, is charged with:

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

First Charge
Section 15 (1)
Army Act

in the Field on the 5 Aug 44 Absented himself without leave from his unit, 5 Canadian Medium Regiment Platoon R.C.A.S.C. from 0630 hrs, on the said 5 Aug 44, until he surrendered himself to his platoon sergeant at 2000 hrs, 10 Aug 44. (Absent 5 days, 15 hours, 30 minutes).

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

Second Charge
Section 15 (1)
Army Act

in the Field on 11 Aug 44, whilst under open arrest, absented himself without leave from his unit, 5 Canadian Medium Regiment Platoon, R.C.A.S.C., from 0800 hrs on said 11 Aug 44 until apprehended by the Military Police at Ferentino, Italy, at 2130 hrs, 19 Sep 44 dressed in civilian clothes. (Absent 39 days, 13 hours, 30 minutes).

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

in that he

Third Charge
Section 40
Army Act

in the Field at 2130 hrs on the 19 Sep 44, when apprehended by the Military Nice, was improperly dressed, that is to say, wearing civilian clothes.

(A. L. CAMPBELL) Capt.,
Commanding,
5 Canadian Medium Regiment
Platoon, R.C.A.S.C.

In the Field,
15 Oct 44.

To be tried by Field General Court Martial.

(I W Whelpton) Lt-Col.
Comd 1 Cdn Corps Adm Arms.

In the Field
17 Oct 44.

Ens

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
60/FA3/1607 (2668)

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-102666	Private		Aldoria Joseph	DESMARAIS	5 Cdn Med Regt Pl RCAMC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 17 Oct 44 endorsed by me, (~~or by an offr of my staff for me~~), To be tried by Field General Court-Martial".

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

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

~~a. I am unable to appoint~~ (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have ~~attached hereto~~.
(AA 49, RP 105(B), 107(A). Delete the whole or part, if not applicable.)

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E W Day	17 Cdn Spec Emp Coy

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by CRCASC 1 Cdn Corps Tps	
Capt or Lieut	To be detailed by OC 16 Cdn Spec Emp Coy	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lieut	To be detailed by Comd, 1 Cdn Corps Adm Area.	

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in ITALY (Country.)

(E W Shelpton) (Signed personally. RP 105 fn 2.)

Lieut-Col. (Rank.)

Date 17 Oct 44

Commanding 1 Cdn Corps Adm Area.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

Escp

MEDICAL OFFICER'S CERTIFICATE

I certify that No. B 102666 Pte Desmarais, A.J., of 5 Canadian Medium Regiment Platoon, R.C.A.S.C. is fit# to undergo trial by Court-Martial.

Signature .....

#Insert "fit" or "unfit"

In the Field
18 October 1944.

The Court satisfy themselves that due to the exigencies of the service the member detailed by CRCASC 1 Cdn C Tps is unable to attend and Captain W W Leach, HQ 1 Cdn Corps Adm Area, the waiting member, takes his place on the court.

Evid

Furt D. I sim. re to charact

H-104594 Pte. T. Morris - 5 Cdn Mtd Regt. Pln. RCASC, sworn, states:

Cm orderly Dvr in corp. at 5 Cdn Mtd Regt. Pln RCASC. Acc. has worked for me for some time. Have had no trouble with him. I have been very much impressed by his services while working with me. 1st charge against acc. since he joined platoon 6 months ago. When he first came to unit, was working in kitchen & everybody agreed he did good job. I would not be afraid to hold myself responsible for acc. at any time.

R.P. 53 (B) complied with. Witness withdrawn.

Speech in Mitigation

In the case of B/102666 Pte. Aldoria Joseph Desmarais 5 Cdn Med Regt Pl. RCASC.

Mr. President and Members of the Court.

The accused has pleaded guilty to all charges and expressed his regrets.

In the time since his enlistment, more than three years ago Pte Desmarais has had only three charges against him none of which were of a serious nature.

He enlisted at the age of eighteen so is only twenty one now.

This is his first offence of A.W.L. and was caused partly through drinking and partly through anger at his family. He had been sending money home to pay for cigarettes and parcels and these were not being sent to him.

While this is no excuse in itself it can be understood the effect it might have on a boy of his age.

As you know he returned after his first absence and was not entirely sober at the time. He was told that his name had been sent into T.Q. and that he was going to be Court Martialed. He had previously been put under arrest by L/Sgt. Mullaney. In his condition and not knowing military law he didn't realise that his offence was a comparatively minor one and was frightened. He figured he might as well be hung for a sheep as a lamb and went A.W.L. again.

Having considered the matter, A.W.L. from arrest, he was afraid to go back. He bought the civilian clothes from a tailor in Perantino and remained there until arrested by the C.M.Ps. He then admitted his identity.

(E.W. Snowball) Capt

Defending Officer

Field
18 Oct 44

Ex 8

SUMMARY OF EVIDENCE

in the case of

B 102666 Pte Aldoria Joseph Desmarais,
5 Canadian Medium Regiment Platoon, R.C.A.S.C.

The Commanding Officer directs that all Evidence be taken on Oath.

First Witness

H 37283 L/Cpl Leroux, A.C., of 5 Canadian Medium Regiment Platoon, R.C.A.S.C., having been duly sworn states:

"Sir, I am H 37283 L/Cpl Leroux, A.C., of 5 Canadian Medium Regiment Platoon, R.C.A.S.C. I was on the 5 Aug 44, and still am, L/Cpl in charge of the R.D.I. of 5 Canadian Medium Regiment Platoon, R.C.A.S.C. I was well acquainted with B 102666 Pte Desmarais, A.J. of 5 Canadian Medium Regiment Platoon, R.C.A.S.C., whom I now recognize as the accused and who has been for the past six months a member of this platoon. At 0500 hrs on 5 Aug 44, I had occasion to look for the accused and found that his bed had not been slept in. He was still absent at reveille at 0630 hrs. I then made a search of the platoon area, but was unable to find him. I therefore reported him absent to the Orderly Room Corporal, M 104519 Cpl Morris, T. That is all I know of the case, Sir."

The accused elected to cross-examine this witness.

Question by Accused: "At what time did I ask you for a pass?"

Answer by Witness: "You did not ask me for a pass."

Rules of Procedure 4 (F) and 83 (B) complied with.

H 37283 L/Cpl Leroux, A.C.

Second Witness

M 104519 Cpl Morris, T., of 5 Canadian Medium Regiment Platoon, R.C.A.S.C., having been duly sworn states:

"Sir, I am M 104519 Cpl Morris, T., of 5 Canadian Medium Regiment Platoon, R.C.A.S.C. I am Orderly Room Corporal of 5 Canadian Medium Regiment Platoon, R.C.A.S.C. On the morning of 5 Aug 44, H 37283 L/Cpl Leroux, A.C., reported to me that B 102666 Pte Desmarais, A.J. was absent without leave at reveille. I subsequently submitted a casualty return showing his absence.

The accused declines to cross examine this witness.

Rules of Procedure 4 (F) and 83 (B) complied with.

M 104519 Cpl Morris, T.,

Third Witness

H 87609 L/Sgt Mullaney, M.D. 5 Canadian Medium Regiment Platoon, R.C.A.S.C., having been duly sworn states:

"Sir, I am H 87609 L/Sgt Mullaney, M.D., of 5 Canadian Medium Regiment Platoon, R.C.A.S.C. I was on the 10 Aug 44 and still am L/Sgt of this Platoon. At approximately 2000 hrs on 10 Aug 44, I was sitting in my tent in the platoon lines, when B 102666 Pte Desmarais, A.J., of 5 Canadian Medium Regiment Platoon R.C.A.S.C. approached me. Private Desmarais, having been a member of this platoon for six months previous, I recognized him and knowing him to be absent without leave, I immediately placed him under open arrest. I informed him that he was forbidden to leave the unit lines. The following morning, 11 Aug 44, at 0800 hrs I called the roll, and the accused failed to answer his name. I caused a search of the camp area to be made, but the accused could not be found. I have called the roll on all subsequent parades, and have not seen the accused until 11 Oct 44, when I saw him in custody in the unit guard room. I recognize B 102666 Pte Desmarais, A.J. as being the accused in this case.

The accused declines to cross examine this witness.

Rules of procedure 4 (F) and 83 (B) complied with.

Mullaney, M.D.
H 87609 L/Sgt Mullaney, M.D.

Fourth and Fifth Witnesses

3194774 Cpl Bell, J.G., Corps of Military Police.
3715295 Cpl Gorton, J.W., Corps of Military Police.

Document purporting to be a signed statement of the evidence of 3194774 Cpl Bell, J.G., Corps of Military police, and 3715295 Cpl Gorton, J.W., Corps of Military Police, was read over to the accused, marked exhibit "A", and attached hereto.

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

F. D. McCarthy
(F. D. McCarthy) Lieut.

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

The accused: "I desire to give evidence under oath."

The accused B 102666 Pte Desmarais, A.J. of 5 Canadian Medium Regiment Platoon, R.C.A.S.C., being duly sworn states:

"Sir, I am B 102666 Pte Desmarais, A.J., of 5 Canadian Medium Regiment Platoon, R.C.A.S.C. On the date that the C.M.P. asked me questions in Capua Detention Camp regarding my knowledge of a 3 ton Chevrolet Truck, I told them that it was my truck and I was using it. I made this statement because they were continually questioning me about it and the Corporal told me that I would not be released from the Detention Camp in Capua, if I didn't

E & O

The Accused Cont'd

tell them what they wanted to know. So I made the statement and a few days later was sent to the Canadian Detention Camp."

A J Desmarais
B 102666 Pte Desmarais, A.J.

The accused declines to call witnesses on his own behalf.

Rules of procedure 4 (B), (C),(D), and (E) and (F) complied with.

Taken down by me in the presence and hearing of the accused this 14th day or October 1944.

F D McCaffrey
(F. D. McCaffrey) Lieut
5 Cdn Med Regt Pl.,R.C.A.M.C.

Certificate of Arrest under Section 163 (1) ((i)) Army Act

I certify that :-

No. B.102666 Rank PTE Name DES MARAIS A.J.

Unit 5TH MED. REST. PLATOON 81ST CDN. ARTILLERY COY R.C.A.S.C

was arrested at FERENTINO on the 19TH SEPT. 1944.

at about 2130 hrs.

Signature of Provost Marshal, APM or Officer into whose custody the above person was taken on arrest.

Capt,
Officer Commanding.

CHARGE

Army Form B.252
(See King's Regulations)

THE ROYAL CANADIAN ARMY SERVICE CORPS.

Regiment

8th Medium Regiment Platoon.
8th Canadian Artillery Company.

Battery / Squadron / Troop or / Company

B [illegible]

CHARGE against No. Rank

Name

Place Date of Offence

OFFENCE [illegible]

Names of Witnesses:— [illegible]

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

(E) FMEC 500,000—4/42.

This is exhibit "A" referred to in the summary of evidence in the case of B 102666 Pte Desmarais Adj. taken before me this 14th day of Oct 1944

J.M.McCaffrey Lt.

Statement of

EVIDENCE

in the case of

No. B 102666 Pte Desmarais. A.J.
8th Medium Regiment Platoon.
93rd Canadian Artillery Company.
Royal Canadian Army Service Corps.

Sir,

At FORENTINO on the 13th September 1944 at about 2000 hours, in company with Cpl Gorton G.D., and a number of the Carabiniers I had occasion to enter a civilian house, where a shooting was believed to be living. I searched the house in question and found the above named soldier [illegible], and uniform, but the soldier was not present.

I carried out a search of the surrounding area and at about 2100 hours, I had occasion to check the identity of a civilian, who on being questioned admitted being the above named soldier, and that he was on shooting from his unit. He was wearing civilian clothes, and was also in possession of a parcel which contained two suits of civilian clothes and one pair of civilian shoes.

I arrested him and conducted him to Detachment HQ, and he was later conveyed to the 24 Canadian Corps Base, where he was handed over to the MPO i/c to be detained.

On the 15th September 1944 at about 1000 hours, the above named soldier was further questioned by Cpl Gorton with respect to a WD Canadian Chevrolet No. 4074775 which was found abandoned at Forentino on the 14th September 1944. He admitted that he had had the above mentioned vehicle and that he had used it to convey civilian foodstuffs from Piedimonte to Forentino on several occasions. When questioned on the 13th September 1944 this regard to the same matter he denied all knowledge of the vehicle.

WITNESS.

Lt.
93rd Sept 44

REMARKS

G.D. Gorton Cpl
R.C.A.S.C.

Sir, I have read over and corroborate the above statement.

WITNESS.

Lt.
93rd Sept 44

G.D. Gorton Cpl
R.C.A.S.C.

Exhibit 2

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

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

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B 102666	Private	Aldoria Joseph Desmarais	5 Cdn Med Regt Platoon, R.C.A.S.C.

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

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

For Conduct to the Prejudice of good order and Military Discipline — 2 times.
For ____ times.
For Neglect to the Prejudice of good order and Military Discipline — 1 times.
For ____ times.

Date of first entry in Field Conduct Sheet 25 Dec 42

Date of last entry in Field Conduct Sheet 3 Oct 43

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

*Strike out if not applicable.

*3. The accused at the present time is under sentence for absence without leave beginning on the 5th day of August 1944

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 26 days in military custody, *i.e.*, nil days in open arrest, 26 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 21 yrs 2 mos

6. The date of his attestation ~~enlistment or first entry into service~~ is 9 Aug 41

7. The service which the accused is allowed to reckon is 3 yrs 67 days

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

8. The accused is in possession of: Cdn Vol Ser Medal & Clasp

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

	Date of Promotion.
~~In the substantive rank of~~	
~~In the war substantive rank of~~	
~~In the rank of~~	

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

Printed in Canada

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

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

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

Signed this 15th day of October, 1944.

A. L. Campbell

(A. L. CAMPBELL) Capt.,
Commanding,
5 Cdn Med Regt Pl.,R.C.A.S.C.

MFM 6
(AFH 132; 40/P&D/139 (3438))

No B 102668 Name Desmarais, A.J. Sqn, Battery or Company — Corps R.C.A.S.C. — Date of enlistment 9-8-41 — GO Badges — Service or Proficiency Pay — Character

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award (if under Regs to stay with Unit)	By whom awarded	Remarks
Field	25-12-42	L/Cpl		A.A. Sec 40	Pte Brisebois Martin, & Documentary	7 dys C.B. Extra duties 3 dys pay	28-12-42	Lt Labelle Capt. Leitch	Total forf 3 dys pay under FR&I 149(2).
Field	20-9-43	Pte		A.A. Sec 40			20-9-43		
Field	3-10-43	Pte		A.A. Sec 40 Neglect to the prej Neglected to obey and order given by his superior officer	Capt Regan Pte Pillotte & Pte Cloutier	14 dys F.P. & 14 dys pay	8 Oct 43	Capt. H. Leitch	Forf 14 dys pay under FR&I 149(2)

Awarded Cdn Volunteer Service Medal & Clasp wef 15 Jan 44

CERTIFIED TRUE COPY OF THE ORIGINAL

(A. L. CAMPBELL) Capt.,
Commanding,
5 Cdn Med Regt Pl.,RCASC.

1/I·91

TPR DESMOND W

SCHEDULE.

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

Accused: B-67928 Tpr William DESMOND, X-4 List CAC, att HQ 2 CBRG

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

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 683 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... (specifying on (date)) .....~~ (1)

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

Time in confinement awaiting present trial—a total of 30 days, of which Nil days were spent in hospital.(1)

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

Sentence Awarded by the Court:

To undergo sixty days field punishment and to be placed under stoppage of pay to the amount of £ 9.10.0 (nine shillings).

(Sgd) ..... Judge-Advocate, if any. Date awarded. 28 Nov 44 (Sgd) J A Farmer Major President. (RP 45, 50.)

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

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

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

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

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

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

Confirmed

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

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

Date 29 Nov 44 (Sgd) C Francoeur Commanding 2 CBRG Brig Confirming Officer.

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

Accused.	Date.	Signature of Offr.
B 67928 Tpr DESMOND W. X-4 LIST CAC, A/HQ 2 CBRG	30/11/44	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4E 91

RECEIVED 20 DEC 1944 JAG CANADA

FIELD GENERAL COURT-MARTIAL

CFAS6 (To face CFA3) 4/38B

Convened at Brig G Francoeur Comd 2 CBRG dated 25 NOV 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 14, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-67928	Tpr	William	DESMOND	X-4 List CAC, att HQ 2 CBRG

PROCEEDINGS REVIEWED 21 Dec 44 Capt R. Beaulieu Asst Judge Advocate General No 2 Army Group

REVIEWING OFFICER. PROCEEDINGS REVIEWED 21 DEC 44 Date

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date) 28 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 14/80.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant foot RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 895, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 65-70, 72, 74, 94, 103, 119, 122.)

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1015 hours trial commences.

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

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

~~A5. Reporter to proceed. Do you object to ..... as interpreter? Ans .....~~

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

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

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

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

Ans N/O (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

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

President	Major	J A FARMER, ED,	A & QMR of C, 11 CBR Bn
Member	CAPT	A F LUNGLEY	1 CBR Bn
Member	CAPT	R GUENET	11 CBR Bn
~~Judge-Advocate~~	~~JAG~~		
Prosecutor	LIEUT	R F K ANTHONY	A/HQ 2 CBRG
Defending Offr	LIEUT	J C JACKSON	11 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans N/O Is the Defending Offr a lawyer? Ans N/O (2)

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

A8. The accused B-67928 Tpr DESMOND W. before arraignment makes(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or for one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

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

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 896 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRG No 2 p 14

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(*1. RP 37(A) (C).*)

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

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

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

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 74 paras 12-14 and p 81 para 42. 4. Delete para not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 90(*C*), 114, 115.)

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

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

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

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

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf AAA. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 66(C). Note also further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42. 103(e).*)

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

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

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

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 16(2) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex respectively.(2)

(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

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

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

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

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

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

(*1. Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 326, 340-344, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 44(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

ja3.

CHARGE SHEET

B-67928 Tpr William DESMOND, X-4 List CAC, attached Headquarters 2 Canadian Base Rft Gp, a soldier of the Cdn Army Overseas, is charged with,

First Charge
Army Act
Sec 15(1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE
in that he
in the Field at approximately 0800 hrs 26 Oct 44 absented himself without leave until apprehended by Civil Police at WORTHING, Sussex, at approximately 2230 hrs, 5 Nov 44.
(Absent 10 days, 14 hrs, 30 mins)
(Cost of Apprehension and return to unit £-8-0)

In the Field
22 NOV 44

(C C PATTERSON) Major
DAA & QMG
HQ 2 Cdn Base Rft Gp

To be tried by Field General Court-Martial.

(G FRANCOEUR) Brig
Comd
HQ 2 Cdn Base Rft Gp

In the Field
25 Nov 44

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-67928	Tpr		William	DESMOND	X-4 List CAC, att HQ 2 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 NOV 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

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

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

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

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

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

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

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

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	J A FARMER, ED,	A & SM of C,	11 CBR Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by OC 9 CBR Bn	9 CBR Bn
Lieut	To be detailed by OC 9 CBR Bn	9 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	To be detailed by OC 11 CBR Bn	11 CBR Bn

~~JUDGE ADVOCATE~~

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

On Active Service in the Fd

in BELGIUM (Country.)

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

(G Francoeur)

Date 25 NOV 44

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/3BA (For use in the Field or Active Service) (A.F.A.S. 40/F & S/1947 - 6801)

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

MEDICAL OFFICERS CERTIFICATE

Jas.

(KR(Can)Para 557)
CMHQ CL 173

I certify that I have this day examined D- 67928
(Number)

Gnr. (Rank) Desmond. W. (Name) and in my opinion he is

fit / unfit to undergo trial by Court Martial

Station Field

Date 28 Nov 144

McSheffrey Capt RCAMC
Medical Officer (Ugh

(Unit) 9 C B R Bn

The Expense Voucher produced as documentary evidence was read to the accused, marked Exhibit "D" signed by me and attached hereto.

Signature of Offr detailed to take Summary

Ex A

Summary of Evidence in the case of B-67928 Tpr William DESMOND, X-4 List CAC attached to HQ 2 Cdn Base Rft Gp, Cdn Army Overseas, charged with absenting himself without leave from 0800 hrs, 26 Oct 44 until being apprehended by Civil Police at WORTHING, Sussex at approx 2230 hrs, 5 Nov 44. (TTA - 10 days, 14 hrs, 30 minutes) Army Act Sec 15(1).

By direction of the Commanding Offr, the evidence is taken on oath.

The written statement of P-28124 Sgt York, JF, produced as documentary evidence was read to the accused, marked exhibit 'A', signed by me and attched hereto. I certify that in my opinion, the attendance of P-28124 Sgt York, JF, is owing to exigencies of the service, not readily procurable.

RFK Anthony Lt
Signature of Offr detailed to take summary

The Certificate of Surrender produced as documentary evidence, was read to the accused, marked exhibit 'B', signed by me and attached hereto.

RFK Anthony Lt
Signature of Offr detailed to take summary

The Description Return, Army Form O 1618, produced as documentary evidence, was read over to the accused, marked exhibit 'C' by me and attached hereto.
signed

RFK Anthony Lt
Signature of Offr detailed to take summary

The accused was cautioned as follows:-

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

A I do not wish to make a statement now.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of 1 page was taken down by me in the presence of the accused and that RP 4 (c),(d), (e), (f) and (g) have been complied with.

RFK Anthony Lt
(RFK Anthony) Lieut - RCASC
Offr detailed to take Summary of Evidence

In the Field
21 Nov 44

I, P-26124 Sgt YORK J.F., as N.C.O. in charge of Group Transport Platoon, called the roll at 0800 hrs 26 Oct 44, and Tpr DESMOND W., B-67928 failed to answer his name. I therefor report him as A.W.L.

J. F. York
P-26124 Sgt YORK J. F.

This is Exhibit A in the case of B-67928 Tpr Desmond W. ~~produced by~~ taken before me this 21st day of Nov 44

/s/ McAuliffe 2LT
CO, detachment to take Summary.

Certificate in accordance with Section 63 (1) (a) of the Army

I certify that the person whose description is given below was
arrested on the day of 194 .

The personal particulars of
officer or soldier referred
to above.

Description.

Signature of Officer of Police
in charge of Police Station
where the above-named person
was taken, or is kept, in custody
on arrest or pending release.

Police Station

No.
Rank.
Name.
Unit.
Age.
Height.
Complexion.
Hair.
Eyes.
Marks.

xxxxxxxxxxxxxxx at Worthing 2230 hours
fifth November,

B. 67928.
Trooper.
William DESMOND.
No.2 Can. Base Reinforcement Batt.
(H.Q.)
26 years.
5' 9".
Dark.
Black.
Brown.
Scar across nose.

W. Saunby Supt for Superintendent
In charge of Worthing,

This is exhibit D, referred to in the Summary of evidence
in the case of B-67928 Tpr William Desmond taken before me this 21st day of Nov 44.
[illegible] Customs & Excise - appointed to take summary

Police Station,
Worthing.
5th. November, 1944.

Sir, I beg to report at 2230 hours on the 5th. November, 1944, I saw Trooper B.67928 Desmond at 39, Meredith Road, Worthing. I asked him if he was on leave and he said, "No, I'm A.W.L. from Ghent, I got a lift in a 'plane to see my wife, she has been in hospital."
I took him into custody.

John C. Doney.
D/Sergt.
5.11.44.

The Superintendent of Police,
WORTHING.

This is Exhibit C, referred to in the Summary of Evidence in the case of B-67938 Gnr Desmond W, taken before me this 21st day of Nov 44.
Lt/Lt Instructing Officer detailed to take Summary of Evidence.

IMMEDIATE. Army Form O. 1618.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit.* The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

* (5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps. In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

* NOTE.—Special instructions apply in war for the disposal of absentees and deserters apprehended by the civil police; e.g., such personnel will be taken over from the civil authorities by the O.C. the nearest military Unit or the O.C. Troops at the nearest military station. (A.C.I. 489/1940).

[illegible] G.943 Forms/O 1618/34.

Expense Voucher Re—

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

Reg. No. B 67928 Rank Tpr. Name Desmond. W Unit

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

Rotation from Brighton (½ portion)

Date	Particulars	Amount	
6/10/44	Escorts return fare from LONDON To		
	Prisoners single fare to LONDON From Brighton	4	0
	Prisoners fare from Brighton To	4	0
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		
	This is exhibit D in the case of B-67928 Tpr Desmond W, [redacted] taken before me this 21 day of [illegible] 44		
	Total £	8	0

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

A McCutcheon Lt
Officer detailed to take Summary.

Officer Issuing Railway Warrant and Expenses. E. BIRCH, CAPT. Capt.
No. 6 Area Provost Company, Canadian PROVOST CORPS. O.P.M's BR.
C.M.H.Q.

EX B 28

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
B-67928	TROOPER	DESMOND W.	X-4 LIST, CAC

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

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

The conduct sheet(s) mentioned should be produced in court with this statement if not admitted to the prosecutor.

† See para. 677, K.R., 1940.

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

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

MFM-6 NOT AVAILABLE

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

Number of instances of gallantry or distinguished conduct,

or

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

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

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

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

4. The accused has been in confinement, awaiting trial on the present charges, for 1 days in civil custody, and 22 days in military custody, making a total of 23 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service ~~attestation paper~~ is 26 YEARS 5 MOS

6. The date of his ~~enlistment~~ attestation specified in his record of service ~~attestation paper~~ is 29 JUL 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 YRS 3 MOS

8. The accused is entitled to deferred pay or gratuity in respect of 4 YRS 3 MOS service.

9. The accused is entitled to reckon 4 YRS 3 MOS service for the purpose of determining his pension, etc.

10. The accused is in possession of ~~or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or award)).~~ CVSM AND CLASP

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

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

(P.S.D.S.) W1.34180/1750 20,000 2/42 A.& E.W.,Ltd. Gp.698
(D.S.O.) W1.33974/1439 15,000 5.44

Note re D56M - D67929 Gnr William DESMOND

E 3. Accused being NAI sworn states he received word from his wife by letter that she was very sick in hospital - no further word for some time - applied through proper channels for compassionate leave which was refused - again asked for leave two weeks later - again refused - Heard of other cases where compassionate leave granted - Problem weighed on his mind finally "couldn't take" it any longer and went AWL to see wife - stayed 4 or 5 days until two months old - was out of hospital when left and on trip to return to unit but picked up. Home town Red Deer - previous number - murdered - except 7 days CB for 7 days AWL - awaits to return to duty as soon as possible and begs clemency of court.

J.C. Barnes
Major

ZZZ-95

Spr. Diamond W

SCHEDULE.

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

Accused: B67928 TPR. WILLIAM DESMOND — Con Sec Gnr. 1 Fd Tk.

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

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

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

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

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

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

Sentence Awarded by the Court:

(Sgd) ..... Judge-Advocate, if any. 27 Sept Date awarded. (Sgd) H.B. Erskine major President. (RP 45, 50.)

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

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

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

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

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

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

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

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

(Sgd) .....

Date ..... Commanding ..... Confirming Offr.

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

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 222-95

RECEIVED 18 OCT 1944 JAG BRANCH CMHQ

FIELD GENERAL COURT-MARTIAL

CPA96 (To Take Place of AFAA) 40-1P & B-1686 (6144) 4/38B

Convened by Order of Brig. A.W. Bingham Comd Can Sec Gnr 1 Fd Tk dated 27 SEPT 44

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B67928	TPR		~~DESMOND~~ William	DESMOND	Can Sec Gnr 1 Fd Tk

PROCEEDINGS REVIEWED

J.C. Campbell major 18 Oct 44

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BRUSSELS BELGIUM on (date(s)) 27 SEPT 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1530 hours trial commences.

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

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

A5. President to accused: Do you object to ~~him~~ as interpreter? Ans No

The Interpreter is sworn.(1) Do you object to ~~him~~ as shorthand writer? Ans No

The shorthand writer is sworn.(1)

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

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

Ans No (2)

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

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

~~No~~ 3 Can Inf Bde HQ

President	MAJOR	H.B. ERSKINE	MTI 21 Army Gp ~~2 Can. R.C.E. HQ~~
Member	CAPT	J.H. COLLINS	~~H.Q. Can C.E. Wks~~
Member	CAPT	H.D. BALL	H.Q. Can C.E. Works.
Judge-Advocate			
Prosecutor	CAPT	L.E.C. HARVEY	Can Sec Gnr 1 Fd Tk.
Defending Offr	CAPT	C.E. DUNN	Can Sec Gnr 1 Fd Tk.

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DJ p 33)

A8. The accused B67928 TPR WILLIAM DESMOND before arraignment make(s) (no) ~~or~~ plea. (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 name and name of the accused making the plea.)

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 17(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

D2. The Prosecutor makes (an) (part) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

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

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s). The Court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(3)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

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

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

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans.....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 162(2) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. Same as 1. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(*1. When several accused tried sepcorately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 363-366, Overseas AO 3019, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(8), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B-67928 Tpr DESMOND, William, Cdn Sec GHQ 1 Ech 21 Army Group, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
AA Sec 40

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

in that he

in the Field, in France, on 8 Sep 44, did improperly and without authority use W.D. Vehicle No.M5396717, thereby occasioning damage to the said vehicle to the extent of £7.13.0.

(H.G. Moran) Lt Col
AAG
Cdn Sec GHQ 1 Ech - 21 A Gp.

In the Field
26 Sep 44.

To be tried by Field General Court-Martial.

(A.W. Beament) Brigadier
OIC
Cdn Sec GHQ 1 Ech - 21 A Gp.

In the Field
29 Sep 44.

FIELD GENERAL COURT-MARTIAL

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

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 14, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 328, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-67928	Tpr	William	DESMOND	Cdn Sec GHQ 1 Ech 21 A Gp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~have~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 27 Sep 44 endorsed by me, (~~or by an officer exercising the rank~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable that the trial should be held by a Standing Field General Court-Martial~~

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

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

4. ~~And I hereby appoint the Officer hereinafter named to be the Judge Advocate of the said Court.~~

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

5. ~~And I hereby appoint the Officer hereinafter named to be the Waiting Member of the said Court, to be detailed hereunder.~~

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	H.B. BASKIN	3 Cdn Increment RCASC

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	J.H. COLLINS	2 Bn RCE
Capt	H.D. BALL	HQ Cdn CE Works

WAITING MEMBER.

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

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Belgium
(Country.)

Dat 27 Sep 44

(Signed personally. RP 105 fn 2.)
(A.W. Beament)
Brigadier
(Rank.)
Commanding Cdn Sec GHQ 1 Ech - 21 Army Group.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

CANADIAN SECTION GHQ 1 ECHELON
21 ARMY GROUP

27 Sep 44

I certify that I have today examined B 67928 Tpr Desmond W. and find him fit to undergo trial by court martial.

(AB Sinclair) Major
RCAMC

The Prosecution proceeds to call (1) ~~the first witness~~ for the prosecution who having been duly sworn states. I am
K 71816 Cpl Calhoun, N.A. Coln Sec HQ 1 Tech.
I am in charge of transport maintenance at this HQ. On the morning of 8 Sep. I discovered about 0930 hrs which No MS 396717 on the road for the camp at Nefchatel facing towards camp. I reported it to Sund. Bogatiz (returned to camp.). The use of the vehicle had not been authorized on the 8 Sep. I should have known if anyone had authorized it.
Cpl Calhoun N.A.
Questioned by the Court.

Q1 by Court - What is your duty in regard to authorization of vehicles?

A. - I am a despatcher and am authorized to despatch vehicle on authorization of an officer.

Q2 by Defence - Were you on duty on the evening of the 8 Sep?

A - Yes, sir.

Q3 " " - On that evening did you see the vehicle No MS 396717 in the M.T. park after 1930 hrs.

A - I am not certain whether saw it or not.

Q4 " " - Did the car leave the M.T. park at any time during the evening of 8 Sep?

A - Not to my knowledge.

Q5 " " - Did you see the named car on the evening in question.

A - Yes I saw him in the M.T. lines after supper and 1900 hrs.

Q 6 by Defence How far from your camp was the car when you discovered it.

A. - Appro+ 2 miles.

Second witness for the prosecution: P 995-2. 3Sdr Bogatié N. being duly sworn states as follows & gives evidence.

I am 3Sdr Bogatié N, No P 1902. I am tpt/transport sgt at Coln Sec 4 HB 1st ch. At appro+ 1105 hrs on the morning of 9 Sep. Cpl Calhoun reported that he had found one of our vehicles in a damaged condition on the road between Harpelaat and our HQ camp. I reported this to the camp commandant who instructed me to try to bring the vehicle back to camp. I repaired the vehicle so that it could be driven back into camp. On my return to camp I reported to the camp commandant at about 1500 hrs that I had been instructed by telephone from the camp commandants office to place Tpr Desmond under open arrest. Tpr Desmond was not in camp at that time. The vehicle had not been assigned to any driver since the 6th of Sept for any trip and there was no authority for anyone to drive the vehicle since that date. At 2130 hrs on the 10th of Sep I placed Tpr Desmond under arrest.

N Bogatié

Cross-examination by Defence.

Q. - Were you on duty on the morning of 9 Sep.

A - No sir.

NHB

Q2 – Was it possible for a vehicle to be taken out of M.T. lines without authorization and without being observed.

A – Yes sir.

Q3 – Did you see the accused on the night of the 8 Sep.

A- Yes I saw him outside the emp area on the main gate between 1930 and 1900 hrs.

Q4- By the Court - Did you see Tpr Desmond between 1900 hrs on the 8th Sep. until you placed him under arrest at 2130 hrs. 10 Sep.

A- No. He was not on duty in the morning of the 9 Sep.

Third Witness for the prosecution. L 10774 Cpl Schattenkirk W. having been duly sworn proceeds to give evidence.

I am L 10774 L/Cpl William Schattenkirk 3 Sec 4 Tp C Proof Coy. while on duty on the 8 Sep. at about 1930 hrs I saw Tpr. Desmond going through the gate with a suitcase, I do not know towards Nijefatel. He was alone in the vehicle. It was light enough for me to recognise him.

W/o Schattenkirk.

Cross by the Defence.

Q1 – Did you see Tpr Desmond before 1930 hrs on 8 Sep.

A- No I do not remember seeing him before that.

Q2 - Do you know Tpr. Desmond very well?

A - I know him fairly well as we had been out together in England.

Q3 - Did you see Tpr. Desmond outside the gate between 1830 and 1900 hrs on 7 Sep.

A - No. I did not see him at the gate between 1830-1900 hrs.

H RPBG

Court recalls Sgt. Cartmen for prosecution. Sgt. Cartmen reminded on his former oath states in reply to Prosecutor's questions as follows.

Q1. When you saw Tpr Desmond outside main gate between 1830-1900 hrs on 7 Sep where were you in your capacity as security guard.

A - Right beside the security guard post.

Q2 Who was security guard that night

A - There were two but I do not remember whom they were.

Q3 How long did you spend with Tpr Desmond observing NIL

A - About 5 minutes.

Q4 Did you leave Desmond or vice versa.

A - Desmond left me and went into compound thru main gate

The evidence for the prosecution is closed.

HRB

The defence proceeds to present its case. Tpr. Desmond William B 67928 being duly sworn states as follows:

I started supper around 1730 hrs + was finished before six o'clock. On the night of 8th Sept 44 I then had a shave, wrote letters sent several of the boys including Gnr Sellars, Spr. Kerr, and we discussed the next days trip to CBRG. This happened after six o'clock. I then made my bed up. I intended making a cup of tea but it was getting too dark so I went to bed. I don't know the time but it was dark. The next morning I was woken and left for CBRG between seven + eight o'clock. We were two days on the road, returning about 2100 hrs on 10 Sept 44. Bdr. Bogatie shouted to me that he had some mail for me + when I went to get it, he placed me under open arrest. I asked him why and he said it was about a wheel being stolen and that is all the discussion there was. On the night of the 8th Sept I was also outside the camp gate talking to Bogatie about his motor bike. I did not ~~Do you recall having seen~~ speak to Lt Schallenberg during that time after I saw him on the gate. After leaving Bogatie at the gate I went back into camp and that is when I saw some of the other boys. I don't know what the time was as I have not a watch.

Cross Examined.

Q. - What time did you go to bed that night.
A Not having a watch. I do not know
Q. When did you write your letters + with what light
A In back of a truck by candle light.
Q. When had you been warned of trip to CBRG.
A. I had not been warned but it was general knowledge that I was to go

Q 4. When had you last been paid?
A. Around the first of the month. I did not have much money on the night of September.

First
~~Second~~ Witness for defence.

Gnr. Gillan A.J. P4586 being duly sworn states as follows:-

I am P4586, Gnr. Gillan A.J. 6th Bde SHG, 6th Bde, 11 Army Tp. On the evening of the 8 Sept after supper. I spoke with Spr Kerr as to what we would do in the evening. We then went to clean up. After cleaning up I was on my way to meet Spr Kerr, & I am not certain of time but it was between 7.30 and 8.00. I met Sherrard and we spoke for a ~~few moments~~ about twenty minutes. ~~He then went to his own tent~~ I left him, met Kerr, and it was a little after eight when we went out. I am not sure of the exact times as I have no watch but I am fairly certain it was between 7.30 - 8.00

A J Gillan

Q. What time was your supper?
A. About 5.30

Q 2. Are you of the time lapse between supper and the time you went out?
A. I am not sure of any times but they are approximately as stated.

Q 3. By Court. What did you do in cleaning up before going out?
A. Washed, made bed etc.

Q 4. By Court. Which way did you go when you left camp?
A. — Into Newtonhead.

Q. (by court) What time did you return?
A. I do not know.
Q. " Is it necessary to pass security guard in returning to camp
A. Yes.
Q. Did Desmond give you any indication of his plans for the night?
A. No

Second witness for defence

B74354 Spr Kerr J M having been duly sworn proceeds to give evidence as follows,

On evening of Sept 9th I was working with my vehicle and after leaving that I went for supper around six. After supper I was talking with Spr Gillan for appox 20 minutes to ½ hour. Left Gillan and went to shave and clean up and was waiting for Gillan to come out with me. In the meantime one of the other drivers, I can not say who, ~~remarked~~ asked me if I knew any thing about the trip next day. For that reason I asked Spr Desmond about it. Outside of that, the conversation was general for about 10 or 15 minutes after which I had no watch but it was evening or dusk. At that time Spr. Gillan and I left for ~~town~~ Neufchatel. I ~~a distance of about 3 miles~~ asked the time when we arrived in town and an English soldier told me it was about 20 past eight.

J M Kerr

~~Q. (by prosecution)~~ Third witness for defence

C 1641 Gnr W.R. McFarlane W.R.

being duly sworn proceeds to give evidence as follows.

On the evening of Sept 8th. I was passing my vehicle in the M.T. lines around dusk, when Tpr Hammond passed by and shouted a greeting to me

W.R. McFarlane

Q. - About what time do you think this was.

A - I do not the exact time.

Q. In which direction was Hammond walking when he greeted you.

A - He was heading in the direction of the M.T. despatch office. I did not see him again that evening.

W.R.M.

Q.

I have listened with considerable interest to the evidence given to this Court by the witnesses for the prosecution, likewise the admirable expressions of the prosecutor. While I believe in the sincerity of the evidence of the witnesses for the prosecution and, in particular, the evidence of L/Cpl Schattenkirk, the Provost witness, I wish to make it clear that I have equal confidence in the sincerity of the witnesses for the defence.

I submit to this Court that the evidence given by the witnesses for the prosecution which you have heard does not to any degree establish the guilt of the accused.

You have heard the evidence of the Provost witness in which he stated that he did see the accused drive out of the main camp gate at 1930 hrs on the 8th of Sep 44 in a 8-cwt English make car, but that he did not recognize the accused who was standing at the gate talking to witness Bdr Bogstie between 1830 hrs and 1900 hrs on 8 Sep 44, nor did he see the accused return through the main gate after completing a conversation with Bdr Bogstie lasting about five minutes. Now the Provost witness admits the accused is known to him, having once spent an evening out with him in the UK, yet he does not remember seeing the accused walk by him at the gate between 1830 hrs and 1905 hrs on 8 Sep 44 as stated both by the accused and witness for the prosecution Bdr Bogstie. That, in my opinion, seems odd in view regard to the fact that it was his duty to observe all personnel either leaving or returning to the camp through the gate, the security of which he was responsible for on the evening of 8 Sep 44.

The Provost witness is quite definite as to the time when he saw the accused drive out the gate with vehicle described as 8 cwt English make. Although he was not in possession of a watch he stated that he is a good judge of time and fixed the hr as 1930 on 8 Sep 44. On the other hand, I brought before this Court three witnesses for the defence all of whom stated, under oath, that the accused was seen by them in the camp area between the hours of 1930 and dusk and, in fact, two of the witnesses actually conversed with the accused in camp for a period of approximately twenty minutes between the hours of 1930 and 2000.

The accused, Mr President, is before this Court charged with a serious crime for which I submit definite proof of guilt has not been established. This man has been in the Army since 1940; his crime sheet is a fairly good one and, as I understand it, under British law a person accused of an offense against the realm is innocent until proven guilty. Further, if any doubt exists as to guilt the accused is given the benefit of such doubt. I submit, gentlemen, in this case there is considerable doubt from the evidence furnished as to the time the accused was supposed to have been seen leaving the main entrance of the camp. While I cast no aspersions on the integrity, wisdom or sincerity of the Provost witness, gentlemen, I do feel that this is a case of mistaken identity on the part of the Provost witness and that the accused is not guilty of the crime upon which he is now being judged.

Summation by the Prosecution

27 Sept 1944

According to the evidence of P 4586 Gnr Gillan, A.J. and B-74354 Tpr. Kerr, J.M., they both saw the accused ,No B-67928 Tpr. Desmond, W., ~~xxxx~~on the evening of 8 Sept 44 at about dusk which they brought out was at approximately 20.00 hrs. No01691 Gnr. Mac Farlane, W.R. also stated that he had seen the accused "around dusk".

There is no conflict as to times and ~~al~~though No.1-10074 L/Cpl Schattenkirk, W., the Provost, stated that the time was 19.30 ~~hrs~~ when he saw the accused leaving through the gate in the English 8 Cwt, he had no watch and was quite possibly in error.

However the last time, that there is any evidence that the accused was in camp, was at about 20.00 hrs., There is no evidence that he was seen until quite a bit later in the evening, ~~xxx~~ after he had had plenty of time to leave camp as stated by L/Cpl Schattenkirk. There is no evidence that the accused either left camp by foot or stayed in camp after 20.00 hrs. The only evaidence is that he was seen leaving in an English 8 cwt., and also that neither he nor anyone else had permission to take this car out. Although presumption cannot be taken as evidence ~~the~~ fact that he was seen leaving camp in an unauthorized 8 cwt and that this car was afterwards picked up in a damaged condition the following morning connects him with that fact.

I submit however that the accused, by the evidence brought out, did, on the 8 Sept 44, improperly and without authority, use W.D. Vehicle No M-5396717, and that proof of this ~~xxxxxxxxxxxxxxxx~~ is the identification brought out in the evidence of L/Cpl. Schattenkirk. The occasioning of damage to the vehicle in question is tied up with the evidence that the accused was seen heading towards Neufchatel in the a/m car which was subsequently found in a damaged condition on the Neufchatel -Camp road .

(L.E.L.Harvey) Capt

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No. B67928 Tpr Deamond, W., Cdn Sec GHQ 1 Echelon 21 Army Group CAO, charged with WOAS Conduct to the prejudice of good order and military discipline in that he, on the 8 Sep 44, did improperly and without authority, use W.D. Vehicle No. M5396717, thereby occasioning damage to the said vehicle to the extent of £7.13.0. (AA Sec 40)

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

FIRST WITNESS K.71816 Cpl Calhoun, H.A. Cdn Sec GHQ 1 Echelon 21 Army Group, sworn states:-

I am Transport Cpl in charge of maintenance of all vehicles in the M.T. On the morning of the 9th Sep 44 going down the road towards Neufchatel, I discovered W.D. Vehicle No. M5396717 on the side of the road facing towards camp. On returning I reported to Bdr Bogstie. To my personal knowledge the use of this vehicle was not authorized to anyone after 1800 hrs 8th Sep 44. Had it been authorized to anyones use in that period I would have personally known about it.

The accused declines to cross examine the witness.

HACalhoun.
(H.A. Calhoun)

SECOND WITNESS P.9952 Bdr Bogstie, H., Cdn Sec GHQ 1 Echelon 21 Army Group, sworn states:-

I am acting Transport Sgt in charge of the Transport over all the personnel and vehicles. It was approximately 11 o'clock on the 9th day of Sep that Cpl Calhoun reported in to me that he had seen one of our vehicles in a wrecked condition. I immediately went to the Camp Commandant and reported what Cpl Calhoun had told me. He gave me instructions to go and find out if the vehicle could be driven in. I went out and found that the vehicle was damaged and went out to work on it to get it in running order, to bring it in. I left the vehicle in the M.T. lines and reported to the Camp Commandant. It was shortly after this that I was given instructions to place Tpr Deamond under open arrest as soon as he reported back to camp. There was no one authorized to drive this vehicle. The vehicle should never have left the vehicle park. Two days previous is the last time there was authority for this vehicle to move. The accused Deamond whom I recognized had specifically not been given any authority to use this vehicle. I placed Tpr Deamond under open arrest at 2130 hrs 10 Sep 44.

The accused declines to cross examine the witness.

H Bogstie
(H. Bogstie)

THIRD WITNESS L.10074 L/Cpl Schattenkirk, W., Cdn Sec GHQ 1 Echelon 21 Army Group, sworn states:-

On the night of the 8th Sep 44 at approximately 1930 hrs while on duty on the gate of this HQ, I saw Tpr Desmond driving through the gate with an 8-cwt English vehicle, turn left towards Neufchatel. He was all by himself. I fix the time at 1930 hrs as I came back on duty from Supper at 1830 hrs.

Q Are you sure it was me?

A Yes, I am sure.

Q Are you sure it was not a mistake?

A I am sure it was not.

W. Schattenkirk
(W. Schattenkirk)

FOURTH WITNESS P.4586 Gnr Gillan, A.J., Cdn Sec GHQ 1 Echelon 21 Army Group, sworn states:-

After supper on the 8th Sep 44 I spent some time with Tpr Kerr and then he went off to get ready to go out, and so did I. Between 7.30 and 8 I met Tpr Desmond and spoke to him for about 15 or 20 minutes. I saw Desmond the next morning at breakfast we talked about numerous things.

The accused declines to cross examine the witness.

A.J. Gillan
(A.J. Gillan)

FIFTH WITNESS C.1691 Gnr Mac Farlane, W.R., Cdn Sec GHQ 1 Echelon 21 Army Group, sworn states:-

All I have to say is that around dusk I went up to gas up my vehicle and Desmond went by and we hollered at each other. It was about 9 o'clock.

The accused declines to cross examine the witness.

W.R. M'Farlane
(W.R. Mac Farlane)

SIXTH WITNESS B.83305 Pte Hand, J.R., Cdn Sec GHQ 1 Echelon 21 Army Group, sworn states:-

I sleep with Tpr Desmond. I remember seeing him at supper time. I don't have any definite recollection of when I next saw him. At 9.30 I went down to the kitchen to have a cup of tea, then went back to bed and Tpr Desmond was not in bed at that time, but came in later and wakened me up and we talked about a trip we were making the next day.

The accused declines to cross examine the witness.

J.R. Hand
(J.R. Hand)

SEVENTH WITNESS C.3014 Sigmn Hammond, L.F., Cdn Sec GHQ 1 Echelon 21 Army Group, sworn states:-

Sometime after I had gone to bed I was awakened by Tpr Desmond going into the Fitters shop where I was sleeping. He was going to make some tea and made quite a bit of noise, so I stayed in my bed and soon after he came in I saw him walking around with a cup and a lit cigarette lighter in his hand, it looked to me as if he were looking for the can of water. Gnr Heximer who was sleeping in the shop said to Tpr Desmond"if it is water your looking for there is a can over there" and pointed in the direction of the can of water. Tpr Desmond started arguing with Heximer about shooting off his mouth. Tpr Desmond appeared to want to pick a fight with either Gnr Heximer or myself, after an exchange of words he left. I do not recollect having seen him earlier in the evening.

The accused declines to cross examine the witness.

L Hammond (L.F. Hammond)

EIGHTH WITNESS B.74354 Tpr Kerr, J.M., Cdn Sec GHQ 1 Echelon 21 Army Group, sworn states:-

I was at supper on the night of the 8th Sep 44, and after supper I was with Gnr Gillan for a short time and I left him for a wash and a shave and just after I had washed and shaved I was waiting for Gnr Gillan, I met Tpr Desmond and asked him what he knew of this trip we were warned for. I could not say exactly what the time was. That was in the transport lines. It was just going on dusk. It was quite sometime after supper. Then I left camp with Gnr Gillan. We hitch-hiked to Neufchatel and got a ride back in a signal truck.

The accused declines to cross examine the witness.

J.M. Kerr (J.M. Kerr)

NINTH WITNESS B.60635 Tpr Ritchie, J.M., Cdn Sec GHQ 1 Echelon 21 Army Group, sworn states:-

I am water duties man at this camp and do not remember whether or not I saw Tpr Desmond on the 8th Sep 44.

The accused declines to cross examine the witness.

J.M. Ritchie (J.M. Ritchie)

TENTH WITNESS A/QMS Portingale, H.D., 2 Cdn Inf Tps Wksp.

I certify that in my opinion the attendance of this witness, is, owing to the exigencies of the service not readily procurable. The statement of his estimate of the damages to Austin Light Utility M5396717, signed by him, has been read to the accused and is attached hereto as Exhibit "A".

(B.W. Howard)

I do not require the attendance of A/QMS Portingale, H.D. for the purpose of cross examination.

W. Desmond (W. Desmond)

The accused was cautioned as follows:-

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

A I want to make a statement.

Q On oath or not on oath?

A On oath.

The accused sworn, states:-

I don't know anything about the vehicle. I talked to several persons who have given evidence this afternoon. The first I heard of any accident was when I came back from a trip to CBRG on the 10th and was placed under open arrest.

W. Desmond.
(W. Desmond)

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

In the Field
12 Sep 44

(B.W. Howard) Capt,
Cdn Sec GHQ 1 Echelon 21 Army Group

DAMAGE ESTIMATE ON
AUSTIN LIGHT UTILITY
M5396717

Material Required;

Front Spring	LH	£ 1. 0. 0
Front Fender	LH	1. 5. 0
Front Wheel	LH	1.10. 0
Door Glass	RH	18. 0
		4.13. 0
Labour @ 3/- per hour 20 hours		3. 0. 0
		£ 7.13. 0

Estimate of damages
by A/CMS Portingale, H.D.
2 Cdn Inf Tps Wksp.
EXHIBIT "A"

(H.W. Howard) Capt

H D Portingale

(H.D. Portingale) A/CMS
2 Cdn Inf Tps Wksp
11 Sept 44

SUPPLEMENTARY SUMMARY OF EVIDENCE

Supplementary Summary of Evidence in the case of No. B-67928 Tpr Desmond, W., Cdn Sec GHQ 1 Echelon 21 Army Group CAO, charged with WOA$ Conduct to the prejudice of good order and military discipline in that he, on the 8 Sep 44, did improperly and without authority, use W.D. Vehicle No. M5396717, thereby occasioning damage to the said vehicle to the extent of £7.13.0. (AA Sec 40).

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

P.9952 Bdr Bogstie, H., Cdn Sec GHQ 1 Echelon 21 Army Group, sworn states:-

On the day of the main summary I stated under oath that I am the acting Transport Sgt in charge of the Transport over all the personnel and vehicles. At that time Cpl Calhoun stated that he discovered on the morning of 9 Sep 44 on the Neufchatel road WD Venicle M5396717, on the siding of the road facing towards the camp. That vehicle was an English Austin Light Utility. At that time I had three English Austin Light Utilities among my vehicles, one of them was an Austin Standard which is a larger vehicle. On the night of 8 Sep 44 the Austin Standard was booked out and did not arrive in until after the despatcher had gone to bed, probably around 12.00 o'clock Midnight. The remaining light utility was in the car park at the time. It was not booked out at all; it had arrived in at 1900 hrs. It didn't leave the car park. This Austin Light Utility is classed as a 8 cwt. W.D. Vehicle No. M5396716 was one of the vehicles under my control.

The accused declines to cross-examine the witness.

H. Bogstie

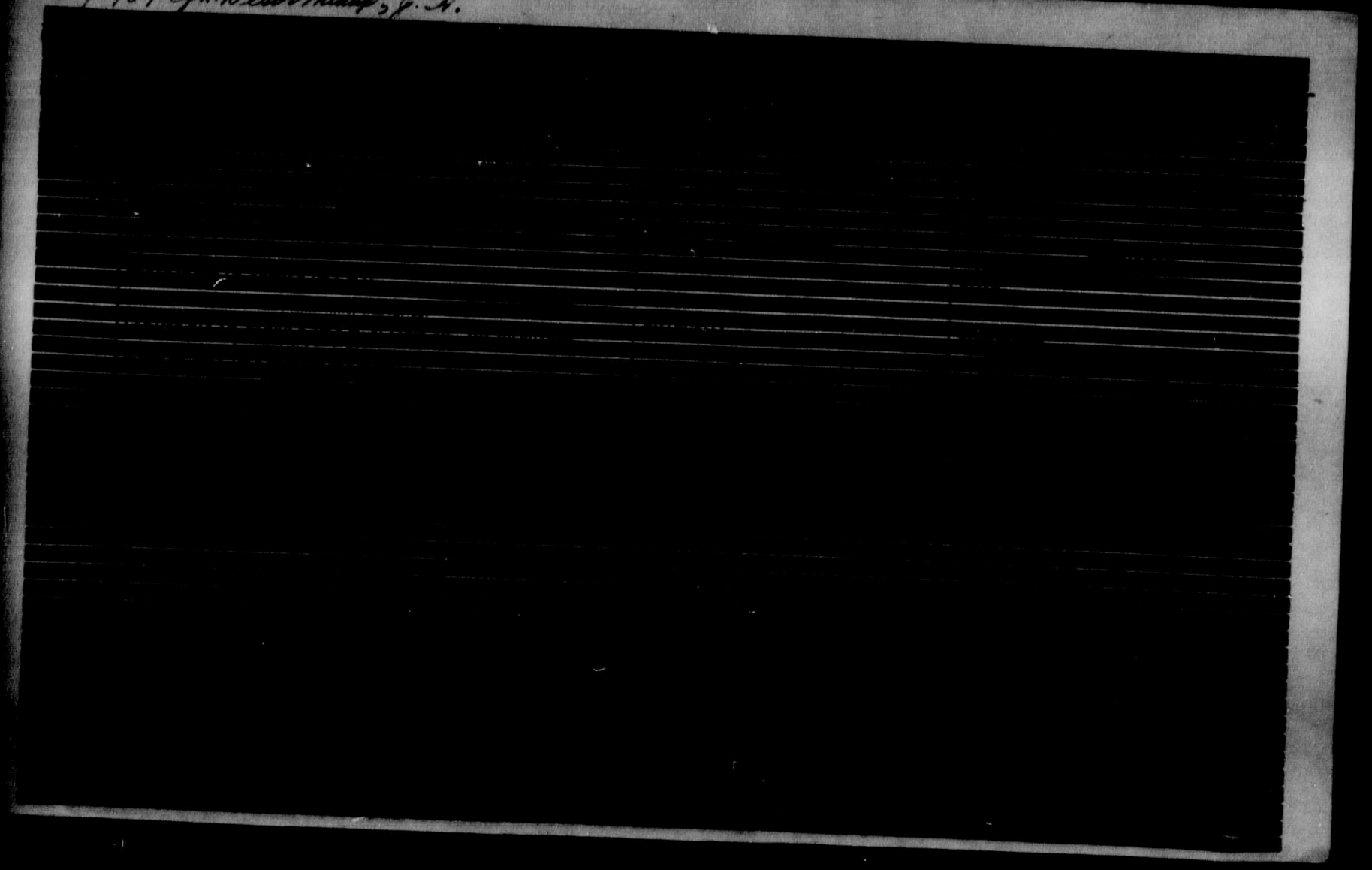
(H. Bogstie)

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

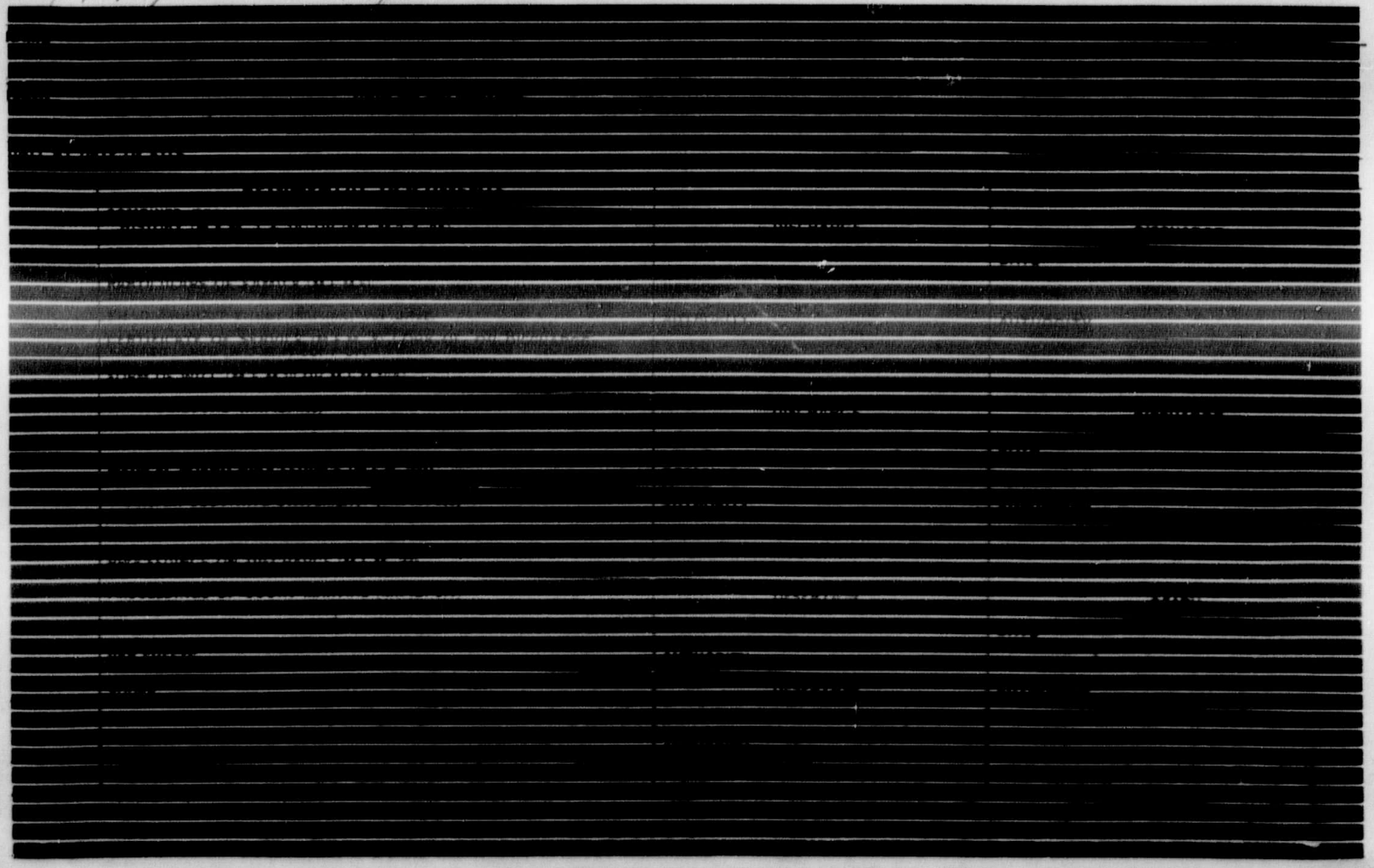
(B.W. Howard) Capt
ADJA
Cdn Sec GHQ 1 Echelon 21 Army Group

In the Field
25 Sep 44

5Y-107 Chr. Desormeaux, J. N.



5Y-107 Gen. Desormeaux, J. N.



SCHEDULE.

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

Accused: B56573 CFN DESORMEAUX JOHN HENRY 3 Con TRANSIT CAMP

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

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

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

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

Time in confinement awaiting present trial—a total of 32 days, of which NIL days were spent in hospital.(1)

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

Sentence Awarded by the Court:

To undergo detention for one (1) year

~~(Sgd)~~ ..... 15 FEB 46 (Sgd) C F Duchargeon

~~Judge Advocate, if any.~~ Date awarded. President. (RP 46(50).) Major

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

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

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

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

(For duties and powers see AA 54, 57, RP 27(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 33, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further ordered. AA 57A. Delete if no order.~~

(Sgd) H F Baker Lt Col

Date 19 Feb 46 Commanding 1 Cdn Advnce Depot

Confirming Officer.

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

Accused.	Date.	Signature of Offr.
B 56573 Cfn Desormeaux, J.H. X4 Det RCOME 3 Cdn Transit Camp	21 Feb 46	H Cook Major Legal Officer 3 Cdn Transit Camp

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 21 FEB 1946 1 CDN ADVANCE DEPOT R.C.O.M.P.

RECORDED AS EXHIBIT NO 5Y-107

FIELD GENERAL COURT-MARTIAL

CFA66 (In lieu of AFA51) 40/P & V/1698 (2001) 4/48B

Convened by Order of Lt.Col. H.F. Baker Comdt. Cdn Demob Depot dated 14 Feb 1946

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-56573	Cfn.		John Henry	DESORMEAUX	3 Cdn Transit Camp

PROCEEDINGS REVIEWED 28 Nov 6 A.D.J.A. Capt D.J.A. REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 15 FEB 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns from RCs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for duties and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-72, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is ~~was~~ amenable to military law, and each charge discloses an offence.(4)

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

A3. The Court is opened. The accused is ~~was~~ brought before the Court. At 0915, hours trial commences.

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

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

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

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

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

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

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

Ans NO SIR (2)

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

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

President	MAJOR	F A D'AILLARGEON	GenList	3 Con TRANSIT Camp
Member	CAPT	H N McLEOD	CIC	3 Cdn Transit Camp
Member	LIEUT	D R SAUNDERSON	CIC	3 Cdn Transit Camp.
~~Judge Advocate~~				
Prosecutor	CAPT	R V SWETHAM	CIC	3 Cdn Transit Camp
Defending Offr	LIEUT	W D CALLAGHAN	CIC	3 Cdn Transit Camp.

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

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

A8. The accused B56573 CFN DESORMEAUX J.H. before arraignment make(s) (no) (a) plea. B

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 111), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

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

(1. RP 30, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 496 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 66(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(1. MFB 255 or MFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any.~~
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-58, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 809, 1323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41 (5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Corr 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Corr 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

No. B-56573 Name DESORMEAUX JH Sqn. Battery or Company RCOC Corps Date of enlistment 9-7-42 OC Badges Service or Proficiency Pay $1.50 MFM 6 (AFB 122) 40/P&S/136 (9438)

Conduct Sheet last entry in — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc JWM Cleary Lt — Character

Date	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18/2/44	Pte		AA Sec 40 Neglecting to obey Standing Orders in that he failed to turn in spare kit to Q.M. Stores when proceeding on privelege leave.	Cpl Burkholder	14 days CB	29-2-44	Maj Malloch	
U.K.	29-2-44	Pte		WOAS failing to appear on the place of parade appointed by his Commanding Officer	ASM Preston CSM Magill	7 days C.B.	1 Mar 44	Major A.C. Malloch	
U.K.	1 Apr 44	Pte		Conduct to the prejudice of good order and military discipline	Documentary	7 days F.P.	3 Apr 44	Major A.C. Malloch	
Field	26 Mar 45	Pte		AA Sec 15(1)AWL from 1300 hrs 26 Mar 45 till 0745 hrs 27 Mar 45	Sgt Tessier	7 days F.P.	27 Mar 45	HB McAdam Lt-Col	Forf 1 days pay RAI 149(1)(a Forf 7 days pay RAI 149(2) Tet. forf 8 days pay

Certified true copy of original in my possession. (R.V. Swetnam) Capt.

etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barriefield	7/8/43	Pte		AA Sec 15(1)AWL from 2200 hrs 5-8-43 to 0340 hrs 6-8-43 a total of 5 hrs 40 min at which time he was apprehended by the 33rd Provost Corps, Kingston. Period close arrest 1 day 4 hrs 50 min	Documentary	7 days CB	7-8-43	Lieut. SLC Woodhouse	
Barriefield	16/8/43	Pte		AA Sec 40 Conduct to the prejudice etc in that he was found breaking into barracks at 0110 hrs 16/8/43	L/C Betnesky	2 dys CB	16-8-43	Lieut Spooner	
Barriefield	23/9/43	Pte		Blood depor type O.D.O.230					
Barriefield	4/10/43	Pte		AA Sec 15(1)AWL from 2200 hrs 4-10-43 until 0040 hrs 6-10-43 Total time absent 1 day 2 hrs 40 mins	Documentary	7 days C.B.	6-10-43	Maj Reilly	Forf 2 daysspay
Field	3/1/44	Pte		AA Sec 15(1)AWL 9 hrs 26 min	Documentary	14 days C.B.	8-1-44	Lt-Col Taschereau	Forf 1 days pay
Field	4/1/44	Pte		AA Sec 40 Improperly dressed not wearing cap.	Documentary				

EXHIBIT "C" Vaillancourt Case

M.F.M. 6
(A.F. B.122)
49/P & S/1136 (Sect)

No. B-56573 Name DESORMEAUX J.A. Sqn., Battery, or Company — Corps RCOC — Date of enlistment 9-7-42 — G.C. Badges — Service or Proficiency Pay $1.50

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (agreeing with 284)	By whom awarded	Remarks
Hamilton	12/2/43	Pte		AA Sec15(1)AWL from 2245 hrs 12-2-43 until 0630 hrs 18-2-43 Total time absent 5 days 7 hrs 45 mins	CSM Watkins	7 days CB	18-2-43	J.S.Gaowski Maj	Forf 6 days pay
Barriefield	31/3/43	"		AA Sec 15(1)AWL from 2200 hrs 31-3-43 to 1800 hrs 5-4-43	CSM Oliver L/C Bernier	7 days CB	7-4-43	Maj Irvine	Forf 5 days pay
Barriefield	18/5/43	"		AA Sec 10(4) Breaking barracks in that he at 2330 hrs 18-5-43 did break barracks after being relieved of his pass.	Cpl Cottrell	5 days CB	19-5-43	Maj Irvine	
Barriefield	4/7/43	"		AA Sec 15(1)AWL from 2200 hrs 4-7-43 until 2310 hrs 11-7-43 Total time absent 7 days 1 hrs 10 min	CSM Oliver	5 days forf of pay	13-7-43	A.R. Duncanson Cal	Forf 8 days pay

(P.T.O.)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

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

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

Signed this 5th day of Feb 46

K. Lauritsen Capt

EXHIBIT "B" [illegible]

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

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

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-56573	Cfn	DESORMEAUX JH	3 Cdn Transit Camp CEN

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

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

For	Sect. 15(1)	8 times.
For	Sect. 10(4)	1 times.
For	Sect. 40	3 times.
For		times.

Date of first entry in Field Conduct Sheet 12 Feb 1943

Date of last entry in Field Conduct Sheet 1 Apr 1944

2. [redacted]

*Strike out if not applicable.

*3. [redacted]

4. The accused has been awaiting trial on the present charges for [redacted] days in civil custody; and for 27 32 days in military custody, *i.e.*, [redacted] days in open arrest, 27 32 days in close arrest; of which [redacted] days were spent in hospital.

5. The present age of the accused is 22 years 2 mos

6. The date of his attestation [redacted] is 9 July 1942

7. [redacted]

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

8. The accused is in possession of† 1939-45 Star, Fr-Germ Star CVSM & Clasp

9. [redacted]

[redacted]

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

W's 88900/1602 30,000 3&4 51-4751. Forms/B.296/War/2

AB

LIST OF WITNESSES

In the case of B-56573 Cfn. John Henry DESORMEAUX.

(For the prosecution)

NONE

(For the Defence)

NONE

LIST OF EXHIBITS

In the case of B-56573 Cfn. John Henry DESORMEAUX.

(For the Prosecution)

(A) A certified true extract of 69 CDN LAD SCREEN, Pt.II D.O. # 25 dated 21 Jul 45 showing the accused as AWL from 2359 hrs. 9 Jul 1945.

(B) A certificate of Surrender showing the accused as surrendered ~~at Victoria Sta. Lon.~~ LONDON, at 2145 Hrs. 13 Jan 46.

(For the Defence)

NONE

CERTIFICATE OF ACCUSED

I, B-56573 Cfn. Desormeaux, J.H., hereby acknowledge that I receive, free of charge, one copy of the Summary of Evidence and one copy of the Charge Sheet therein. I also request that a Defending Officer be appointed at my forthcoming Court-Martial.

J.H. Desormeaux
(J.H. Desormeaux)

Exhibit "B" AAA

B.

CERTIFICATE UNDER THE ARMY ACT, SECTION 165 (1) (1)

I Capt. R.J. Stinson D.A.P.M. (C.M.H.Q.) certify that

Regt. No. B-56573 RANK Cfn. NAME Desormeaux J.H.

REGIMENT

UNIT 69 L.A.D. Att. to 2nd. A/T (No.1. C.G.R.U.)

STATIONED AT

Surrendered himself to No. F-31314 Rank L/Cpl. Name Mallard D.

of the No.6. (Area) Cdn. Provost Cor.

on the 13 day of Jan. 1946 at 2145 Hours London

AS AN ABSENTEE WITHOUT LEAVE

At the time of his surrender he was wearing (Military Uniform) or(XXXXXXXX

XXXXXXXXX.

Signature of Provost-Marshal, Assistant Provost-Marshal or other Officer Commanding Officer of the Portion of His Majesty's Forces or the Officer, Warrant Officer, or the non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrendering. (Strike out parts inapplicable).

R.J. Stinson

London

14- Jan.46

Capt.

D.A.P.M. - C.M.H.Q.

(R.J.Stinson)

Exhibit "A" DRA

PART II ORDER EXTRACT FORM

99/20/

TO: D & P

24 OCT 45

EXTRACTS FROM: UNIT 69 CDN LAD RCEME

Part II Order No. 25 dated 21 Jul 45

ABSENT WITHOUT LEAVE

AWL from 2359 hrs 9 Jul 45 Still absent 2359 hrs 17 Jul 45
(8th day)

B56573 Cdn DESORMEAUX J H

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

Originating Clerk's Initials

for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 ECH—6
10 PAD 1276 (6704)

EXHIBIT "A"

SUMMARY OF EVIDENCE

In the case of B-56573 Cfn. John Henry DESORMEAUX, X-4 list, Royal Canadian Electrical Mechanical Engineers on strength of 3 Canadian Transit Camp, Canadian Forces in the Netherlands, a soldier of the Canadian Army Overseas.

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

The following documents were laid before the Officer deta iled to take Summary of Evidence.

(A) A certified true extract of 69 CDN LAC RCEME Pt.II D.O. # 25 dated 21 Jul 45 showing the accused as AWL from 2359 hrs. 9 Jul 1945.

(B) A certificate of Surrender showing the accused as surrendered at ~~Victoria Station,~~ LONDON, at the 2145 hrs 13 Jan 46.

The accused does not question the documents.

(D.R. Abbey) Lieut.
Officer detailed to take
Summary of Evidence.

The accused was cautioned as follows:-

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

The accused reserves his defence.

Certified that all the provisions of R.F. 4.(c)(d)(e) and(f) ~~(g) (h) (i)~~ have been complied with. Taken down by me in the presence and hearing of the accused this 10 day of February 1946, in the field.

(D.R. Abbey) Lieut.
Officer detailed to take
Summary of Evidence.

E 3 Pte Desarmeaux J.H.

This soldier was on furlough to see the girl he was engaged to. When he arrived there he found her mother had just died and his girl friend sick with Pneumonia. She had no one to look after her as her father was dead. Consider this situation sir here was the girl he loved with no one to look after her. Could anyone who loved a person more than in such a condition. Surely his crime is not so great when you consider these circumstances.

Further sir he has a position waiting for him at home and he is desirous only of returning to Canada and establishing a home. I would hope you consider well the effect of any lengthy punishment on the soldiers chances of becoming an established canadian citizen rather than a care of the state.

Service Record

Enlisted July 1915.
Came overseas Oct 15
Served in France & Germany since July 15
until present.

Callaghan

(Medical Certificate)

(A.A.(Can) Form 557)
(C.R.O. Cl. 198)

I certify that I have this day examined B-56573
(Rank) Cfn. (Name) Desormeaux, J.H. (No.)
and in my opinion he is
fit to undergo trial by Court-Martial.

Station 3 Cdn Transit Camp (CFN)

Date 15 Feb. 46

(Medical Officer) (Lt-Col),

(Unit)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-56573	Cfn.		John Henry	DESORMEAUX,	3 Cdn Transit Camp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 14 Feb 46 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ([illegible] for the reasons as stated by the said [illegible] qualified offr.)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

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

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

[illegible]
(RP 106(E). *Delete, if none appointed.*)

PRESIDENT.

(Rank.)			(Unit.)
Major	F.A. BAILLARGEON *(Must be named. RP 106.)*	Gen List	3 Cdn Transit Camp

MEMBERS.

Capt.	H.N. McLEOD	CIC	3 Cdn Transit Camp
Lieut. (Rank.)	D.R. SAUNDERSON *(Named or detailed. RP 106.)*	CIC	3 Cdn Transit Camp (Unit.)

WAITING MEMBER.

Capt. (Rank.)	J.G. BRUCE *(Named or detailed, if any. RP 106.)*	CIC	3 Cdn Transit Camp (Unit.)

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in HOLLAND (*Country.*)

Dat 14 February 1946

H.F. Baker *(Signed personally. RP 105 fn 2.)* Lt-Col. (Rank.)
(H.F. BAKER) Lt-Col.
Commanding 1 Cdn Demob Depot.
Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

CHARGE SHEET

The accused, B-56573 Cfn. John Henry DESCHMEAUX, (X-4 List) Royal Canadian Electrical Mechanical Engineers on strength of 3 Canadian Transit Camp, Canadian Forces in the Netherlands, a soldier of the Canadian Army Overseas, is charged with:

Sect. 15(1) Army Act.

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, at 2359 hrs. 9 July 1945 absented himself without leave until he surrendered himself at LONDON, England, at 2145 hrs 13 January 1946.
(Absent 186 days 21 hrs 46 mns)

In the Field
11 Feb 1946

M.A. Frank

(M.A. Frank) Major
Officer Commanding
3 Cdn Transit Camp
C.F.N.

To be tried by Field General Court-Martial.

IN THE FIELD
14 Feb. 1946

H.F. Baker

(H.F. Baker) Lt-Col.
Officer Commanding
1 Cdn Demob Depot

LLL-30

PIE DESARMEAUX J.O.

B 2 "BAK"

C H A R G E S H E E T

The accused C-32603 Private Joseph-Omer Desormeaux, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service is charged with:-

Charge

A.A. Sec 15(1) WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, on 4 Feb 1944, absented himself without leave at 2030 hrs, until surrendering himself to Military Police at Termoli on 4 March 1944 at about 1245 hrs.

Total absence: 28 days, 16 hrs, 15 mins.

"J.G. Charlebois"

(J.G. CHARLEBOIS) Major,
T/Commanding, Royal 22e Regiment

In the Field
30 March 1944.

"TO BE TRIED BY FIELD GENERAL COURT MARTIAL"

"P.E. Bernatchez" Brigadier
Commanding 3 Cdn Inf Bde.

In the Field
14 Apr 44

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined C.32603 Pte..... Name..DESORMEAUX, J.O. of R.22e.R. and in my opinion he is fit to undergo trial by Court Martial.

Station In the Field

Date 16 April 44.

"Undecipherable" Major
(Medical Officer)

A Army Form A 9.

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

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

Proceedings of a Field General Court-Martial held at in the Field on the 16th day of April 19 44 by order of

Brigadier J.P.E. Bernatchez

Commanding 3 Cdn Inf Bde

dated the 13th day of April 19 44

President.

Major B.A. Kennedy Carlt & York R

Members.

Capt. J.B. Jalbert R.22e R.

Lieut. A.B. Edgar Carlt & York R

Trial of* C.32603 Pte. Joseph Omer DESORMEAUX R.22e R.

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

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

The accused is brought before the Court.

Prosecutor,† Lieut. P.A. Tremblay R.22e R

Counsel‡ or defending officer† Capt. L. Cannon R.22e R.

At 0945 o'clock the Trial commences.

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

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

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

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

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

CC

Proceedings on Plea of Guilty.

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

*[The Court having been re-opened the accused again [illegible] charge to which he has pleaded Guilty [illegible]]

The accused C.32603 Pte. Joseph Omer DESORMEAUX
is found guilty of The Charge as laid

†The summary of evidence is read, marked M signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?
No

Answer. "BAK"

[or The accused's statement which is read, marked [illegible], signed by the President, and attached to the proceedings.] "BAK"

Instruction.

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

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

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer. No

Evidence as to character.

A

Army Form A 9.

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

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

Proceedings of a Field General Court-Martial held at in the Field on the 16th day of April 19 44 by order of

Brigadier J.P.E. Bernatchez

Commanding 3 Cdn Inf Bde

dated the 12th day of April 19 44

President.

Major B.A. Kennedy Carlt & York R

Members.

Capt. J.B. Jalbert R.22e R.

Lieut. A.B. Edgar Carlt & York R

Trial of* C.32603 Pte. Joseph Omer DESORMEAUX R.22e R.

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

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

The accused is brought before the Court.

Prosecutor,† Lieut. P.A. Tremblay R.22e R

Counsel‡ or defending officer† Capt. L. Cannon R.22e R.

At 0945 o'clock the Trial commences.

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

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

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

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

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

B

The President, members and ~~[illegible]~~ are duly sworn.

~~The following officers and [illegible] duly sworn~~ "BAK"

Charge-Sheet.

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

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

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

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

Guilty *Answer.*

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

~~N/A~~ *Answer.*

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

~~"BAK"~~ *Answer.*

~~N/A~~

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

~~"BAK"~~ *Answer.*

~~N/A~~

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

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

E

Finding.*

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

~~The Court is cleared for the consideration of the finding~~

~~The Court finds that the accused~~

Proceedings on Conviction *before Sentence.*

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

~~The Court being reopened, the accused is again brought before it.~~

Evidence of character, &c.

Lieut. P.A. Tremblay R.22e R is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

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

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

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

Question. Are they true extracts from the regimental books ~~as to the sentences and the conduct sheets and are the signatures of those sheets~~ "RAK"?

Answer. Yes

Cross-examined by the accused. N/A

Question to the accused. Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

Sentence.

The Court sentence the accused C.32603 Pte. Joseph Omer, DESORMEAUX R.22e R.

To undergo I.H.L. for a period of 1 year (one)

"B.A. Kennedy" Major

MFM 6
(AFB 122)
40/P&S/156 (3438)

No C32306 Name DESORMEAUX, J.O. Sqn, Battery, or Company "C" Coy Corps R.E.M.E.R. Date of enlistment Sheet No GC Badges Signature OC Company, etc Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY OF "TEMPORARY SHEET" IN MY POSSESSION					
				Temporary Crime Sheet 23-2-44.					
				"I. Dube" Capt.					
In the Field	4 Feb 44	Pte.		AA Sec 15(1) WOAS Absenting himself without leave, in that he in the Field, on 4 Feb 44 absented himself without leave at 2030 hrs until surrendering himself to Mil. Police at Termoli on 4 March 44 at about 1245 hrs. Tot absence: 28 days, 16 hrs, 15 mins.		To undergo detention with hard labour for a period of one (1) year.	17 Apr 44	FGCM	

(PTO)

SUMMARY OF EVIDENCE

In the case of C-32602 Private Joseph Omer DESORMEAUX, a soldier of the Royal 22e Regiment, Can dian Army Overseas, CMF, On Active Service.

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

1st Witness for Prosecution.

C-42593 Sgt Payette O. Royal 22e Regiment, having been duly sworn states:-

"I am C-42593 Sgt Payette O of R. 22e R. posted to "C" Coy.
Acting as Guard Sgt on the night 4/5 Feb 1944 at 2030 hrs I called the Pte C-32603 DESORMEAUX J.O., whom I now recognize, to place him on his shift. The Pte Desormeaux did not answer. I reported him as being absent without leave and I have not seen him since.

The accused declined to cross examine the witness.

"Payette, O" Sgt.

2nd Witness for Prosecution

C-7510 L/Cpl Gaudet C. Royal 22e Regiment, having been duly sworn states:-

" I am C-7510 L/Cpl Gaudet C. of R. 22e R. posted to "C" Coy.
On the evening of 4 Feb 1944 at 2030 hrs, I was present when C-42593 Sgt Payette O. called the name of C-32603 Pte Joseph Omer Desormeaux. Pte Desormeaux did not answer when his name was called. I did not see him afterwards until today.

The accused declined to cross examine the Witness.

"Gaudet C" L/Cpl.

3rd Witness for Prosecution.

Capt. J.B. Rousseau, Royal 22e Regiment, having been duly sworn states:-

" I, Capt. J.B. Rousseau, of R.22eR. posted as adjutant, hereby produce a certificate of surrender in the case of C.32603 Pte Joseph Omer Desormeaux, whom I now recognize This certificate is marked "Exhibit "A" an signed by O.C. 105th Provost Company.

"J.B. Rousseau" Capt.

In view of the loss of time and expenses involved it is not necessary in my opinion to have the presence of O.C. 105th Provost Company in the taking of this Summary of Evidence.

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.
I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence andhearing of the accused and that rules of procedure 4(c),(d),(e),(f) and (g) were duly complied with.

"Y. Dube" Capt.

In the Field
30 Mar 1944.

CERTIFIED TRUE COPY
(R. CORDEAU) CAPTAIN

Spare copy
LLL-30

Correspondence to be PINNED here.

Army Form A.3.

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

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twelfth day of April, 19 44

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to convene such a Court for the trial of such persons of superior qualified officers~~ "PEB"

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

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

*Omit if not applicable.

*~~I am unable to appoint a Field Officer as President~~ "PEB"

~~for the following reason, namely~~

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

President.

Rank.	Name.	Regiment.
Major	B A Kennedy	Carlt & York R

Members.

Rank.	Name.	Regiment.
Captain	J B Jalbert	R 22e R
Lieut	A B Edgar	Carlt & York R
Captain	J Parisseault	R. 22 e R

Waiting

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

*Signed P.E. Bernatchez Brigadier
Commanding 3 Cdn Inf Bde
Convening Officer

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C32603 Pte Joseph Omer DESORMEAUX, R 22e R	First Charge Sec 15(1) AA	Guilty	Guilty To undergo I.H.L. for a period of 1 year (one) "BAK" 16 Apr 44.	Confirmed "P.E. Bernatchez" Brig. Comd 3 Cdn Inf Bde 17 Apr 44.

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

(Signed) "P.E. Bernatchez" Brigadier (Signed) "B.A. Kennedy" Major
Commanding 3 Cdn Inf Bde
Convening Officer (c) *President.*

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

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

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

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

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

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

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16th day of April 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. The witnesses
*(~~xxx the interpreter~~) "BAK"
*(~~xxx the shorthand writer under instruction~~) "BAK"
~~xxxxxxxxxxxx~~

Signed this 16th day of April 1944.

"B.A. Kennedy" Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 782 M.M.L. 1929.

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

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

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

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

*(~~xxxxxxxxxxx

1521

CHARGE SHEET

The accused C-32603 Private Joseph-Omer Desormeaux, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service is charged with:-

Charge
A.A. Sec 15 (1) WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, on 4 Feb 1944, absented himself without leave at 2030 hrs, until surrendering himself to Military Police at Cerneil on 4 March 1944 at about 1845 hrs.

Total absence: 28 days, 16 hrs, 15 mins.

(J.G. CHARLES) Major,
T/Commanding, Royal 22e Regiment

In the Field
30 March 1944.

" TO BE TRIED BY FIELD GENERAL COURT MARTIAL"

In the Field

14 Apr 44

(R.G. Gibson) Brigadier
Commanding 3 Cdn Inf Bde.

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. [illegible]
Rank [illegible] Name [illegible] of [illegible]
and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station IN THE FIELD
Date 16 Sept 44

(Medical Officer)

A

Army Form A 9.

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

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

Proceedings of a Field General Court-Martial held at in the Field

on the 16th day of April 19 44 by order of

Brigadier J. P. K. Bernatchey

Commanding 3 Cdn Inf Bde

dated the 12th day of April 19 44

President

Major D A Kennedy Cmlt 1 York R.

Members

Capt. J B Jolbert R 22e R

Lieut D B Edgar Cmlt 1 York R.

~~Judge Advocate~~

Trial of*

C 32603 Pte Joseph Omer Desormeaux R 22e R.

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

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

~~, writing member takes his place as a member of the Court.~~

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

The accused is brought before the Court.

Prosecutor,† Lieut P A Tremblay R22eR

Counsel‡ or defending officer† Capt L. Cannon, R22eR.

At 0945 o'clock the Trial commences.

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

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

Question by the President to the accused.

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

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

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

B

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

~~The following officers under~~ instruction ~~are duly sworn~~ did

Charge-Sheet.

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

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

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

Are you guilty or not guilty of the [first] charge against you which you have heard read ?

Question to the accused.

Guilty

Answer.

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

Answer.

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

Answer.

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

Answer.

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

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

CC

Proceedings on Plea of Guilty.

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

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

The accused C32603 Pte Joseph Omer. Desserrement
is found guilty of The charge as laid

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

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

Answer. ~~The accused in mitigation of punishment says~~ No

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

Instruction.

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

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

V

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer. No

Evidence as to character.

E

Finding.*

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

The Court is closed for the consideration of the finding.

The Court find that the accused C 52603 Pte Jodoin

Proceedings on Conviction before Sentence.

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

Evidence of character, &c.

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

Question by the President.

Lieut P.A. Tremblay R22eR is duly sworn.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

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

Question by the President.

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

Question.

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

Question

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

[Instructions.—If in cases of the failure of the service of the document to a satisfactory proof of evidence, the finding of the Court should be that the accused is guilty, but that in consequence of such failure it is not desirable to take the sentence in open Court, the President must call the attention of the Court to the fact, give the Court any explanation he may think necessary, and record in the minutes the finding and sentence of the Court.]

Cross-examined by the accused. N/A

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

V

F

Sentence.

The Court sentence the accused C32603 Pte Joseph Sentence.
Omer. Desormeaux. R22eR
To undergo I.H.L. for a period of 1 year (one)

No. 2-32403 Name DESORMEAUX J.O. Sqn., Battery, or Company HQ Coy. Corps R. 22e R.

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Date of enlistment | G.C. Badges | Signature O.C. Company, etc. | Service or Proficiency Pay | Sheet No.

M.F.M. 6
A.F.B. 1137
(1939—7-41) (2310-383)
H.Q. 1255-49-1052

Place	Date of offence	Rank	Cause of treatment	OFFENCE	Nature of Witnesses	Punishment awarded	Date of award or of earlier dispatch relating to case	By whom awarded	Remarks
				CERTIFIED TRUE Copy of "TEMPORARY SHEET" IN MY POSSESSION					
				Temporary Crime Sheet 22-2-44					
IN THE FIELD 4 ERD PLC	1244			A.H. Sec. 15 (2)					
				C.D.N.S. Absenting himself without					
				leave, in that he, in the Field, on					
				2 Feb 44 deserted himself without					
				leave & remained absent without					
				leave up to 1600 hrs on 4 March 44					
				at about 1245 hrs.					
				Total absence 31 days, 1 hour, 15 minutes					
						To undergo detention with hard labour for a period not exceeding (1) year	11 MAR 44	F. C. C.M.	

EMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

Number C32603 Rank PTE. Name DESJARDINS J.O. Regt. 22e REGIMENT

The following is a fair and true summary of the entries in the
imental and squadron, battery or company conduct sheets of the
used, exclusive of convictions by a court martial or a civil court
summary awards under section 47 of the Army Act, and of cases in
ch trial has been dispensed with.

Within last 12 months

FOR N/A Times ____ Since Enlistment ____ Ti

FOR N/A Times N/ ____ Ti

FOR N/A Times ____ Ti

FOR N/A Times ____ Ti

Number of instances of gallantry or distinguished conduct, Ti

or

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

The accused has not been previously convicted, or,

vious convictions of the accused by a court martial or a civil
ary awards under section 47 of the Army Act, and dispensations
h trial under section 77 of the Army Act, are set out in the
edule annexed to this statement.

The accused is not under sentence at the present time, or the
ccused at the present time is under sentence for

N/A beginning on the N/A day of N/A

The accused has been in confinement awaiting trial on the
present charges for ____ days in civil custody and 20 d
in military custody, making a total of 20 d
of which N/A days were spent in hospital.

The present age of the accused according to his record of serv

The date of his attestation specified in his record of service

The service which the accused is allowed to reckon towards
scharge or transfer to the service is

The accused is entitled to deferred ____ in respect
service.

The accused is entitled to reckon ____ service for the
pose of determining his pension, and

The accused is in possession of, or entitled to, the military
coration or military award (or is in possession of or entitled to
state any military decoration or award).

(If the accused is a warrant officer) was promoted before he was
to a warrant officer last held the substantive rank of
(In the case of an officer) The accused holds if the army the
k of dated and in his regiment (or corp
department) the rank of

Captain Inf. Adjutant
Can. Royal Regiment
Headquarters Unit
2 Apr 44.

SUMMARY OF EVIDENCE

In the case of C-32603 Private Joseph Omer DESORMEAUX, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service.

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

1st Witness for Prosecution. C-42893 Sgt Fayette O. Royal 22e Regiment, having been duly sworn states:-

" I am C-42893 Sgt Fayette O. of R. 22e R. posted to " C " Coy.

Acting as Guard Sgt on the night 4/5 Feb 1944 at 2030 hrs I called the Pte C-32603 DESORMEAUX J.O., whom I now recognize, to place him on his shift. The Pte Desormeaux did not answer. I reported him as being absent without leave and I have not seen him since.

The accused declined to cross examine the witness.

Fayette O. Sgt.

2nd Witness for Prosecution C-7510 L/Cpl Gendet C. Royal 22e Regiment, having been duly sworn states:-

" I am C-7510 L/Cpl Gendet C. of R. 22e R. posted to " C " Coy.

On the evening of 4 Feb 1944 at 2030 hrs. I was present when C-42893 Sgt Fayette O. called the name of C-32603 Pte Joseph Omer Desormeaux. Pte Desormeaux did not answer when his name was called. I did not see him afterwards until today.

The accused declined to cross examine the witness.

Gendet C. L/Cpl.

3rd Witness for Prosecution. Capt. J.E. Rousseau, Royal 22e Regiment, having been duly sworn states:-

" I, Capt. J.E. Rousseau, of R. 22e R. posted as adjutant, hereby produce a certificate of surrender in the case of C-32603 Pte Joseph Omer Desormeaux, whom I now recognize. This certificate is marked Exhibit "A" an signed by C.O. 105th Provost company.

J.E. Rousseau Capt.

In view of the loss of time and expenses involved it is not necessary in my opinion to have the presence of C.O. 105th Provost Company in the taking of this Summary of Evidence.

The accused having been duly cautioned in French in accordance with AC 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

In the Field
10 May 1944.

. . / .

6

LIST OF WITNESSES FOR THE PROSECUTION

in the case of

C-32603 Private Joseph-Omer DESORMEAUX, Royal 22e Regiment.

FOR THE PROSECUTION — C-42593 Sgt Payette C.

C-7510 L/C Caudet C.

Capt. J.E. Rousseau

FOR THE DEFENCE — NIL

LIST OF EXHIBITS

Exhibit " A " — Certificate of surrender under sec 163 (1) (j) AA

I hereby acknowledge receipt of a true copy of a Summary of Evidence taken prior to my trial by FGCM. I furthermore acknowledge receipt of a true copy of a charge sheet upon which I am being brought into Court Martial

I desire the services of an officer to represent me at my trial.

I desire the services of Lieut P. Tuchette

if he is available.

J O Desormeaux Pte.

In the Field
30 March 1944.

CERTIFICATE OF SURRENDER UNDER SECTION 163 (1) (J) A.A

I Capt. A. S. [illegible] certify that No C 32603 Rank Pte.

Name DESARMEAUX J.O. Unit "C" Coy. Royal 22nd. Regt.

surrendered himself to No 6406446 Rank Sgt. Name KEHR.

108 Provost Company,

Corps of Military Police at 1245 hrs at TERMOLI

on the 4th day of March 1944 as a deserter or absentee, without

leave. He was dressed in uniform/~~civilian clothing~~.

A. S. [illegible] Captain.

O.C., 108th Provost Company.

'A'

RECEIVED 27 MAY 1944 JAG, F. of C. C.M.H.Q.

Correspondence to be PINNED here.

RECORDED AT CMHQ IN AB 103 444-30

DATE 31 MAY 1944 G.H.Q. 2nd ECHELON

Army Form A.3.

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

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twelfth day of April, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the matter by reference to a superior authority~~

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

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

*Omit if not applicable.

*~~Brigade Commander~~

*~~Three Officers to form the Court~~

*~~Field Officers as President~~

~~for the following reasons, namely~~

PROCEEDINGS REVIEWED 27 May 44

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

36

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

President.

Rank	Name.	Regiment.
Major	B A Kennedy	Carlt & York R

Members.

Rank	Name.	Regiment.
Captain	J B Jalbert	R 22e R
Lieut	A B Edger	Carlt & York R
Waiting Captain	M Tarte[illegible]ault	R 22e R

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

*Signed [illegible] Brigadier

Commanding 3 Cdn Inf Bde

Convening Officer.

G51

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C32603 Pte Joseph-Omer DESORMEAUX, R 22e R	First Charge Sec 15(1) AA	Guilty	Guilty To undergo L.H.L. for a period of 1 year (ONE) BBL 16 APR 44	Confirmed H Bernatchez Brig Comd 3 Cdn Inf Bde 17 Apr 44

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

(Signed) H Bernatchez Brigadier (Signed) B.B. Kennedy Major
Commanding 3 Cdn Inf Bde
Convening Officer (e) President.

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

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

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

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

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

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

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16th day of April 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

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

~~were duly sworn.~~

*Omit if not applicable.

Signed this 16th day of April 19 44.

B.B. Kennedy Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 702 M.M.L. 1929.

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

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

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

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~ N/A

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

Signed this 17 day of April 19 44.

H Bernatchez Brig
Confirming Officer. Comd 3 Cdn Inf Bde

Promulgated and extracts taken in the case of C-32603 Pte J-O Desormeaux R 22e R

(a) (Dated) 20 Apr 44 (Signed) pour le commandant Major R 22e R

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

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

(23561) W1-2520-4/43 (Sq.)(M) 12/43 A.B.& W.Ltd. Op.A.60

4B-32.

Spr. Desormeaux, J.O.R.

SCHEDULE.

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

Accused: D 129938 SPR JOSEPH OSCAR ROLLAND DESORMEAUX

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

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 3, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

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

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

Time in confinement awaiting present trial—a total of 8 days, of which NIL days were spent in hospital.(1)

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

Sentence Awarded by the Court:

TO UNDERGO DETENTION FOR SIXTY (60) DAYS.

(Sgd) ..... 29 Sept 44 (Sgd) A. A. Ayer Major R.C.E.
Judge-Advocate, if any. Date awarded. President (RP 45, 50.)

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

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

(Sgd) ..... Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, 2MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: AA 172 fn 1.) The Confirming Offr must sign here personally. AA 57A, RP 53A, 54.

I (1) decision on the finding(s) and sentence set forth in Part I is

Confirmed

~~I withhold my confirmation of the finding(s) and sentence for the reasons stated by me in the proceedings.~~ (1)

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

(Sgd) .....

Date ..... Commanding ..... Confirming Officer.

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

Accused.	Date.	Signature of Offr.
D 129938 Spr Desormeaux JOR	13 Oct 44	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ IN AD 160. 43-32

RECEIVED 23 OCT 1944 JAG BRANCH OTTAWA

FIELD GENERAL COURT-MARTIAL

(Page (in lieu of AF A2): A.G.P. & S. 1608 (2884))

Convened by Order of Lt/Col W. A. CAPRALLE Comd 2 BN R C E dated 26 Sept 44

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 129938	SPR	JOSEPH, OSCAR, ROLLAND,	DESORMEAUX	2 BN R C E.

PROCEEDINGS REVIEWED 31 OCT 44

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) FRANCE on (date(s)) 27 Sept 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Instn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for words and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

(1. As to use of Summary of Evidence see RP 17 fn 5. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1330 hours trial commences.

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

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

A5. President to accused: Do you object to Capt V SMITH as interpreter? Ans NO

~~as shorthand writer~~? Ans ~~—~~

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

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

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

Ans NO (2)

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

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

President	MAJOR	A. A. AYER	2 BN R C E
Member	CAPT.	R. C. PARIS	2 BN R C E
Member	LT.	H. B. EDWARD	2 BN R C E
Judge-Advocate	-	-	-
Prosecutor	CAPT	F. X. CHABALLE	3 BN R C E
Defending Offr	LT	J. R. POWER	3 BN R C E

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused SPR DESORMEAUX JOR before arraignment makes(s) (no) ~~(an)~~ plea. (1)

~~PLEA SEVERANCE Time~~

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 63B), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's unfitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in (no) to RoP cited. Insert in full name and name of the accused making the plea.)

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

(1. RP 31, 112. See parts 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A64 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A13

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

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

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

Are they witnesses as to character only ? Ans .....
(*1. RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

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

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

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

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45. 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 3. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy [redacted] of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (*g*) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex *B* and Ex *C* respectively.(3)
(*1. MFR* 355 *or AFB* 296. 2. *same* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 7 *para* 1.)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(*1. When several accused tried separately see RP* 102(*b*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its provisos, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 128, 182, *RP* 46-50, 49, 118, 119(*A*), *KR Can* 308, 330, 563-566. *Overseas AO* 309/52, 2023, *MML p* 90, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 40(2), *MML p* 130. *Where accused already under sentence of imprisonment or detention see AA* 44, 71, 98(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D-129938 Sapper DESORMEAUX, Joseph Oscar Rolland "B"Coy 3 Bn RCE, a soldier of the Canadian Army placed on Active Service, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, on 19th September, 1944, absented himself from his unit from 1400 hrs on said 19th day of September, 1944, until 1430 hours on the 22nd day of September, 1944.

(GEO.W. SMITH) LT.COL.RCE
OC,3 Bn RCE

FIELD
22nd September 1944

To be tried by FGCM

Lt.-Col. R.C.E.
O.C. 2 Bn. R.C.E.

26 Sep 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22, RP 87(B).

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D129938	Spr		Joseph Oscar Rolland	DESCOMMEAUX	3 Bn RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 26 Sep 44 endorsed by me, [illegible], "To be tried by Field General Court-Martial".

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

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

4. [illegible] unable to appoint (a) three Offrs to form the Court, (b) a Pd Offr as President for the reasons I have entered herein.

5. [illegible] appointed Judge-Advocate thereof, the Offr mentioning hereunder.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)
(RP 106(E). Delete, if none appointed.)

	PRESIDENT.		
Major (Rank.)	A.A. Ayer (Must be named. RP 106.)	2 Bn RCE (Unit.)	
	MEMBERS.		
Capt (Rank.)	R.C. Paris	2 Bn RCE (Unit.)	
Lt (Rank.)	H.B. Edward (Named or detailed. RP 106.)	2 Bn RCE (Unit.)	
	WAITING MEMBER.		
Lt or Capt (Rank.)	To be detailed by C.O. (Named or detailed, if any. RP 106.)	3 Bn RCE (Unit.)	
	JUDGE-ADVOCATE.		
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)	

[illegible] Active Service in the Fd
France (Country.)
26 Sep 44

(Signed personally. RP 105 fn 2.)
Lt-Col (Rank.)
Commanding 2 Battalion, RCE
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

CFA 98 (In lieu of AFA 3)
40-7 & 8-1697 (8142)

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

MEDICAL OFFICER'S CERTIFICATE

I certify that No D12773E SPR DESARMEAUX R. Regiment

is fit to undergo trial by Court-Martial.

[illegible] Capt RAMC
Signature of the Medical officer.

29/6/44

SUMMARY OF EVIDENCE EX A

in the case of

D-129938 Spr DESORMEAUX, J.O.H. "B" Coy 3 Bn RCE, a soldier of the Canadian Army placed on active service.

CHARGES:- A.W.L.

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

FIRST WITNESS

B-18489 Cpl Bourcier, F, having been duly sworn, states:-

Upon our arrival at Deauville Rest Camp on 18 Sep 44, I had warned the party of men in my charge to be ready to leave the next day around 1400 hrs. Next day when we were ready to leave I noticed that the accused spr Desormeaux was not present. I reported the fact to Lt Dowden who decided that we should wait until 1500 hrs. Lt Dowden left and appointed Lt Ray to take care of our party. When 1500 hrs came the accused had not yet reported and was nowhere to be seen. Lt Ray then gave the order to proceed back to camp.

The accused declined to cross-examine.

F. Bourcier

B-18489 Cpl BOURCIER F.

SECOND WITNESS

L-19215 Sgt Girard, G.A. having been duly sworn; states:-

On 19 Sep 44 at 1700 hrs it was reported to me that spr Desormeaux had not returned from Deauville Rest Camp. His name was given to me as A.W.L. on tattoo roll call by his section cpl. Whitney and I went and checked up for myself and did not see the accused around. I reported him A.W.L. to the orderly room.

The accused declined to cross-examine.

G.A. Girard

L-19215 Sgt GIRARD, G.A.

THIRD WITNESS

D-15660 RSM Claridge, G.H. having been duly sworn, states:-

At about 1400 hrs on 22 Sep 44 I noticed the accused spr Desormeaux in the 60-cwt sent to pick us up returning from leave. At that time I did not know that the accused was an absentee.

The accused declined to cross-examine.

G.H. Claridge

D-15660 RSM CLARIDGE G.H.

FOURTH WITNESS

B-16997 L/Sgt Rochon, G. having been duly sworn, states:-

At 1430 hrs, spr Desormeaux whom I now recognize reported to me saying that he had been A.W.L. This was on the 22 Sep 44.

The accused declined to cross-examine.

G. Rochon

B-16997 L/Sgt ROCHON G.

QUESTIONS TO THE ACCUSED

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

ANSWER OF ACCUSED

I have nothing to say.

I certify that Rules of Procedure 4(C),(D), (E) and (F) have been complied with.

Taken down by me in the presence of the accused at FIELD, this 23rd day of September, 1944.

(F.X. CHABALLE) CAPT RCE
3 Bn RCE

~~Attached is exhibit "A" B Coy Part I Order No 68 dated 19 Sep 44 establishing that men were on 24-hrs leave~~

EX B

M.F.B. 355
40/P & B/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D 129938	Sapper	Joseph Omer Rolland DESORMEAUX,	B Coy, 3 Fd R.E.

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

	Within last 12 months		Since enlistment	
For	AA 15 (1)	two (2) times	AA 15 (1)	two (2) times
For	AA 19	one (1) time	AA 19	one (1) time
For		times		times
For		times		times
For		times		

Number of instances of gallantry or distinguished conduct nil

or,

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

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

2. The accused has not been previously convicted

or,

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

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

or,

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

4. The accused has been in confinement awaiting trial on the present charges, for N/K days in civil custody, and 22 days 22 days in military custody, making a total of 22 days in custody, of which N/K days were spent in hospital.

5. The present age of the accused according to his record of service is 30 ~~attestation paper is~~

6. The date of his ~~commission~~ attestation specified in his record of service is 22 Jan 43 ~~attestation paper~~

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

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

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

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

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

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

Date of promotion.

In the rank of n/a years.

In the rank of years.

In the rank of years.

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

SCHEDULE

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

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

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

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

Signed this 25th day of September 44

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

EX. C.

3/17 MFM 6 (AFB 122) 40(FAS/130/13435)

No. D-129938 Name DESORMEAUX, JOR | Regt., Battery, or Company | Corps RCE | Date of enlistment 22Jan43 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet 8-5-43 | No. and date of last drunk ONE | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc Maj S.W. MILNES

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of order (superseding with trial)	By whom awarded	Remarks
				Sheet No. 1. destroyed in accordance with CAORO 2084 on completion of six months service. 22 Jul 43					
Field	13.4.44	Spr		AA Sec 19 Drunkenness at about 2300hrs 13 apr 44 was drunk.	Capt Chaballe Lt Lavigne				
1 Charge									
2 Charge	14.4.44	Spr		AA Sec 15(1) AWL from 1030hrs 14.4.44 till 1415hrs 14-4-44 (Total absence: 3 hrs 45 mins)	Spr Boucher Spr Tragnee	5 days summary for f FKI-149-2	15.4.44	Maj S.W.Milnes	
Field	15.5.44	Spr		AA15(1) AWL fr guard duty fr 1830 hrs to 2115 hrs 15.5.44(2hrs 45 mins	CSM Nadeau L/Cpl Rochon	forf 7 days pay 149(2)	16.5.44	Maj S.W.Milnes	

"Certified to be a true and correct extract from the regimental books in my custody".

H.C. EDWARDS, CAPT RCE
ADJUDANT 3 Bn RCE

(PTO)

LL-101
PTE DESPRES R.

CHARGE SHEET

The accused E-4852 Pte Real DESPRES, a soldier of the R 22e R, Canadian Army Overseas, is charged with:-

1st Charge
A.A. Sec 15(1)

WOAS, ABSENT WITHOUT LEAVE

in that he

In the Field, did absent himself without leave from 2300 hrs 25 JUL 43 until 0120 hrs 26 JUL 43.

Total Absence 2 hrs 30 min.

2nd Charge
A.A. Sec 40

WOAS, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, on 25 JUL 43 left camp without authority when accompanied by or escorting his prisoner D-57262 Pte Tremblay.

In the Field,
11 AUG 43.

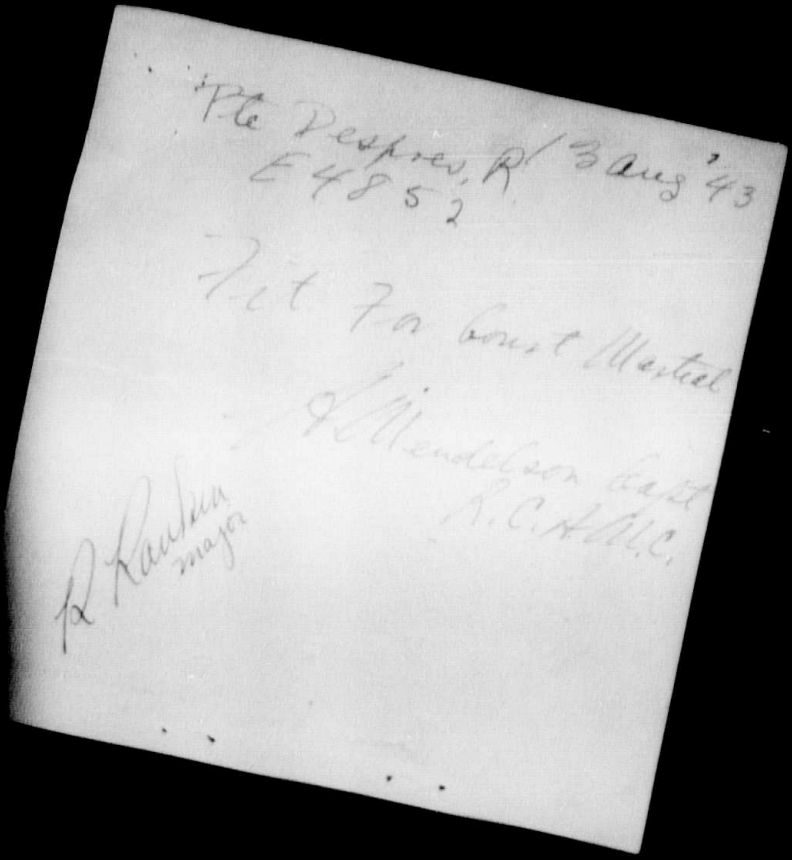
R.B.L. Thompson
(R.B.L. Thompson) Major
Officer Commanding,
Netherdale Mill Camp,
Canadian Army (O)

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
12 August 43

J.S. Adams Lt-Col
Comd 1 Can Armd Bde

B2
R. Rankin
major


Pte Desprez, R. 3 Aug '43
E 4852
Tel 7a Court Montreal
J. Mendelson Capt
R.C.A.M.C.
R Lawton
major

Proceedings of a Field General Court-Martial held in the field on the 13th day of August 1943 by order of the (Lt.-Col. D. Adams) O.C. 1 Canadian Division Rear Details, dated the 12th day of August 1943.

President
Major R. K. Rankin 2 Cdn Inf Bde Sp Gp (SASK. L. I.)
Members
Captain F. T. Egener 1 Cdn Inf Bde Sp Gp (SASK L.I.)
Lieut L P J Mongeon 1 Cdn Inf Bde Sp Gp (SASK L.I.)

Trial of E 4852 pte Real DEPRES, Royal 22 Regiment

The court satisfy themselves as provided by R.P 22 and 23.

The accused is brought before the Court
Prosecutor - Capt J M. Robinson (S.L.I.)
Defending officer - Lieut T. A. Fortin (R 22 R)

At 1530 hrs the trial commences.

The accused does not object to be tried by the president Major R. K. Rankin -
The accused does not object to be tried by Capt F. T. Egner -
The accused objects to be tried by Lieut L.P.J. Mongeon on the grounds that this member could have defended him.
The court adjourns at 1540 hrs.
The Court allows the objection
The new 3 members of the Court, as constituted after the above proceedings, are as follows:-

President

Major	R.	Rankin	2 Supp. Bn. (Sask & A)
		Members	
Capt.	F. T.	Egener	Sask & A.
Lieut.	J. S.	Woods	Edmn R.

~~Pros~~ ~~by Court~~ - do you object to being tried by Lieut J. S Woods?
A. - No, sir.
Pres - do you object to Lieut Strongman as interpreter?
A. - No sir
The president, members and interpreter were duly sworn
Charge sheet is ~~entered~~ marked "B 2" by the Pres.
& annexed to the proceedings

The accused is arraigned on each charge of the alternative charge sheet

Pres - Are you guilty or not guilty of the first charge you have just had read to you?
A - Guilty
Pres Are you guilty or NOT guilty of the second charge you have heard read to you.
A - Not guilty.

The accused is asked if he desires an adjournment on the grounds that he has not been complied with.
He replies in the negative.

R.R.

'C'

Proceedings on a Plea of Not Guilty.

1st Witness for Prosecution

F4292 L/Cpl Imfeld, J V.C R 22e R

Having been duly sworn is examined by the Prosecutor.

Q. Pros - you did detail Dupres to escort Pte Tremblay
A. 1 - Yes, sir
Q. 2 Pros - Who gave order to provide escort
A. 2 - Sgt Canton of the S.I.D.
Q. 3 Pros - Did Sgt Canton tell you to leave Pte. Tremblay under close arrest
A. 3 - I can't remember exactly
Q. 4 Pros - Will you tell the court what Sgt Canton told you
A. 4 - He told me Pte Tremblay was on restricted duty & under F.P till Monday.
Q. 5 Pros - Was Pte Dupres employed at Police Orderly Room
A. 5 - No, sir,

Cross - examined.

Q. 6 Def - When you detailed the accused as an escort did you mention to him any of the duties he would have to fulfill?
A. 6 - I told him he was to be escort for Tremblay & to remain with the prisoner
Q. 7 Def - Did you tell him to wear his belt & side arms
A. 7 - No
Q. 8 Def - Did you tell him if Tremblay was under close - arrest

A/S 17 - I can't remember exactly.

Questions by Court.

Q9. 1. Did the accused vocalize in any way that he understood your instructions

A9. A Yes sir he took charge of the prisoner in charge.

Q10 ~~Def~~ - What was the accused doing when you detailed him as escort

A10 17 - As far as I know he was on no special duty.

Q11 ~~Def~~ - Did you tell him to help Trembley take his kit to his quarters

A11 17 - No sir.

Q12 ~~Def~~ - When Sgt Hunter told you to detail an escort to take over the prisoner did he mention where to report with that prisoner

A12 17 - Not that I know of.

Q13 ~~Def~~ - What were your duties on that day.

A13. 17 - I was C.O.S

2nd Witness for Prosecution 2 Clerk Typ Rec Sgp Typ (A.S.C.) on duty
Lieut P.A. Whitaker ~~S&I Identity established~~

Q14 Pros - On 24 Jul 43 you were Orderly Officer for Hethersdale Drill Camp.

A14 A Yes.

Q15 Pros - At about 2000 hrs that night Sgt Hunter reported to you that he had a prisoner from Edinburgh for escort duty

A15. 17 - Yes

Q15P mos - When you told he could'nt sleep on the gd muffler
A15 17 - Yes
Q16P mos - What advice did your give - or orders.
A16.A The man was under close arrest & if he could'nt sleep in the gd mess an escort would be provided in his quarters
Q17P mos - Did you state specifically he was under close arrest
A17 17 - Yes, I was told so by Sgt Newton.

Cross - examination
Q18 Def - Do you know if your orders were executed
A18 17 - Yes, as far as I know.

3rd Witness for Pros
D - 57242 - Pte Tremblay, F. R 22e R
is Det sworn - (Identity established)

Q19P mos - On 25 Jul 43 when you under open arrest or arrest
A19 17 - I was under open arrest
Q20 mos - Do you remember when you were be taken 1330 or 1400 hrs
A20 17 - The escort, Pte Dupuy, & I went for a walk & then we met the drums, Pte Le Blanc who asked the escort to go for a drink. I went along with them.
Q21P mos - Where did you go
A21 17 - Dunkerque.

K.K

Cross-examination

Nil.

Q22 Court - Did you say anything to the accused about the state of your arrest.
A22 W - He must have known already.
Q23 Court - Where you present when the L/C gave instructions to the accused
A23 W - Yes
Q23 Court - Did you understand you were in the custody of the accused?
A23 W - Yes.

The accused is warned under R.P 40 941
Questions by the court to the accused.
Q24 Do you apply to give evidence yourself as a witness?
A24 Yes.
Q25 Do you intend to call any other witnesses in your defe
A25 Yes
Q26 Is he a witness as to character only?
A26 No sir

The Defending officer declines to give an opening address.

K.K.

The accused E4852 pte Rod DEPKES having duly sworn, being examined by Defending Officer States.

" I will make a declaration on the second charge. ~~He~~ I was given to understand that I was not an escort because I was asked by Pte Tremblay to help him to move his kit in other words not as an escort. The next day I went to Thursday parade like everybody I went, Tremblay did not.

~~Ref. it What did Sgt Easton say~~ I.S.W.

Cross-examined by Prosecution

G27 Ques - You understand you were not an escort because the prisoner asked you to move his stuff

A27 - Yes ~~the fact that I was asked~~ I.S.W.

G28 Ques - What did the L/Cpl say to you?

A28 - Help Tremblay with his kit & act as an escort

G29 Ques - Did L/Cpl Schuffield tell you you were not to leave the camp?

A29 - No sir.

G30 Ques - On what day where you put in charge of Pte Tremblay

A30 - 6.30 Sat night 24 June 43

G31 Ques - What did you think L/Cpl Schuffield meant when he said you were to be an escort for Tremblay

A31 - I thought it was, more or less.

R.H.

acting as a servant to Trumblay.

G32 Court - How did you & Trumblay come to get in the truck together?

H32 - Trumblay had some money & he went with H+ no time what soever did I play the role of escort.

G33 Court - At what time of what day did the Lt/Col tell you to look after Trumblay

H33 - 6.30 Sat night 24 Jul 43

G34 Court - Did you stay with Pte Trumblay the night of the 24th

H34 - he was

G35 Court - Did you see Trumblay before Church parade

H35 - he was

Prosecution questions

G36 Mus - How long have you been in the army

H36 - 3 1/2 yrs

G37 Mus - Have you ever seen an escort provided for a man under open arrest

H37 - no sir

G38 Mus - Why then, when you where told to escort this man did you think he was under open arrest

H38 - I thought that I was just to help him with his kit

G39 Mus - Remembering that you were on oath did you understand that you were acting as escort

H39.

acting as a servant to Trumblay.

Q32 Court - How did you & Trumblay come to get in the trucks together?

17 32 - Trumbley had some money & he went with 17 to see what town did not play the role of escort.

Q33 Court - At what time of what day did the Lt/Col tell you to look after Trumbley

17 33 - 6.30 Sat night 24 Jul 43

Q34 Court - Did you stay with 17 Trumblay the night of the 24th

17 34 - he sir

Q35 Court - Did you see Trumblay before Church parade

17 35 - he sir.

Prosecution examines

Q36 Pros - How long have you been in the army

17 36 - 3 1/2 yrs

Q37 Pros - Have you ever seen an escort provided for a man under open arrest

17 37 - he sir

Q38 Pros - Why then, when you were told to escort this man did you think you were under open arrest

17 38 - I thought that I was put to help him with his kit

Q39 Pros - Remembering that you are on oath did you understand that you were acting as escort.

17.

Pt 39 - No, sir.

Court - Is it usual for a person under close arrest to leave the camp.

Pt 40 - No, sir.

Court - Did you understand that you were to help Pte T complete upstairs with his kit safely & that, being close, you were through

Pt 41 - Yes, sir

Court adjourns until 1900 hours.

Court re-opens 1900 hrs 13 aug 43

E.5298 LCpl Emond, F. R. 22e R.
Duly sworn

Examined by Defence

Q42 When LCpl Schuffelt went to the Fd Regt to take over Pte Tremblay. What did you say to him
A42 I told him Pte Tremblay had come from hospital & I had received orders from Sgt Hunter to keep this man under open arrest for the rest of his punishment
Q43 What time was this
A43 2300 hrs 24 Jul 43 LCpl Schuffelt came in about an hour after this
Q44 Did you tell LCpl Schuffelt to provide an escort for Tremblay
A44 No
Q45 Did you tell him where to report with the prisoner
A45 No
Q46 From whom did you receive orders to put the prisoner under open arrest
A46 The Provost Sgt

Examined by Prosecution

Q47 Who gave you orders to put Tremblay under open arrest
A47 Sgt Hunter
Q48 What exactly did he say?
A48 He said Maj had told him that when men from R 22e R came they were to take him under open arrest.

KR

Q. 49 Did they tell you that an escort would come for him.

A. 49 No, sir

Q. 50 You released this man to the C.O.S without escort

A. 50 Yes sir Sgt Benton told me he was to be in open arrest.

Examined by Court

Q. 51 - Did you hand the Turnkey to Lt Schuffelt.

A. 51 - Yes, sir

Q. 52 - Was Sgt Benton there.

A. 52 - I am not sure but I don't think so.

Q. 53 - Were you present when Lt Schuffelt gave orders to Dupuis?

A. 53 - The Lt was alone.

L.K.

The Court recalls WCpl Schuffelt

Court examines the witness.

Q 52 - On what date, day etc did you order the accused to take charge of Pte Tremblay?

A 52 - Sat night 24 Jul 43

Q 53 - Did you see Dupuis on Tremblay on Sun morning?

A 53 - I couldn't say

Q 54 - Did you detail Dupuis to relieve Pte Dupuis.

A 54 - No sir. It intended to leave him till monday.

Q 55 - Can you remember the exact words you used to the prisoner.

A 55 - Yes. Pte Tremblay he'll be on F.P. till monday & returned duty. He will take his meals & stay with him.

Closing Address - Defence.

I bring four points before Court
1st - the times specified by witnesses indicating the date that the accused was detained are contradictory. Pt Ford Wt/Cpl Schuffelt 1200hrs 24 Jul. Accused says 1900hrs 24 Jul 43 when Wt/Cpl was brought to this is only after Wt/Cpl Schuffelt has been recalled before the court a penalty remembers it hearing around 1900 hrs 25 Jul 43.
2nd - Wt/Cpl Schuffelt had never explained to the accused his duties as escort the accused never having acted as before did not get the impression of Wt/Cpl Schuffelt's orders the accused was under the impression that he was detained to bull Tuesday take no part in his room.
3rd - the handing over of the prisoner is not definitely Wt/Cpl says he received formally from Sgt Wt/Cpl Cpl Ormond says he was present when Sgt Hunter was there.

K.R.

Prosecution - Reply.

Draw attention of the court to 2nd charge. The learning camp requires no proof. "N is prevaricating" two witnesses called in endeavour to prove Trumbley was the accused's prisoner. L/Cpl. Schuffelt told accused Trumbley was on extended duty & on F.P. till Monday. Pte Whittaker states that the man was under close arrest. L/Cpl carried out his duties to a sufficient degree for any reasonable person to understand. Looks as though accused & Trumbley rumbled things up. He ended admitting under cross-examination that he was ordered to act as escort & to camp out.

KK

E.

Finding

Court is closed for consideration of finding
the Court find that the accused E 4852
Pte. Read Regnd, Royal 22e Regiment
is not guilty of the 1st Charge.

The finding is read in open court

CC

The Court having re-opened the accused is again brought before it, & the charge to which he has pleaded "Guilty" read to him again

~~the accused is found guilty of~~ K.K. SW

The accused 4F 4852 Pte Read Depres, Royal 22e Regt is found guilty of the 1ST CHARGE

K.K

RP 37(B) complied with.

The summary of evidence is read, marked "C" signed by the president & attached to the proceedings

Q Do you wish to make any statement in mitigation of punishment.

A. Yes.

The accused in mitigation of punishment says:- (through Int Offr).

the accused went AWL due to the death of his comrades. He was asked to go with them and come back here during the evening but as they had an accident on their way it was impossible for the accused to return in time. For last 2 years his conduct sheet is clear of AWL's

K.K

D. D.

Q – D. you wish to give evidence yourself or to call any witness as to character?

A – No

Proceedings on Conviction

Captain J. E. Robinson 3 Can Inf Bde Sp Coy (SASK. L.I.) is duly sworn

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

A. Yes sir I produce these statements, MFB 355 and a certified true copy of MFM 6 which relate to the accused.

The statements are marked E. 1 & E. 2 and signed by the president. The statements are read to the court by the president

Q Is the accused the person named in the statements you have heard read.

A Yes sir

Q Have you compared the above statements with the Regimental books.

A Yes sir

Q Are they true extracts from the Regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries

A. To the best of my knowledge they are

Not cross examined by the accused.

Question to the accused –

RR Do you wish to address the court

RR A. yes Sir I wish the defending officer to make a statement for me. The defending officer states —

The accused has been 19 days in detno for any absence of 2 hours 30 mins. I pray the court consider this fact. I ask for clemency due to the present circumstances it is believed that the accused would be more useful to this country serving in the ranks than in custody.

The court is closed for the consideration of the sentence

R.S.R.

F

The court sentence the accused E 4852 pte Real DEPRES of the Royal 22 Regt to under go detention for 24 hours

2100 hrs 13 Aug 43. K. Rankin
major

KR.

Summary of Evidence in the case of:- E.4852 Pte REAL DESPRES, R 22e R.

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

First Witness for the Prosecution

E.4292 L/Cpl Shufelt, J. V. C. of the R 22e R, In the Field, having been duly sworn states:- At approximately 1200 hrs on 25 JUL 43 I detailed E.4852 Pte Despres as escort for D-57262 Pte Tremblay and told him to remain with the prisoner. On the night of 25 JUL 43 I was C.O.S. for R 22e R. On making Tattoo Roll Call at 2300 hrs I noted that Pte Despres, Pte Tremblay and Pte Labarre were absent.

Questions by the Court.

Q.1 Did you tell Despres that Tremblay was under close arrest?

A.1 I told Tremblay that Despres was to be his escort. I can't remember whether I told Despres that Tremblay was under close arrest or not.

Q.2 Who turned the prisoner over to you?

A.2 Provost Sgt Lenton, Sask.L.I.

Q.3 What were his instructions when he turned the prisoner over to you?

A.3 He first told me that the prisoner was a sick man - should be taken to his own quarters and that he was on excused duty until Monday and that his Field Punishment also finished Monday.

Q.4 Did Sgt Lenton use the word "Close Arrest"?

A.4 As far as I know - "No" - but he did state that his Field Punishment ended Monday.

Q.5 Did you tell Despres that Tremblay's Field Punishment was to end on Monday when you turned the prisoner over to him on Saturday?

A.5 Yes.

Q.6 Did you tell Despres that Tremblay had been released from hospital?

A.6 No.

Q.7 Did you tell Despres that Tremblay was on Excused Duty?

A.7 Yes, sir.

Q.8 Did you tell Despres that Tremblay was to be taken to his own quarters?

A.8 Yes, sir.

Q.9 Did you tell Despres why the prisoner was to be taken to his own quarters?

A.9 No, sir.

CC1

K Rankin Major

Witness Cross-examined by the Accused

Q.1. Did you L/Cpl Smafelt tell me that I was escort for Tremblay?

A.1 Yes.

Q.2 What details were given to me by you when turning the prisoner over to me?

A.2 I told you to remain with the prisoner when I detailed you as escort.

Second witness for the Prosecution

E-4370 Pte Charron, R., of the R 22e R, In the Field, having been duly sworn states:-
On 25 JUL 43 in Dunblane sometime in the afternoon I met Pte Labarre and asked him if he would give me a lift back to camp as I had missed the bus which was to take me back to camp.
I told him that I had two girls with me who were also going to Edinburgh and that if he would give them a lift I would take all the responsibility.
I then told the girls to get ready as we were going to pick them up between 2130 and 2200 hrs.
About 2200 hrs Pte Labarre, as driver, with Pte Tremblay in front and Pte Despres and I in the rear, went to pick up the girls and carry on our way home via Edinburgh. On our way home we had an accident at Boathouse Bridge near Turnhouse Aerodrome. We were all taken to the sick quarters at Turnhouse Aerodrome.
At 0120 hrs on 26 JUL 43 I called the camp and the civilian policeman with me spoke to the Orderly Officer at Netherdale Mill Camp.

The accused declined to cross-examine this witness.

Third witness for the Prosecution

D-57862 Pte Tremblay, F., of the R 22e R, In the Field, having been duly sworn states:-
On 25 JUL 43 I was under Open Arrest with escort in Netherdale Mill Camp.
Between 1330 hrs and 1400 hrs my escort Pte Despres and myself met Pte Labarre who asked the escort if we wanted to go for a ride and the escort and I went.
We arrived in Dunblane between 1500 hrs and 1600 hrs.
We left Dunblane between 2130 hrs and 2200 hrs and after picking up two ladies and Pte Charron we proceeded for camp via Edinburgh.

Questions by the Court

Q.1 What day did you return to Netherdale Mill Camp?

A.1 24 JUL 43 at about 1630 hrs.

Q.2 How did you return?

A.2 By ambulance to the Church R.A.F. and under Close Arrest. From the Church R.A.F. a lorry came and took me in to the Guard Room in the Netherdale Mill Camp.

Q.3 How were you released from the Guard Room?

A.3 The Provost Sgt went to see the Adjt and then called for one of the N.C.O's of the R 22e R to sign for my release from the Guard Room.

Q.4 Who was the N.C.O. who signed for your release?

A.4 L/Cpl Smafelt.

Q.5 What statement did the Provost Sgt make to you when turning you over to L/Cpl Shufelt?

A.5 He said that he had seen the Adjt and seen that I had been a good S.U.S. that I was to be released on Open Arrest.

Q.6 Who was the Provost Sgt?

A.6 Provost Sgt Lenton.

Q.7 Did L/Cpl Shufelt make any statement to you on taking you over?

A.7 Nothing, until Pte Despres came along.

Q.8 What did L/Cpl Shufelt say to Despres when Despres arrived?

A.8 Pte Despres was to be my escort and stay at my side.

Witness cross-examined by accused.

Q.1 What did you say to me when I came up with my motorcycle?

A.1 That I was to be released on Open Arrest and would yoube kind enough to help me carry my stuff over to the room.

Q.2 Have you a paper on you from the hospital which says that you were released on excused duty?

A.2 No - the medical release certificate I handed to the M.O. of the R.A.F. and when I went to 6 CIRU at Whitley on 2 AUG 43 I took the certificate with me as I was being boarded and S.O.S. this unit. I was not excused duty on the certificate.

Fourth witness for the Prosecution

D-124706 Pte Labarre, L., of the R 22e R, In the Field, having been duly sworn states:-
On 25 JUL 43 about 1330 hrs I left the Camp by truck and on leaving the camp I met Ptes Despres and Tremblay. I asked Despres if he wanted to come for a ride. Tremblay got in with me in the front seat and Despres in the back. We arrived at Dunblane sometime in the afternoon and after staying for a couple of hours and picking up Pte Charron and two ladies we left for home via Edinburgh. On the way home we had an accident on Boathouse Bridge near Turnhouse Aerodrome. All of the passengers and myself in the accident were taken to the sick quarters in Turnhouse Aerodrome. At about 0120 hrs on 26 JUL 43 Pte Charron called the Duty Officer in our camp.

The accused declined to cross-examine this witness.

Fifth Witness for the Prosecution

L-1292 Sgt Lenton, W. D., 1 Cdn Div Sup Bn (Sask. L.I.), In the Field, having been duly sworn states:-
I was Provost Sgt of Netherdale Mill Camp on 24 JUL 43. At about 1700 hrs on 24 JUL 43 Pte Tremblay came in from hospital to the Guard Room with a chit excusing him from all duties for 48 hrs and as we had no beds and as his Detention was to expire on Monday I went to ask the Orderly Officer about the advisiability of releasing him under "Open Arrest"

to the Unit. He said that there would have to be an escort with him while he was under open arrest. A L/Cpl later came down from the R 22e R and signed for Pte Tremblay and I turned the prisoner over to the L/Cpl and told him that the man was being turned over to him under Open Arrest and I said, "You are responsible for that man".

Questions By the Court

Q.1 Did the Orderly Officer know thatthe prisoner was under Close Arrest when arriving in the Guard Room?

A1 Yes, because that ~~xhe~~ I told him that the man was Under Close Arrest and had two more days to put in in detention but that he had a chit from the hospital excusing him from duty.

Q2 Did the Orderly Officer release the prisoner from "Close Arrest" to "Open Arrest"?

A2 He told me to release the prisoner under "Open Arrest" with an escort.

Q3 Is it customary to detail an escort for a man under "Open Arrest"?

A3 I have never known of any such case before. Usually an "Open Arrest"Man is treated as a C.B. case, that is, he has no escort detailed to go with him.

Q4 Did you tell the Orderly Officer that a man under close arrest with a medical certificate excused duty could not sleep in the Guard Room?

A4 I told him that we had no bed available and owing to a man's condition it was advisable to make other arrangements if possible, regarding his sleeping accomodation.

Q5 Did you state definately that the Orderly Officer told you to place the man under open arrest with an escort.

A5 Yes, the man was released by the Orderly Officer under open arrest under escort.

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

Q6 Describe the chit which was handed to you in which Pte. Tremblay was given 'Excused Duty' while in Detention.

A6 As far as I can remember it was an ordinary Discharge Certificate from Edinburgh Military Hospital, and on the front was written "Excused from all duties for 48 hours".

Q7 Who signed it?

A7 I couldn't read the signature.

Q8 Did the Orderly Officer ask to see this certificate?

A8 No.

Q9 Did he ask to see any certificate or document before, as you have stated in your evidence, allowing the prisoner out on Open Arrest with escort?

A9 No.

Sixth Witness for the Prosecution.

Lieut. P.A. Whitaker, 2 C.I.B. Sup Op (SLI) In the Field having been duly sworn states:-

On 24 JUL 43 I was Orderly Officer for Netherdale Mill Camp. My tour of duty started at 1800 hrs on 24 JUL 43. At approximately 2000 hrs Sgt Lenton, Provost Sgt reported to me that a man under close arrest had been returned from Hospital with a medical certificate 'Excused Duty'. He said that in that case the man would not be able to sleep on the floor in the Guard Room. He asked me what should be done. I told him to keep the man under close arrest and supply an escort to stay with him at all times. I treated this man's case as I would have treated an N.C.O. under close arrest, that is, an escort would have ebbn supplied to keep thisman in sight at all times and in camp.

Questions by the Court.

Q1 Didyou say definitely to Sgt. Lenton that this man was to be kept on close arrest with an escort ?

A1 Yes, I did.

Q2 Did Sgt Lenton produce any ducoments to substantiate his statement that the prisoner was excused duty ?

A2 He did not.

Q3 Did you ask him for any document confirming his statement ?

A3 No, I did not.

Q4 Did you see the Medical Certificate AFC 388 marked Exhibit "A" dated 24 JUL 43 ?

A4 No, I did not.

The accused declines to cross-examine the witness.

Seventh witness for the Prosecution

M31030 Pte Riding, E. 49 Edmn Regt, In the Field, having been duly sworn states :-
On 24 JUL 43 as R.P. I escorted Pte Tremblay from Edinburgh Hospital to Galashiels. I carried all the medical documents myself. I was told by the M.O. of Edinburgh Military Hospital and it was marked on the medical certificate that the prisoner was to be on 'Excused Duty' for 48 hrs. He gave me a sick report form which I left at the R.A.P. in Galashiels.
After I left the R.A.P. I came to the camp with Tremblay in a truck. I turned him over to L/Cpl Cochrane, an R.P. i/c of the Detention Room. I'm not certain whether I brought the certificate back with me from the R.A.P. or not.

Questions by the Court.

Q1 Do you recognize Cpl Patterson as the person to whom you gave the medical papers which belonged to Pte Tremblay at the R.A.P.

A1 Yes, Sir.

Witness Cross-examined by the accused.

Q1 Can you definitely testify that the medical certificate which you brought from the Edinburgh Military Hospital had on it 'Excused Duty'

A1 Yes - that's what it had on it - 48 hrs.

Q2 Can you produce that paper ?.

A2 No - because I handed it in to the R.A.P. or the Detention Room.

Eighth witness for the Prosecution

B-89779 Cpl Patterson, J, 5th Fd Amb, In the Field, having been duly sworn states :-
I am M.I. orderly in St. Paul's Church R.A.P. and was on duty on the 24 JUL 43. If and when any patient is brought to us from hospital carrying papers concerning his discharge they are handed in to the orderly on duty who immediately contacts the M.O., making an appointment to have the said person seen to at once. I cannot remember having seen or handed papers of the said Pte Tremblay because there are so many patients who pass through the R.A.P. in the course of a day. In my experience at the R?A?P. Galashiels, I have never seen a prisoner return from the Edinburgh Military Hospital with a chit of 'Excused Duty'.

The accused declines to cross-examine the witness.

First witness for the Defence.

E-5298 L/Cpl Emard, F of the R 22e R, in the Field, having been duly sworn states :-
On 24 JUL 43 I was on R.P. duty in the Detention Room. At about 1900 hrs I received orders from Sgt Lenton to put Pte Tremblay in 'Open Arrest' for the rest of his detention. When L/Cpl Shufelt came and took Pte Tremblay from the Guard Room he was alone and I told him that Pte Tremblay was on 'Open Arrest ' . He said hewould report him at once to the Orderly Room. The day after, 25 JUL 43, on Sunday, I saw the Commanding Officer, Capt Carron and he said he didn't know anything about this man.

The accused declines to cross-examine the witness.

The accused was cautioned as follows:-

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

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

I certify that the foregoing summary of Evidence, consisting of six pages was taken down by me in the presence of the accused and interpreted by E-5256 Pte Hamel, J. H., R 22e R, and that rules of procedure 4, (c),(d),(e),(f) and (g) have been complied with.

F. B. Tessman

(F. B. Tessman) Lt.
1 Cdn Div Sup Bn (Sask.L.I.)

In the Field.
11 AUG 43.

R. H. Rankin
Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Enfield	6-2-43	Pte		Was absent from Parade at 1000 hrs on 6-2-43	See Remarks Re Deputation	8 days C.B.	6-2-43	Capt. L. Smith.	
Enfield	1-4-43	Pte		Was absent from Tattoo Parade at 2200 hrs on 1-4-43	Re Satisfactory Evidence	8 days C.B	4-4-43	Capt. R. Cowan	

Certified True Copy

E.J. Kenderdine Major

Obtained from Records Office, Aldershot by telephone 18 Sept 43

for Secretary War Office

M.F.M. 5

(A.F.B. 1772, 40, P. & S. 136, 2837)

No. F 4882 Name Nepia R. Sqn., Battery, or Company Corps C.S.C. Date of enlistment 8 Jan 40 Badges Service or Proficiency Pay

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (corresponding with 03a)	By whom awarded	Remarks
Field	4-7-40	Cpl		AWOL Sec 15(1) A.A.A.		168 hrs det			2 days pay 1/93
"	31-7-40	"		AWOL Sec 15(1) A.A.A. Sec 17 Disobedience					7 days pay
"	5-10-40	"		AWOL Sec 15(1) A.A.A.		168 hrs det			7 days pay
"	14-2-41	"		AWOL Sec 15(1) A.A.A.		28 days det			28 days pay
"	12-3-41	"		AWOL Sec 15(1) A.A.A. Sec 17 Disobedience while in charge of a prisoner (Civil Conviction)		Reduced to Pte Cautioned Caution as to future 2 months Field Defaulters			
"	15-5-41	"		AOBS Sec Riding a bicycle	28 days remitted	28 days det (Confirmed Field)			
"	3-9-41	"		AWOL Sec 15(1) A.A.A.		7 days F.P. No 1			7 days pay
"	8-11-41	"		Sec 40(1)(a) A.A.A.		3 months Field Defaulters 14 days Close Arrest			

(P.T.O.)

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

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

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

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

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused. Number E 1857 Rank PTE

Name Despres R. of R.C.R. Unit Regiment

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

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Civil Court	12/3/41 Croydon	4 murders	1 month imprisonment	
Civil Court	14/5/41	Stealing 4 bicycles	2 months hard labour	2 days remitted time served
Civil Court	8/10/41	No offence shown	3 months hard labour	

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

Signed this 13th day of Aug. 43

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked E 1 signed by the president, and annexed to the proceedings.

A Keaton
Major

Lt Colonel
Pres. Regimental Court
Fus. R.C.R.

M.F.B. 355
22M—5-41 (372-3)
H.Q. 1772-39-625
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number E 4852 Rank Pte Name DESPRES. R Regiment (or unit) R Regt 22e Regiment

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

	Within last 12 months		Since enlistment or appointment	
For 22e 40 A.A.	2	times	4	times
For 22e 15(1)		times	2	times
For 22e 11		times	1	times
For 22e 40 A.A		times	1	times
For 22e 9		times	1	times

Number of instances of gallantry or distinguished conduct Nil

or,

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

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

2. The accused has not been previously convicted

or,

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

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

or,

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

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

5. The present age of the accused according to his ~~record of service~~ attestation paper is 31 years 151 days

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 8 Jan 40

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

8. ~~The accused is entitled to reckon~~ service for the purpose of determining ~~his pension~~, etc.

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

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

List of witnesses in the case of E-4852 Pte Real DESPRES, R 22e R.

FOR THE PROSECUTION

1.	E-42942	L/Cpl Shufelt, J. V. C.	R 22e R
2.	E-4370	Pte Charron, R.	R 22e R
3.	D-57262	Pte Tremblay, F.	R 22e R
4.	D124706	Pte Labarre, L.	R 22e R
5.	L-1292	Sgt Lenton, W. D.	1 Cdn Div Sup Bn (Sask.L.I.)
6.	Lt. F. A. Whitaker.		2 C.I.B. Sup Gp (Sask.L.I.)
7.	M-31030	Pte Riding, E.	49th Edmn Regt
8.	B-89779	Cpl Patterson, J.	5th Cdn Fd Amt

FOR THE DEFENCE

1.	E-5298	L/Cpl Emard, F.	R 22e R

List of Exhibits in the case of E-4852 Pte Real DESPRES, R 22e R.

(a) Army Form C.388

If I am to be tried by Court Martial on charges now pending against me ~~I wish~~/do not wish an officer to defend me.

Signature of the accused

Certificate that I have received free of charge copy of Summary of Evidence and all documents relative to my trial by Court Martial.

Signature of the accused

Correspondence to be PINNED here

LL-101

Army Form A.3.

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

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this Twelfth day of August, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Div (Rear Party), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

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

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

*[I am unable to appoint:—

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

*(2. A Field Officer as President.)

for the following reasons, namely:—]

None available

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

*Omit if not applicable.

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

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

President.

Rank.	Name.	Regiment.
Major	R.R. Rankin	Sask. L.I.

Members.

Rank.	Name.	Regiment.
Capt.	F.T. Egener	Sask. L.I.
Lieut.	~~J.S. WOODS~~ EDMN. R.	Sask. L.I.

*Signed J.D. Adams Lt-Col
(J.D. Adams) Lt-Col
Commanding 1 Cdn Div Rear Party

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E.4852 Pte DESPRES, Real - R 22e R	First Charge A.A. Sec 15(1)	Guilty	Guilty 7 sentence Confined	Finding & sentence Confirmed
	Second Charge A.A. Sec 40	NOT Guilty	Not Guilty	J.A. Cadam Lt-Col 24 hours detention. 19 Aug 43 K. Rankin mayor 2100hrs 13 August 43

(See charge sheet att)

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

(Signed) J.A. Cadam Lt-Col (Signed) K. Rankin mayor President.
Commanding 1 Cdn Div Recr Party 2 Cdn Inf Bde Sp Coy
Convening Officer (e)

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

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

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

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

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

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

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 13th day of August 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

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

* Omit if not applicable.

were duly sworn.

Signed this 13th day of August 1943

K. Rankin mayor
President of the Court Martial.

C. Certificate in case of death sentences.

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

I certify that the terms of *A.C.I. 870 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

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

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

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

Signed this 14th day of August 1943.

J.A. Cadam Lt-Col
Confirming Officer.
Comd 1 Cdn Div Recr Pty 2 Cdn Inf Bde Sp Coy

Promulgated and extracts taken in the case of E 4852 Pte Despres Real R22eR

(a) (Dated) 14 Aug 43 (Signed) [illegible]

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

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

4A-132

Pte Dupuis R.

COUNTER NUMBER 547939

HOUR 11 17

OPERATOR'S INITIALS Gm

RELIEVING OPERATOR RD

SCHEDULE.

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

Accused: E4852 Pte Real DESPRES 1 Bn 1 CBRD

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

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

~~At present under sentence for~~ ~~beginning on (date)~~ ~~1944~~

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

Time in confinement awaiting present trial—a total of 28 days, of which 11 days were spent in hospital.(1)

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

Sentence Awarded by the Court:

TO UNDERGO DETENTION FOR NINETY DAYS

(Sgd) L.W. Poe, Capt — 3 Oct 1944 — (Sgd) C.L. Henry Major, President.

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

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

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

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

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

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

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

Confirmed

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

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

Date 5 Oct 44 (Sgd) Courtenay Commanding ..... Brig

COMMANDER
1 CDN BASE RFT GROUP

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

Accused. Date. Signature of Offr.

E4852 Pte Despres, R. 9-10-44 [illegible] Lieut

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

Officer Commanding
1 Bn 1 Cdn Base Reinforcement Depot

RECORDED AT CMHQ IN AB 160. 4A-132

FIELD GENERAL COURT-MARTIAL

CFAMS (1B Rev of AFA3) 40-P-S-B. 1898 (2804)

RECEIVED 25 OCT 1944 JAG BRANCH CMHQ

Convened by Order of Brigadier E.W. HALDENBY Comd 1 Cdn Base Rft Gp-CMF dated 28 Sept 1944

ACCUSED.

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

(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E4852	Pte	Real	Despres	1 Bn 1 CBRD

PROCEEDINGS REVIEWED
26 Oct 44
REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date) the 2nd Oct. 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

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

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

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

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1045 hours trial commences.

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

(I. KR Con 557. 2. AA 46(B), RP 80 fn 1. For effect see KR Con 561(c). Delete if not applicable.)

A5. President to accused: Do you object to D 69752 Sgt. T. LABONTE as interpreter? Ans No Sir.

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

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

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(I. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President	MAJOR	C.L. HENRY (CAC)	5BN 2CBRD
Member	CAPTAIN	R.J. MILLER (Gen List)	2CBRD REALL CENTRE
Member	CAPTAIN	W.L. FRAPE (CAC)	1BN 1CBRD
Judge-Advocate	CAPTAIN	D.W. ROSE (CAC)	H.Q. 1 CBR GP
Prosecutor	LIEUTENANT	W.J. RIDDN (CAC)	1BN 1CBRD
Defending Offr	CAPTAIN	W.P. CHARLEBOIS (CAC)	1BN 1CBRD

Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans No

(I. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Div p 33.)

A8. The accused E4852 Pte Real Despres 1Bn 1CBRD before arraignment makes (no) plea.

(I. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 105 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 50, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fns 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

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

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

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

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

B3. The Court considers the accused's statement (5) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be cleared to consider the statement. Delete whole or part not used.)

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is cleared, and the President announces that the submission is closed, and considers the submission.(3) The Court is reopened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans No, SIR. Do you intend to call witnesses on your behalf ?
Ans YES SIR. Are they witnesses as to character only ? Ans ~~WITNESS TO CHARACTER~~ NO SIR.
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 41, 103(a).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court are (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the THIRD AND FOURTH charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans YES SIR.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex P and Ex P1 respectively.(3)
(1. MFE 251 or MFB 296. 2. MFW 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES SIR.
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything been or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its powers, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-56, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, E 4852 Pte. Real DESPRES,
1 Canadian Base Reinforcement Battalion,
1 Canadian Base Reinforcement Depot,
a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
A.A. Sec 18(a)

WHEN ON ACTIVE SERVICE,
STEALING PROPERTY BELONGING TO A PERSON
SUBJECT TO MILITARY LAW,

in that he,

In the Field, in Italy, on or about the 25 Aug 44 stole from E 101305 Pte. Langelier, V., the following articles:-

1 Blouse, Battle Dress.
1 Trousers, Battle Dress.
1 Trousers, K.D.
3 prs. Socks.
1 pr. Hosetops.
1 Brush, hair
1 Brush, shoe
1 Housewife
1 pr. braces
1 Holdall, complete.
1 Clasp Knife
1 Cap Comforter
1 Field Dressing
1 MBM Pts. 1, 11 & 111
and personal letters.

said Pte Langelier being a person subject to military law.

SECOND CHARGE
A.A. Sec 40
IN THE ALTERNATIVE

WHEN ON ACTIVE SERVICE,
CONDUCT TO THE PREJUDICE OF GOOD ORDER
AND MILITARY DISCIPLINE,

in that he,

In the Field, in Italy, at approximately 1200 hrs. 25 Aug 44 was found in improper possession of the following articles, property of E 101305 Pte. Langelier, V.

1 Blouse, Battle Dress
1 Trousers, Battle Dress
1 Trousers, K.D.
3 prs. Socks.
1 pr. Hosetops
1 Brush, hair.
1 Brush, shoe
1 Housewife
1 pr. braces
1 Holdall, complete.
1 Clasp Knife.
1 Cap Comforter
1 Field Dressing
1 MBM Pts. 1, 11 & 111.
and personal letters.

(Cont'd on Page 2)

DM

Charge Sheet - E 4852 Pte. Despres, R. (Cont'd)

THIRD CHARGE
AA Sec 15(a)

WHEN ON ACTIVE SERVICE,
OFFERING VIOLENCE TO HIS SUPERIOR OFFICER,

in that he,

In the Field, in Italy at approximately 1200 hrs. 25 Aug 44 when ordered to lay out his kit by Lieut. R. Piche attempted to strike the said Officer.

FOURTH CHARGE
AA Sec 15(c)

WHEN ON ACTIVE SERVICE,
USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER,

in that he,

In the Field, in Italy, at approximately 1200 hrs. 25 Aug 44 when ordered to lay out his kit by Lieut. R. Piche said to Lieut. Piche "maudit ecolurent, maudit cochon, maudit leaveu" or words to that effect.

Approved for trial
under K.R. (Can) 540

R. B. Beale Capt
ADJA HQ 1 CBRD

Vincent McKenna Lt-Col
(VINCENT McKENNA)
Officer Commanding,
1 Cdn Base Rft Bn, 1 CBRD

In the Field,
19 Sep 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
28 Sep 44

E W Haldenby
(E. W. HALDENBY) Brigadier
Comd 1 Cdn Base Rft Gp
Cdn Army - CMF

APPOINTMENT OF JUDGE-ADVOCATE NOT ON LEGAL STAFF OF A FORMATION

The appointment of Captain D W ROSE, an offr having Legal qualifications, as Judge Advocate is hereby approved by me on behalf of the JAG, persuant to Overseas RO 4756.

R B Roake Colonel

ADJA

HQ 1 C B R Gp

Numb

E4852 Pte Real DESFRES 1 Bn 1 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 26 Sep 44 endorsed by me, (~~or by an offr of my staff (or me)~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	C L HENRY (Must be named. RP 106.)	(CAC)	5 Bn 2 CBRD (Unit.)

MEMBERS.

Capt or Lieut to be detailed by OC 2 Cdn Reallocation Centre

Capt or Lieut to be (Rank.)	detailed by OC 1 Bn 1 CBRD (Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt or Lieut to be detailed by OC 2 Cdn Reallocation Centre (Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	D W ROSE (Must be named, if any. RP 106.)	(CIC)	HQ 1 C B R Gp (Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 28 Sep 44

E W Holdenby Brigadier

(Signed personally. RP 105 (n 2.)
(E. W. HOLDENBY) (Rank.)

Commanding 1 Cdn Base Rft Gp-CMP
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A), and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the pars in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 86(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 86.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence on to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 96 in following order:

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 567.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR (Can) 580. As to certified copies of regimental books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule to p 4 after sentence of sentence awarded. (*AA 53(3), RP 115(C), MML p 758.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

APPOINTMENT OF JUDGE-ADVOCATE NOT ON LEGAL STAFF OF A FORMATION

DWR

The appointment of Captain D W ROSE, an offr having Legal qualifications, as Judge Advocate is hereby approved by me on behalf of the JAG, persuant to Overseas RO 4756.

R. B. Rake Capt

AEJA

HQ 1 C B R Gp

MEDICAL OFFICER'S CERTIFICATE

DWR

I hereby certify that I have this day examined

No. F.44852 Rank PTE Name PARKES R.

and in my opinion is fit to undergo trial by Court Martial.

H Bailey Capt
(Medical Officer)

Date Oct 3/44

MEDICAL OFFICER'S CERTIFICATE

Capt DWR

I hereby certify that I have this day examined

No. F.44852 Rank PTE Name PARKES R.

and in my opinion is fit to undergo trial by Court Martial.

H Bailey Capt
(Medical Officer)

Date Oct 3/44

DWL ①

Evidence in the Case of C 4852, Pte Real Desjardins, 1 Bn 1 CBRD.

1st witness for Crown. | Lieut R.A. Pirbo 1 Bn 1 CBRD having been duly sworn States

On 25 Aug 44 at around 1200 hrs my Coy Comd told me to make an inspection of the accused's kit. His quarters were over the garage of 1 Bn 1 CBRD. I told the accused that I had been sent to inspect his kit. He was lying on his bed. I gave him the order a couple of times. After 5 or 10 min. I came to his bed, he stood up and tried to strike me. Sgt Chauvin stopped him. The accused put his left hand on my right shoulder and with his right hand tried to strike me. I put him under close arrest. I inspected his kit in his presence. The accused used improper words to me. They were "maudit cochon", "maudit Bavard" and "Christ d'enfant" or words to that effect. The accused called me these names while I was inspecting his kit. Sgt Chauvin, Sgt Bourgouin, L/Cpl Bentley and Pte Langelais were present as well. Pte Langelais was interested in the kit inspection because he recognized some of his kit amongst that of the accused. His number was marked on a no. of articles. The following articles were identified by witness as having been identified by Langelais in presence of accused whose the witness was not sure that they were the same he stated they were similar. B.D. jacket same mkd. Ex A. B.D. trousers, similar mkd. Ex B. 2 Choc brushes same. Ex C. Brasses similar. Ex D. 1 pr Sox similar Ex E. 1 pr Hose Tops similar Ex F; Housewife, similar Ex G. Cape comforter, similar Ex H; 1 Dressing, similar, Ex I; A.G. Wallet containing personal letter of Langelais Ex J. Same. Knife clasp, similar Ex K; I also found Pte Langelais pay book in the A.G. Wallet Ex L but I don't know where it is now. Ex J. was found on 26 Aug 44 in a garbage can near the Guardroom by the door of Border Bldg. Pte Langelais was present when I found it also the accused. I recognize the accused who is present in court.

Cross exam

I think the accused had been drinking that morning. I examined his kit.

I would not consider the accused fit for any duty at least not as a driver - may be for guard.

I asked the P.M. where the A.G. Wallet was and he told me the RP had got it.

The RP was the one who had the accused in custody.

This RP told me he had put it in garbage can.

and I found it there

Re Ex exam -

No Quest by Court

R.P 93 (B) Complied with

Court adjourned at 1200 hrs and reassembled at 1400 hrs.

(2) DML

2nd Witness for Prosec. | E 4370, A/Sgt Charron R. 1 Bn 1 CBRD having been duly sworn states:

On or about 24 Aug 44 at about 1200 hrs I was asked by COS to go over to wetinder a hut inspection. I left the Hqs. passing by the offrs' mess to get Lt Piche. We then proceeded to the garage where the accused was employed. The storman from CQ M stores started to inspect the accused's hut in the accused presence. During the hut inspection the accused made an attempt to strike Lt Piche. I got between the two of them and stopped the accused from hitting Lt Piche. Lt Piche, Sgt Dagenais, L/Cpl Belley and Pte Langelier were present. After a while Cpl Charette came over. After the hut inspection and in the presence of the accused Pte Langelier identified several items of kit as his. The kit so identified was taken over to Q stores by the storeman and Langelier.

Cross ex am

In my opinion the accused was so drunk he did not know what he was doing.

He smelt strongly of liquor.

I saw the kit which was identified taken away.

Re ex am.

The accused was not capable of driving a truck he was wobbling while standing up.

The fist the was stopped from hitting Lt Piche with would have missed Lt Piche.

By the Court

The accused was not capable of standing correctly when he was going to strike Lt Piche.

The accused in my opinion was intoxicated.

The accused made no statements to Lt Piche when I was holding him.

By J.A.: I recognize the accused who is in court.

There was a tunic with 1 bulleve 2 red wound stripes on it taken from the accused's kit.

The accused made no remarks when the kit was found in his possession.

I was out of the room as soon as the R.P. arrived and I heard no remarks by accused to Lt Piche.

R.P. 83 (B) complied with.

2nd Witness for Prosec. | D163132, Sgt Dagenais, N. 11 Bn 1 CBRD having been duly sworn states:

I recognize the accused who is in court. On 25 Aug 44 I was C.Q.S. 1 Coy 11 Bn 1 CBRU. When Pte Langelier came to the Coy office. I went and fetched the 9 Bn. and then proceeded to the accused's quarters. I saw the accused around about 1115 hrs, he had a kit bag under his arm and a small sack. I went back to the office with Sgt Charron. The accused when I saw him at 1115 hrs. was out of the sleeping quarters in the hall. The sleeping quarters which I above just referred to were on the first floor upstairs of the Pavilion Bldg, Canada Hqs. He was going towards the stairs leading outside. It was about 15 min. after I saw the accused on the hall that Pte Langelier came into the Coy office. Accompanied by Langelier I went to the C.Q. stores and

Sgt Dargavel cont

fetched the storeman L/Cpl Belley. The three of us then went to the sleeping quarters of the accused - not having the power to make a kit inspection myself. I returned to the office to see Sgt Chauvin, then proceeded to 11 Bn 1 CBRD to enquire of the Coy Comd. the Coy Comd. sent Lt Piche and myself, Sgt Chauvin, L/Cpl Belley and Pte Langlois to inspect the kit of the accused. When we got to the sleeping quarters of the accused we awakened him. He was awakened by the noise of our talking. Then asked why there had been so much noise & fuss around his bed. Then the accused said "I'll find out what is the meaning of all this" at the same time pushed Lt Piche on the shoulder with his left hand. Then Lt Piche came back towards the accused, then the accused made another move threatening to strike Lt Piche. Witness demonstrates that the accused put his left hand on left shoulder and drawing back his right fist as if to hit the officer. Sgt Chauvin then came between accused and Lt Piche to prevent him hitting the officer, grabbing the accused to prevent him hitting Lt. Piche. The accused did not hit Lt Piche as a result. Sgt Chauvin talked to the accused softly. I was ordered by Lt Piche to go and get the 1 Can RCRs. When I came back the accused's kit inspection was under way. Then the accused made the following statements to Lt Piche. "Je est un maudit Bowery, tu a c'est ce n'ais pas peur de toi, si je vous dais je te frais mettre dans la clinique" in words to that effect. After the kit inspection was over we packed all the kits of the accused and took it to C.Q. stores of 20 Coy. The accused was allowed to keep his shaving kit and was taken to the guardroom. At 1115 hrs when I saw the accused I greeted him and he replied saying "I am moving again" at that time the accused appeared normal by the way he answered me. It was approx. 15 to 20 min later that we awakened him for his kit inspection.

Cross exam

I dont know whether or not the accused was supposed to move to 20 Coy 1 Can billets on Jordan Block to the billets of the Transport was the garage on 25 Aug 44.

I cant judge by myself that the accused was drunk or sober because I only said one word to him.

Pte Evans

Only saw the accused at 1115 hrs for the length of time it takes to say "I am moving again."

No Quest by Court

RP 83(2) complied with.

(41) DML

4th Witness for prosecution } E 59828. A/L/Cpl Bellay, A. storeman. 1 Coy. 1 Bn 1 C I R D having been duly sworn states:

I recognize the accused in court. Sgt Deguise came into the C.O. stores and with him I left and went over to inspect the kit of the accused. It was on the 25th Aug 44 at about 1330 hrs. The accused was asleep in his bed. Lt Pirbe ordered me to inspect the accused's kit. The accused was awake before the inspection started. Before it started he asked us what it was all about. Then the accused made the statement to Lt Pirbe in common and bad language saying "Vous etes un lieutenant bavard j'ai fait parti de ca un officier, je va vous mettre ma main sur la gueulle" or words to that effect. In English it is "You are one of those people who shoots his face off. I am not afraid of an officer. I will put my hand in your jaw." Then the accused attempted to strike Lt Pirbe. Lt Pirbe Sgt Charron, Sgt Deguise, Pte Langelier and 2 R.P.s and myself were present. Witness described how accused threatened by swinging his arms in a threatening manner. I did not see the accused put his hand on Lt Pirbe's shoulder. No one helped the accused get up from his bed.

Cross exam

There was another kit under the accused's bed and another soldier sitting near there said it belonged to someone else who had gone to hospital.

I did not return a wallet A.G. Ct S. With contents to the accused.

The wallet A.G. was not brought to the stores on the day of the kit inspection.

I dont know when it was brought in.

Re exam

I was present when accused and Deguise came into my stores on 25 Aug 44 in the afternoon.

I dont know what the accused took from his kit bag at my stores.

By Court The R.P.s were in the doorway when accused made the threatening gestures to Lt Pirbe.

By J.A. I was sitting on the bed facing Lt Pirbe when the accused was making the threatening gesture about a yard away.

I could see fairly clearly what happened.

The accused said the kit we inspected belonged to him.

Pte Langelier identified a shoe brush among the accused's kit by its markings.

It could have been possible for the accused to have been issued the brush from stores.

To my knowledge the shoe brush was the only thing identified by Pte Langelier in accused's presence in Ste Anne.

There were some other clothes beside his kit

(5)

DML

A1L/Cpl Reilly cont

I dont know whose clothes they were.

N/Sv Body identified these clothes.

I brought the accused's kit back to the C.Q. Store the other clothes near the accused's kit which I have first mentioned were not brought back to stores.

Sgt Desgnais and Pte Langelier to my knowledge assisted me in carrying the accused's kit to the store.

R.P. 83 (B) complied with.

Court adjourned at 1700 hrs 2 Oct 44. until 0930 hrs 3 Oct 44.

Court reassembled at 0930 hrs. 3 Oct 44.

5th Witness for Prose. E 101 305, Pte Langelier W. 1 Bn 1 C 13 R D. having been duly sworn states.

On 25 Aug 44 I came back from a route march at about 1.30 hrs to 1 Bn 1 C 13 R D. After I had been dismissed I went to my sleeping quarters in 1 Coy 1 Bn 1 C B R D billets. They are the first sleeping quarters near No 1 Coy Office on the 2 nd floor of the Bldg. in which 1 Coy 1 Bn 1 C 13 R D is situated. At that time I found out about the disappearance of my kit. I reported this to coy office. Myself, Sgt Desgnais, another Sgt and a L/Cpl proceeded to the room in the garage where the accused was sleeping in his bed. When we left to get A Pte. The accused who was still sleeping did not go. We came back around noon with A Pte who asked the accused to spread out all his kit on the floor for a kit inspection. The accused whom I recognize in court started to lay out his kit while at the same time asking what it was all about. A Pte made the accused understand what he had to make the inspection. Then the accused stood up and raised his left hand and punched A Pte behind the ear. To my knowledge the accused punched the latter and the accused seemed to be staggering as if he was drunk. There were two sgts L/Cpl present, one was someone near the door like. One of the sgts of the and every thing became normal. If I still remember I heard A Pte saying "put that man in close arrest" I dont know who it was the L/Cpl or Sgt who went to fetch the R.P. In the meantime they carried on the kit inspection. During the laying out of the kit the accused was acting to himself wildly. I didnt hear what he was saying for the remainder. I dont remember what happened. I lost an empty A.B. Wallet filled with letters - I dont remember what else was in it. I dont remember what kit disappeared. When I came back from the route march my kit bag was missing. I couldnt name exactly as to the articles that were in the kit bag. I went to the accused's quarters to see if it was there. I found some clothing belonging to me B.D. 204, Battle Dress. I cant remember the rest. The B.D. could be identified by the name which was written on the pockets - NOE 101 305

DML (6)

Pte Langelier cont

On the B.D. trousers - on the flap of the big pocket
Witness identifies B.D. Trousers Ex B as his.
I could recognize my tunic by the Canada badges
because I sewed them on myself in my own way
and they are cut round also by the NO E 101305
on the inside of the left breast pocket of tunic. Witness
identifies B.D. Tunic Ex A. Rather diffficult
for me to identify the set. I could not say the
right time of the inspection but it was around noon.
and at that time I identified my clothes in the
garage of 1 Bn 1 C B TR D. The accused's kit was
laid out with some of my clothes mixed in it.
I know that these clothes came from my platoon
quarters on the second floor near 1 Coy Offices 1 Bn 1 C B R D

Cross exam

My kit bag was locked when I went in the
route march on morning of 23 Aug 44.
I haven't seen the lock of kit bag since.
I hadn't seen any other kit when the accused's
kit was inspected
When I arrived the accused took his bundle
from under his bed, unwrapped it, that's how
I seen some of my clothes
The accused was drunk at the time of the
kit inspection.
He was not sober at the kit inspection.
I have been about 2 months in 1 Bn 1 C B R D

No Re exam.

By Court

When I unpacked my kit in the stores
I noticed boots and kit on the 2 Coy stores floor.
I haven't seen my clothes mixed with
those articles I have just mentioned before.

By D.A.

I knew my B.D trousers Ex B and tunic Ex A.
on the morning of 23 Aug 44 were in my kit bag
before I left for the route march
Because I opened my kit bag every day.
I next saw the trousers and tunic at the
accused's kit inspection
I never did give any of my clothes
to the accused because I didn't know him
personally.
I only owned one suit of B.D. at the time
of the kit inspection
R.P. 8 3 (B) complied with.
Court adjourned 1200 hrs 3 Oct 44 and
reassembled at 1400 hrs 3 Oct 44

(7)

DMR

6th Witness for Prose. | D 60335. Cpl Charette L. N. 1 Bn 1 C B R D having been duly sworn states:

I recognize the accused who is in court. I am N.C.O. in charge of transport HQ. 1 C B R D. On 25 Aug 44 I was present at the kit inspection of the accused. During this inspection the accused made an attempt to strike Pte Pike. He waved his arm in front of the man's face. I went to the accused and spoke to him telling him to quiet down which he did immediately. A Sgt from R 22 e R interfered by speaking to the accused. He didn't manhandle the accused. The Sgt didn't touch the accused. The accused had been drinking. He was using some sort of obscene language to the effect saying "Maudit Cochon and Enculant" or words to that effect. The accused had been awake 48 hrs or so before this happened with transport

Cross exam I believe the accused was drunk during the kit inspection

I cant remember whether the accused had changed billets within a week of the inspection.

I had not been warned that the accused had been called back to his coy as the 2 I/C coy A1.

There was not belonging to Pte Pete between Pete's bed and that of the accused

This Pte went to hospital about a week before

People can walk through the dormitory in which accused slept

I have never spoken to the accused about the charges against him as I don't know what they were.

Re exam I first noticed the drunken by accused at about 0900 hrs on 25 Aug.

The kit bag was pulled out from under the beds and Pete's bag was between the bed next to the accused and the bed Pete slept in.

I was called into the room before the inspection

I don't know whether anyone helped the accused to lay out his kit.

No Qu's by court

By I A The kit inspection took place during normal hours 25 Aug.

R P 83 (15) Complied with.

7th Witness for Prose | E 4997 Pte Levesque R. 1 Bn 1 C B R D having been duly sworn states.

I recognize the accused who is in court.

On 25 Aug 44 as R P I had the accused in custody.

Cross exam I wouldn't say he accused was fit for duty - may have been fit for some duties at all but.

(8)

Pte Levesque (Cont)

Re ex-am It would be about 1430 hrs when I had scurried under me.

no Ques. by Court

R.P. 83(B) Complied with.

Prosecution closed.

D6.

1st Witness for Def. } E46449 Pte Fenac E. Transport Pl 1 C Bde RD having been duly sworn states:

I saw the accused drinking on morning of 25 Aug 44 on his head I think he had a bottle Cognac. I could not say whether he drank the whole bottle or not. It would be between 6 or 7 A.M. when I saw him.

Cross exam I don't think it could have been tea he was drinking.

Don't drink much tea in Depot Coy.

It was liquor in the bottle - it was marked cognac on bottle.

Wasn't vermouth, it was cognac

It was between 6 and 7 A.M.

I saw him take 2 drinks.

no Re ex-am

No Ques. by Court

R.P. 83(B) Complied with.

(9) tmk.

Defending Officer's Address

Pte Despard's Charges

Regarding the first ~~charge~~ I do not believe the evidence proves that the accused stole Pte Langelier's kit. The evidence only shows that certain kit was found under Despard's bed when at the same time other kit was there belonging to a soldier who had been evacuated. Anyone could have put the kit there. Pte Langelier can only identify his battle dress. Although the accused is charged with several articles of kit the kit bag in which the kit was supposed to have been seen as found upon has never been seen or found. Surely if his kit was locked in a kit bag it would have been the duty of someone to open the bag and produce it. Yet only 30 minutes elapsed between the accused was seen with a kit bag and the time it was the kit inspection took place. Despard was found drunk and asleep. For a man who was obviously drunk I cannot see how he could have possibly done all this. At the time Despard was seen with a kit bag no one has come forward to say who it belonged to. It could have been any kit bag. Pte Langelier has only identified the battle dress yet he seems to have forgotten everything else. He has been in No 1. C.B.R.D. Yet he does not know his right name. I believe there is a great deal of doubt in the mind about the whole thing. In view of the slightness of the charge I believe this accused should not be convicted. Not one of the other witness can possibly identify another man's kit. Further when the kit was brought to the Q.M. Stores it was laid out much a lot of others kit The kit in court may have gotten into the court by error. Further there was another man's kit under the bed. ~~In the confusion anyone could put the kit under the bed.~~

As regard the 2nd & 4th Charge. I believe the accused was drunk and had been sleeping. It him he make ups he might not know what he was doing

The evidence as to the striking is contradictory. Two witnesses say he was moving around and just passed his hand in front of Lt Pedde face. The other 2 witnesses say he put his hand on Lt Pedde. I am firmly convinced everyone was very excited and they may have antagonised the accused Specially as he was just waking up. No one likes to be awakened especially if he has been drinking. I feel they should have put the accused under arrest and when he was sober then Choked his lot. The evidence does prove he was drunk and had been sleeping.

I compare in view of the poor evidence and the seriousness of the charges the accused should be found not guilty.

Prosecution - Closing Address. (10) DMR

Reg 105 M.M.L. para 8 a.c.2.

Every person is presumed to be sane and to be responsible for his acts until the contrary is proved. The defence has endeavored to show the Accused was unbalanced due to drinking but evidence of drinking has not been material to the time of the commission of the acts. At about 1100 hrs the accused is walking with his kit from the barrack room of the Royal 22nd Company to his new quarters. He voluntarily announces that he is moving again. Fifteen or twenty minutes after that he is sleeping on his bed and is aroused by a noise of persons approaching his bed. He is thinking quite clearly when he wants to know why his kit is being inspected. He realizes that his acts are about to be discovered and becomes abusive. He does not require any help to get out of his bed and offers violence to Lieutenant Pitts and is restrained from doing him serious injury. When unable to strike Lieut Pitts he then abuses him in words, calling him

"big head", "son of a whore", "that he was not afraid of him"

On the examination of the kit of Pte. Deeprose the evidence has shown that a battledress tunic and trousers, Exhibits A & B, the missing property of Pte. Langelier, were found in the property of Pte Deeprose. The Exhibits "A" & "B" were in the possession of Pte. Langelier that morning and in a locked kit bag. While there is no evidence of the accused putting Exhibits "A" and "B" in [illegible] his own kit bag 118 Manual of Military Law states that "a person steals who without the consent of the owner, fraudulently and without a claim of right made in good faith "takes" and "carries away" anything "capable of being stolen" with intent at the time of such taking, permanently to deprive the owner thereof".

Exhibits "A" & "B" are articles capable of being stolen and we have Pte Deeprose carrying his along the hallway from the barracks room to his own quarters where the exhibits "A" & "B" are subsequently found.

Ref. M.M.L. pg. 124 - para. 66 "Larceny & Kindred Offences"

Respectfully submitted,
D/Sgt. Hinchcliffe

(11) DM

J.A. & Adams

Court is judge of credibility of witnesses and of the facts brought out.

The J.A.'s duty is to advise the court on the law and the facts necessary to prove accused guilty of the charges in relation to law on such charges.

The law on charges A A 8(2) A.R. 18(4) & A A 40 Read to court.

If court not satisfied that facts brought out do not substantiate charges they must acquit. If they believe that accused did not steal but that he had improper form. of possession proper they can find him guilty under alternative charge (A A 40)

Must convict if they believe accused guilty beyond reasonable doubt.

Reasonable doubt explained.

Effect of Drunkenness on charges explained. Court referred to M & L P. 25 para 47 and 48.

EJ.

(12)

Character Evidence

1st Witness / Lt R.A. Pike already sworn states:

When I joined the fd unit in March 41 near Oxlona I met the accused who was employed as a driver. He was one of the best drivers in the unit. He had done a very good job as a driver. After that I met him in 1 Bn at Rollins he was sent as a driver to 1 Bn Garage. He has done a very good driver. He is a good worker and driver. A hard worker. That is all I can say.

No Cross exam

No Q. put by Court

RP 83(b) complied with

Despres (Plea in Mitigation) 13

Pte Despres arrived in England in DK
Jan 1940. I myself have known this
man since July 1941 when I arrived
at my regiment. He has always been
a hard and good mechanic. He has
been through Sicily and Italy
until he was evacuated for August 44
Pte Despres wants to go back to
his regiment. I would be quite
happy to have him in my Coy.
He is a very good mechanic and
just now good and brave men
are needed in the line. He has
forwarded to his Coy. Commander to
go back to the front. If a Capt
sentence could be given I feel
it would be a good thing, Or
a suspended sentence and he would
have to serve it out he again get
himself into trouble. My reason
for asking for this is I believe
Despres can be of great value
in the Regiment at this time.

D.P. Chadbourn Capt
Recruiting Officer

Exhibit P

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
E 4852	Pte.	DESPRES, R.	1 C.B.R.Bn., 1 C.B.R.D.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be presented to court with this statement for use and retained by the prosecutor.

† See note 97, K.R., 1940.

* The number, basis (period) should correspond with the entry or entries in the conduct sheet, particulars being given in the court column, or rank entry, and/or unexplained entries with explanation by an unexplained incident.

Instructions as to the charge to be drawn from the entries for transmission must be stated very exactly and fairly.

* Within last 12 months.

	*Within last 12 months.	*Since Enlistment.
For A.A. Sec 15 (1)	1 times	5 times.
For A.A. Sec 40	1 times	4 times.
For A.A. Sec 24 (2)	1 times	1 times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~ Nil

or

~~There are no entries in the conduct sheets of the accused~~ Nil

~~The accused has been previously convicted as~~ Nil

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or ~~The period of the present time is other entries (if any)~~ Nil

~~between (or the day of~~ Nil

4. The accused has been in confinement, awaiting trial on the present charges, for 38 days in civil custody, and ~~38~~ days in military custody, making a total of 38 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of birth~~ attestation paper is 29

6. The date of his ~~birth~~ attestation specified in his ~~record of birth~~ attestation paper is 8 Jan 40

~~7. The accused was convicted as follows [records, discharge or transfer to the reserve]~~ Nil

~~8. The accused is entitled to deferred pay or gratuity in respect of~~ Nil

~~9. The accused is entitled to reckon~~ Nil ~~service for the purpose of determining his service~~ Nil

10. The accused is in possession of, or entitled to, ~~no military decorations or~~ C.V.S.M. & Clasp or is in possession of or entitled to (*state any military decoration or reward*).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated and in his regiment (*or corps or department*) the rank of N/A dated

(PLACE) [illegible] A.A.G., M.D. No. 4.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. E 4852 Rank Pte. Name DESPRES, R. of 1C.B.R.Bn Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
Civil Court	17/11/41 Field	Drunkeness while in charge of a motor-cycle	1 month imprison - ment	
Civil Court	19/5/41 Field	Stealing a bicycle	2 mons hard labour	20 dys.
Civil Court	5/10/41 Field	No offence shown.	66 days pay 3 months hard labour	
F.G.C.M.	14/8/43 Field	A.A. 15(1) AWL from 2300 hrs 25 Jul 43 until 0130 hrs 26 Jul 43.	24 hrs Detention	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20 day of Sep 44

James Thomas Capt

If the record has served as a non-commissioned officer continuously, without reduction, to the present date, N/A

Date of Promotion.

In the rank of ..... years

In the rank of ..... years

In the rank of ..... years

E. 4852

No / Name DESPRES, R. Sqn, Battery, or Company — Corps CIC — Date of enlistment 8/1/40. — GC Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc

EXHIBIT P1

CMFM 6 (XFB 122) 40/PAN/158 (3438)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field.	4/7/40.	Pte.		Sec. 15(1) - AWL.					2 days pay, FR&I.
"	31/7/40.	Pte.		Sec. 15(1) - AWL.		168 hrs.detn.			7 days pay,
"	5/10/40.	"		Sec. 15(1) - AWL.- Drunkenness.		168 hrs. detn.			7 days pay,
"	14/12/40.	"		Sec. 15(1) - AWL.		28 days detn.			28 days pay.
"	17/11/41.	"		Sec. Drunkenness whilst i/c of a M/C (Civil Conviction)		1 month in prison, (Croydon Police)			
"	19/5/41.	"		Stealing a bicycle		2 mos. hard labour.(20 days remittance) (Guildford Gaol)			66 days pay.
"	5/9/41.	"		Sec. 40. AA. cond. to prej.etc.		7 days F.P.			7 days pay.
"	5/10/41.	"		No offence shown. (Civil)		3 mos. hard labour. HM Prison, Lewes.			
Field	6/2/43.	Pte.		WOAS, Sec.40 AA. throwing bread during breakfast.	Pte.Lagace. Sgt.Demeules.	5 days CB	6-2-43.	Capt.Duclos,S.	

(over)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11/4/43.	Pte.		WOAS, Sec.40.AA. - drove a military vehicle recklessly while passing troops.	Pte. Cotudal. Doc'tary.	5 days CB	4-4-43.	Capt. R. Caron.	

CERTIFIED TRUE COPY "Received from Records Office, London, by phone. 10 Aug.43.

(Sgd) Lieut ----------
(Orderly Room)

Field	14 Aug.'43.	Pte.		Sec.15(1) WOAS, AWL from 2300 hrs. 25 Jul'43 until 0120 26 Jul'43. (Total, 2 hrs. 30 mins.)		COURTMARTIAL. 24 hrs.detn.	13 Aug.43.	Maj. Rankin, R. Capt. Egener, F. Lieut.J.S. Woods.	
Field	25 Feb.'44.	Pte.		(1) Sec.40, AA. Cond. to prej,etc. - neglected to report to Main HHQ on 25 Feb.'44 at about 1700 hrs after being warned to do so, by Lieut.G.A.Fortin. (2) Sec.15(1)AWL from 0900 hrs. 27 Feb.'44, until 0845 hrs. 5 Mar'44.(Absent, 6 days, 23 hrs. 45 mins)	Sgt. Gilbert,O.	7 days pay,FOR AWL 14 days FP - 5 Mar.'44.		Lt-Col.J.V.Allard.	

E. 4852
No /

Name DESPRES, R.

Sqn, Battery, or Company

Corps CIC

Date of enlistment 8/1/40.

GC Badges

Service or Proficiency Pay

MFM 6 (APB 122) 40/P&S/136 (3436)

Character

Date of last entry in Company Conduct Sheet

No and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No

Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field.	9/8/44.	Pte.		A.A.Sec.24(2) - losing by negl. his clothing, etc.	Documentary.	14 days CB 14 days pay. -149(2).	26/8/44.	Lt-Col. V. McKenna.	

CERTIFIED TRUE COPY FROM REGTL. BOOKS in my custody as Pay Officer

(Officer in Custody of Regtl. Books)

(PTO)

Summary of Evidence

In the case of

E 4852 Pte Despres R, Bn, CBRD

a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken on oath.

FIRST Witness for the Prosecution

Lieut R.A. Piché, Bn, CBRD having been duly sworn states:

I am a lieutenant in 1 Coy, Bn, CBRD.

On Aug 25th 1944 my company commander Capt Charlebois ordered me to ~~take~~ make a kit inspection on Pte Despres. I went to Depot Garage where Pte Despres was employed as a driver. I told Pte Despres to lay out his kit so that I could inspect it. He was unwilling and asked why. I said it was an order from the Coy Commander. I had to tell him two or three times. Then Pte Despres put his hand on my shoulder and made a motion to hit me. Sgt Charron prevented him from completing the motion. I then told Sgt Lagenais to put him under close arrest. We then inspected the kit of Pte Despres. While we were doing so Pte Despres said to me "Maudit ecoeurant, maudit cochon, maudit ~~bastard~~ bastard" or ~~similar~~ similar words at different times. ~~then~~ Then the R.P. took him to the guard room and Pte Langelier identified the following articles as his:

Battle dress
Shaving kit
brushes

Summary of evidence in the case of E 1885 Pte Despres R (Contd)

Evidence of Lieut R.A. Piche (Contd)

Clasp Knife

and also some other articles. All the articles identified by Pte Langelier had Pte Langelier's number on them

The following day Aug 26 as RP on information received I inspected a garbage pail indicated to me by Pte Lavesque and in the presence of Pte Lavesque & Pte Despres found an anti gas wallet ~~which had been thrown~~ containing some letters addressed to Pte Langelier.

Signed Roger Lapierre Lieut.

The accused declines to cross-examine this witness.

SECOND WITNESS FOR THE PROSECUTION

E # 370 A/Sgt Charron R 1 Bn 1 CABR(J) having been duly sworn states:

Dam interpreter for the R.C. Pts of 1 Bn and am on the strength of 1 Coy. On August 26th 1944 at approximately 1200 hrs Sgt Lagenais asked me to go with him to make a kit inspection ~~the~~ ~~which~~ On the way Lieut Piche joined us. When we started the kit inspection Pte Despres whose kit was being inspected got mad & ~~started~~ tried to strike Lieut Piche. I got between

Summary of evidence in the case of E 4852 Pte Despres R (contd)

Evidence of E 4370 A/Sgt Charron R (contd)

the two of them and prevented him from doing so. ~~While~~ The Lieut Piche ordered him to be put under close arrest. They continued with the kit inspection and I left the room. An R.P. came to take Pte Despres to the guard room and I helped Pte Despres gather his kit together & we took it to the Q.M. of 1 Coy.

Question by the accused: Had I taken liquor, according to what you said, was I drunk?

Answer to the accused: I noticed ~~you~~ acted like a man who was intoxicated by liquor.

Signed ~~A~~ Charron

THIRD WITNESS FOR THE PROSECUTION

D 162182 Sgt Lagenais W. Pr 1 CRPL having been duly sworn states:

I was as C.O.S. for 1 Coy on Aug 25th 1944 when Pte Langelier V came into the Company Office and said his kit bag had disappeared. The CSM ordered me to see if it was true. About 15 minutes earlier I had been coming to the Coy office when I saw Pte Despres with a brown kit bag under one arm and a haversack in his hand. He told me he was changing quarters once more. I remembered that when Pte Langelier said his kit bag was missing and after checking Pte Langelier's

Summary of evidence in the case of
E 4852 Pte Despres P (Contd)

Evidence of D 163132 Sgt Hagenais W (Contd)

story I went to the Coy Q.M. and with A/Capl Bely, the Coy storeman, and Pte Langelier and Sgt Charron I went to the Coy Commander and reported the matter to him. The Coy Cmdr detailed Lieut. Piché to take charge of the kit inspection of Pte Despres. We then went to the quarters of Pte Despres. Lieut Piche ordered him to lay out his kit for a kit inspection. Pte Despres wanted to know why. He pushed Lieut Piche and made a motion to hit him with his fist saying he wanted an explanation of why his kit should be inspected. Lieut Piche went to the other end of the bed and Pte Despres still wanted to hit him and Sgt Charron put himself between them and then Lieut Piche told me to put him under arrest. I went to get the RP's and when I returned they had started the kit inspection. While gathering his kit together Pte Despres kept saying things to Lieut Piche such as "You are a "Bareil" I am not afraid of you. I could put you in the Clink" After his kit was gathered up we took him to the Guard room and took his kit to the Q.M.

Signed Hagenais W.

The accused declines to cross examine this witness.

Summary of evidence 5 in the case of
E 4852 Pte Despres R (Contd)

FOURTH WITNESS FOR THE PROSECUTION

E 57828 ~~Pte~~ L/Cpl Belley A 1 Bn 1 CBRD having been duly sworn states:

I am storeman of 1 Coy 1 Bn 1 CBRD.

On 25 Aug 40 I was called by Sgt Nagenais and Lieut Riche to go with them to ~~kit inspect~~ Pte Despres which I did & found him deficient of the following articles of the ~~active~~ issue listed below:

		Value in $
~~Trousers B.D.~~	1	~~$ 5.39~~
Field Dressing	1	.24
Helmet Steel	1	2.89
Shirts K.D.	1	1.75
~~total~~		~~9.27~~

~~I am in possession of a price list of equipment & material kit and I certify the prices are correct~~

I was present all the time that the kit of Pte Despres was being inspected and agree that what Sgt. Nagenais said as to Pte Despres trying to strike Lieut. Riche and also as to what Pte Despres said to Lieut Riche.

Signed L/Cpl Belley A.
Storeman 1 Coy

The accused declines to cross-examine this witness.

Summary of Evidence in the Case of
E #852 Pte Haspres R (Contd)

FIFTH WITNESS FOR THE PROSECUTION

E 101 305 Pte Langelier J. 1 Bn 1 C&R(D) having been duly sworn States:

I saw a reinforcement for the R22R and in 1 Coy 1 Bn 1 C&R(D). About 1130 hrs 25 Aug 44 having returned from a route march I noticed that my kit bag was missing. I reported it to the Coy Offce. Sgt Nagenais checked + then told me to come with him + another Sgt and a L/Cpl to get an Officer to inspect the kit of Pte Haspres whom Sgt Nagenais suspected. I was present when Pte Haspres attempted to strike Lieut Piche and agree with Sgt Nagenais as to what was said by Pte Haspres to Lieut Piche. During the kit inspection I found the following articles of mine with the kit of Pte Haspres:

Blouse B.D.
Trousers B.D.
Trousers K.D.
Socks 2 Pair
Hose Tops 1 Pair
Shoe Brush
Hair Brush
Hold-all (Complete)
Housewife
Cap comforter
Braces
Field dressing
Clasp knife

These articles I recognized - some of

Summary of Evidence in the case of
E 4852 Pte Nespres R (Contd)

Evidence of E 101308 Pte Langelier V (contd)

them because they had my numbers on them.

My pay book and a few letters were found the next day in a garbage can I was informed by Lieut Picke when he returned them to me.

Signed Valère Langelier

SIXTH WITNESS FOR THE PROSECUTION

D 6035 Cpl Charette L.H. (H.Q. 1 C.B.R.)
having been duly sworn states:

I am cpl in charge of the transport of H.Q. 1 C.B.R.). Sgt Nagemais asked me to go to the quarters of Pte Nespres. When I got there I seen they were making a kit inspection. Pte Nespres tried to strike the officer who was in charge of the kit inspection and Sgt Charron got between them. I myself told Pte Nespres to be quiet and he seemed to quieten down. Later L.H.C. he used insubordinate language towards Lt Picke [illegible] to Sgt Nagemais.

Question from the Accused

In the morning around 0900 hrs when I said you had I taken alcoholic liquor?

Answer

In my opinion yes

Question from the Accused

When they made the kit

Summary of evidence in the case of E 4852 Pte Lespres R contd

Evidence of D 6035 Cpl Charette L H (contd)

inspection was drunk?

Answer

I could hardly stand up.

Signed Cpl Charette R.H.
D. 6035

SEVENTH WITNESS FOR THE PROSECUTION

E 4997 Pte Lavesque R 1 Bn 1 C.B.R.D.

having been duly sworn states:

I am Pte Lavasque R of R.R. of 1 Bn 1 C.B.R.D. On the 25th of August I was detailed to take some prisoners to the Coy H.Q. of 1 Coy. While there Pte Lespres gave me a parcel and asked me to throw it in a garbage can. Without looking to see what was in it I did what he asked. The following morning Lieut Picke asked me where the parcel was that Lespres had given me. I told him and in the presence of Pte Lespres and myself Lieut Picke found the parcel which I had thrown there and which was an anti gas wallet. I identified this wallet as the one I had thrown there on the request of Pte Lespres.

Signed R. Lavesque.

The accused declines to cross-examine the witness.

Summary of Evidence in the case of E 4852
Pte Desprez R (contd)

Injection to the accused

Do you wish to make any statement or to give evidence upon oath? You are not obliged do do so but any statement you make or any evidence you give will be taken down in writting and may be given in evidence.

answer by the accused.

I reserved my defence.

R Ed Desprez
E 4852

I certify that the foregoing Summary of Evidence of 9 pages was taken by me in the presence of the accused and that Rules of Procedure 4 (a)(d) (e)(f) and (g) have been complied with

Paul E Vincent Lieut

Officer detailed to take the summary of Evidence.

To the Field
12 Sept 44

Additional Summary of Evidence

in the case of

E 4852 Pte Neal Despres, 1 Bn, CCRP
a soldier of the Canadian army Overseas
placed on Active Service

The Commanding Officer directs that all
evidence be taken on oath.

1st Witness Recalled

Lieut R B Fiske, 1 Bn, CCRP having
been duly sworn states:

I am Lieut R B Fiske, 1 Bn, CCRP.

I produce the following articles of clothing
kit, & regimental accessories found in the
Despres possession on the 23rd of Aug Aldershot
the articles found in the garbage can on
the 26th Aug 44. These articles are as follows:

1 Blouse - Battle Dress
1 Trousers - Battle Dress
1 Trousers - K.D.
3 prs socks
1 Pr nail tops
1 brush hair
1 brush shoe
1 housewife
1 pr braces
1 hold all complete
1 shaving brush
1 cap comforter
1 field dressing
1 M.B.M. part I, II, & III letters
Pte Langlois

Pte Despres identified these articles as being his own possessions.

Roger A. Fiske Lieut

The accused declines to question the witness

The articles of kit, clothing, equipment & regimental necessaries given the personal particulars required by Lieut Fiske, were produced and shown to the witness and marked as Exhibit 11 and is in my possession

Lieut & Adjt CCRP
Officer taking additional Summary.

Question to the Accused

Do you wish to make any statement or to give evidence under oath? You are not obliged to do so but any statement you make or any evidence you give will be taken down in writing & may be given in evidence against you by the accused

or in support of your defence.

I certify the foregoing Additional Summary of Evidence of 2 pages was taken down by me in the presence of the accused and that Rules of Procedure #(1)(a)(4) and (5) have been complied with.

In The Field
23 Sep 44

Investigating Officer
Officer detailed to take the Additional Summary of Evidence.

STATEMENT BY THE ACCUSED

I certify having received free of charge, a copy of the Summary of Evidence, list of witnesses, list of Exhibits and Charge Sheet.

I desire the services of an Officer to represent me at the trial.

Dated 20 Sept 44.

CHARGE SHEET

STATEMENT BY THE ACCUSED

additional

I certify having received free of charge, a copy of the Summary of Evidence, list of Witnesses, list of Exhibits and Charge Sheet.

I desire the services of an Officer to represent me at the trial.

Dated 24/9/44

CHARGE SHEET

55-12.

Ste. Desrochers, A. J. O.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E-9171 Pte Antonio Joseph Oscar DESROCHERS, R de Chaud, 1 Cdn Disciplinary Centre

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA sec 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ____ beginning on (date) ____ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Forfeiture of all ordinary pay for a period of Ninety days.

(Sgd) ____ 28 Feb 45 (Sgd) Jos Lovat Fraser Maj
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ____ (Sgd) ____ Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

(Sgd) (G S N Goetling) Brig
Date 1 MAR 45 Commanding 2 CDN BASE RPT GP Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

E9171 Pte Desrochers, A.J.O. 7 Mar 45 ____ Lt-Col.
Comdg, 1 Cdn Disciplinary Centre

CR# 241
d/7 Mar. 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5D 12

FIELD GENERAL COURT-MARTIAL

CFA68 (To take place of AFA81) 40/P & S. Instn (Gen) 4/38B

Convened by Order of Brig G S N Goetling, ED, Comd 2 CBRG dated 28 Feb 45

16 APR 1945 Capt. with

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed (b) apptmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-9171	Pte	Antonio Joseph Oscar	DESROCHERS	R de Chaud, 1 Cdn Disciplinary Centre.

PROCEEDINGS REVIEWED

Victor Stevens
18 Feb 45

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held at BELGIUM on (date) 28 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Cautions do NOT include all relevant fins KRs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 33-43, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ as interpreter? Ans ____ (1)
~~The Interpreter is sworn.(1) Do you object to~~ as shorthand writer? Ans ____ (1)
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil (1)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J B Lovat Fraser	ACE No 12 C&BR Bn
Member	Capt	J G Robichaud	CIC 13 C&BR Bn
Member	Lt	L A Gautier	CIC 10 C&BR Bn
Judge-Advocate		nil	
Prosecutor	Lt	W J Page	CIC 10 C&BR Bn
Defending Offr	Lt	J W A Hubert, R de Chaud	10 C&BR Bn

Questions by President: Is the Prosecutor a lawyer? Ans Nil Is the Defending Offr a lawyer? Ans Nil (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (5) and fn 2 were not followed. See DI p 3.)

A8. The accused E-9171 Pte DESROCHERS A J O. before arraignment make(s) (has) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 71, 72), such plea, the addresses made in support or opposal, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in ALL caps and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 C&BRG GA # P. 45

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), to call witnesses as to character and make an address in mitigation of punishment.[2]
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s)[1]. If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[2], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans No.[5]
(*1. RP 27(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of **Guilty** is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.[1]
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(*1. RP 37(A) (2).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....[1]
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.[1]
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AF5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.[1]
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?[1]
Ans No.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.[3]
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 552. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?[1] Ans .....[2]
(*1. RP 27(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest be Confirming Offr see KR Can 567. As to assemble and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, E-9171 Pte Antonio Joseph Oscar DESROCHERS, R de Chaud CIC, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT
LEAVE
in that he
In the Field, HOLLAND, absented himself without leave from 0700 hrs 21 Dec 44 until apprehended at LILLE, France at 1645 hrs 3 Feb 45.
(Absent 44 days 9 hrs 45 minutes)

In the Field
28 Feb 45

(A O Hood) Lt col
OC 1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial

In the Field
28 Feb 45

(G S N Gostling) Brigadier
Comd
2 Cdn Base Rft Gp

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-9171	Pte		Antonio Joseph Oscar	DESROCHERS	R de Chaud, 1 Cdn Disciplinary Centre.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 28 FEB 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

Major	(PS to Lieut-Gen O'Connor)	RCA	(3 CDN INF DIV)
(Rank.)	(Must be named. RP 106.)		(Unit.)

MEMBERS.

Capt	to be detailed by OC 13 CBR Bn	13 CBR Bn
Lieut	to be detailed by OC 10 CBR Bn	10 CBR Bn
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Dat 28 FEB 45

(Signed personally RP 105 (b) 2.)

(D S B Cumming)

Commanding 2 CDN BASE SPT GP

Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 2) 40-9 A S/1601 (6148)

(*See overleaf for oaths and notes for use on trial.*)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(C)), any objections (*RP* 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.
A 12345 Cpl H. Jones, RWR, sworn, states:
I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.
Cross-exam: He did not say he was sick. (*or*, None.)
Re-exam: None.
Exam by Court: He said—"I've had enough parades".
RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-45 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 90(C), 87(C), 92(C) (*D*).)
(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)
(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)
(iv) Evidence in rebuttal or on new matter, if allowed by Court (*RP* 86(B)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(C).)
(v) Evidence for prosecution in rebuttal (*or on question of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(C), 92(C) (*D*).)
(vi) Closing address (on matters other than as exemption of punishment) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(C), 92(C) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)
(vii) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(C), 92(C) (*D*). *Prosecutor has no right in address Court on subject of sentence except as provided by RP* 46(E), *KR Can* 563(*a*).)
(viii) Summing up by JA, if any. (*RP* 82.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS R. C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:
(i) Charge Sheet. (On top.)
(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.
(iii) Medical Certificate(s). (*KR Can* 557.)
(iiia) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.
(iv) Exhibits numbered. (*As to admitting in evidence a certified copy in lieu of original see KR Can* 560. *As to certified copies of regimental books see AA* 162 (1) (g) (k).)
(v) Summary of Evidence, if not already an exhibit.
(vi) Summary of Evidence, if not already an exhibit.
3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 80(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 52(9), *RP* 114(C), *MML* p 758.)
4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICER'S CERTIFICATE

(AR(Gen) Para. 557)
(CIRC 61 373)

I certify that I have this day examined E 9171 (No.)
Pfc. DEROCHER A. (Name)
(Rank)
and in my opinion he is

fit to undergo trial by Court-Martial.

Station 1 C. Clinic APO.
Date. 28 Feb 45

Capt Com (Grade)
Medical Officer
(unit) 1 C Clinic APO.

Exhibit C 8

Summary of Evidence in the case of E-9171 Pte Antonio Joseph Oscar DESROCHERS, R de Chaud CIC, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave.

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt II Order No 2 dated 13 Jan 45.

Exhibit "B" - Certificate of apprehension dated 3 Feb 45.

Q Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4(C) (D) (E) (F) and (G) have been complied with.

~~(J P Rutherford)~~ Capt
~~R C Signals~~
Officer detailed to take Summary of Evidence.

Dated in the Field
26 Feb 45.

PART II ORDER EXTRACT FORM

TO: OC
1 CDN DISCIPLINARY CENTRE
CDN ARMY OVERSEAS

99/20 Chaud/1(A5c)

20 FEB 19 45

EXTRACTS FROM: Unit LE REGIMENT DE LA CHAUDIERE

Part II Order No. 2 dated 13 JAN 45

ABSENT WITHOUT LEAVE

AWL from 0700 hrs 21 DEC 44 Still absent 0700 hrs 29 DEC 44
(8th day)
E9171 Pte DESROCHERS A

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records
Cdn Sec GHQ 2 Ech 21 A Gp

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

Exhibit A.
J.J. Rutherford Capt
a/a Commanding Officer Capt

Originating Clerk's Initials GV

for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
40-P-A-3/1276 (4032)

Exhibit B
D.F. Rutherford Capt.

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT, SECTION 16(1) (JJ)

I certify that No. E 9171 Rank PTE Name BESHOREN. A.
Div
of [illegible] (unit) was arrested at LILLE (place)
at 1645 hrs on 1/3/45 (date). He was dressed in uniform
plain clothes.

Date 1/3/45

Signature of Provost Marshal, A.P.M. or other officer into whose custody the above-named person was taken on arrest.

F. Mapey. Capt.,
(H. JEFFERY)
O.C. 242 H.Q. PROVOST COMPANY, C.M.P.

22/11

PART II ORDER EXTRACT FORM

TO: OC
1 CDN DISCIPLINARY CENTRE
CDN ARMY OVERSEAS

99/20/Chaud/1(A5c)

20 FEB 19 45

EXTRACTS FROM: Unit LE REGIMENT DE LA CHAUDIERE

Part II Order No. 2 dated 15 JAN 45

ABSENT WITHOUT LEAVE

AWL from 0700 hrs 21 DEC 44 Still absent 0700 hrs 29 DEC 44
(8th day)
E9171 Pte DESROCHERS A

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records
Cdn Sec GHQ 2 Echn 21 A Gp

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

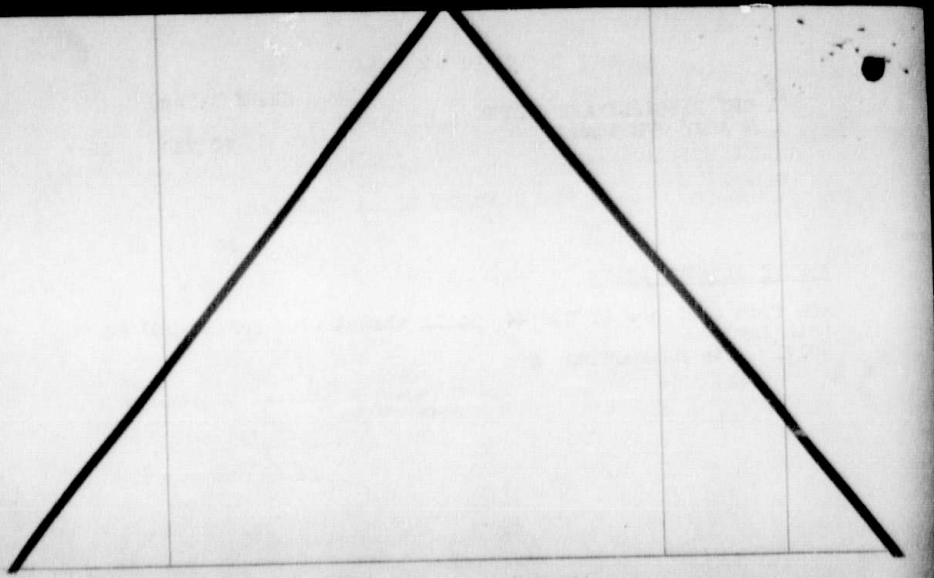
Exhibit A

J Rutherford Capt
on behalf of Capt

Originating Clerk's Initials GV

for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
60/P & S/1276 (6032)



Forwarded to D.A. and A.P. Branch, Ottawa.

Prepared by—

.....
Treasury Officer

.....
Paymaster (Rank)

Place .....

Place .....

Date .....

Date .....

Note: In the columns provided opposite each name, place check marks (√) to indicate what applications are attached.

CERTIFICATE OF ARREST IN ACCORDANCE WITH
ARMY ACT, SECTION 163(1) (JJ)

Exhibit B
D. D. Rutherford
Capt.

I certify that No. E 9171 Rank PTE Name HEUSCHKEL, A.
of 752 GCT. Bn/Regt. de la Chaudière, 3rd Cdn. Div (unit) was arrested at 1645 hrs on 3/2/45 (date). He was dressed in uniform
~~plain clothes~~.
at LIRE (place)
Date 3/2/45

Signature of Provost Marshal, APM or other officer into whose custody the above-named person was taken on arrest.

F. Jeffery.

(H. JEFFERY) Capt.,
O.C. 242 H.Q. PROVOST COMPANY, C.M.F.

32/A

EXHIBIT "D" 82

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E.9171	Pte	DESROCHERS, Antonio Joseph Oscar	R de Chaud.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded in the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AWL AA SEC 15(1) ____ 2 ____ times.

For _____ ____ times.

For _____ ____ times.

For _____ ____ times.

Date of first entry in Field Conduct Sheet No record of conduct in Canada. 6 Oct 43

Date of last entry in Field Conduct Sheet 26 Oct 43.

2. ~~Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

*3. ~~The accused at the present time is under sentence for _____ beginning on the _____ day of _____~~

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for _____ days in civil custody; and for ~~23~~ 25 days in military custody, *i.e.*, Nil days in open arrest, ~~2~~ 3 24 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 29 yrs 8 mos.

6. The date of his attestation ~~calling up for military service~~ is 5 Jul 40

7. The service which the accused is allowed to reckon is _____

8. The accused is in possession of‡ CVSM & Clasp.

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of _____	_____
In the war substantive rank of _____	_____
In the acting rank of _____	_____

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(37822) W1.24920/3404 5M.000 7/44 A.& E.W.Ltd. Gp.s/s Forms/B.296/W.a(3)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 26th day of February 1945

Holford
Lt Col

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of Extract from Pt II Order No 2 dated 13 Jan 45 "A"

Certificate of apprehension dated 3 Feb 45 "B"

I, E-9171 Pte DESROCHERS A J O, hereby certify that I have received one (1) copy of Charge Sheet and one (1) copy of Summary of Evidence free of charge on 26 Feb 45.

E-9171 Pte DESROCHERS A J O

4V-81

PTE DESROCHERS J.J.C.Y.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D139854 Private Joseph John Claude Yvon Desrochers

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 45(a)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 64; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) ~~[illegible]~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for ~~[illegible]~~ one hundred and fifty (150) months.

13 Feb 45 (Sgd) [illegible] President (RP 48, 50.)

(Sgd) ..... Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 57–56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally, AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I vary the sentence so that it shall be as follows, "To undergo detention for 150 days" and confirm the finding and sentence as so varied.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1. AA 57A. Delete if not used.)

FEB 19 1945 (Sgd) [illegible] COMMANDER

Date ..... Commanding 1 CDN BASE RFT GROUP Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused. Date. Signature of Offr.

D 139854 Pte Desrochers JCY 28 Feb 45 [illegible] "2 Echo Reinforcement Centre CMF (MF)

" Other Rft Ens

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160. 4V-81

RECEIVED 8 JAN 1945 JAG BRANCH CMHQ

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 40-P & S/1698 (40-P) 4/38B

Convened by Order of Lt. Col J J Flynn Command 4 Cdn Fd Svy Coy dated 18 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit
D139854	Private	Joseph John Claude Yvon	Desrochers	4 Cdn Fd Svy Coy RCE

PROCEEDINGS REVIEWED MAR - 6 1945

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date) 13 Feb 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation or procedure will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs or how to record addresses, evidence, etc, which items are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 36, 62-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1113 hours trial commences.

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the commanding officer.~~

(1. KR Con 557. 2. AA 46(F), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1)

(1. KR Con 557.)

A5. President to accused: ~~The sum object to my~~ ~~as interpreter I swear~~ ~~The Interpreter is warned~~ Do you object to C 22033 Cpl Leroy PA as shorthand writer? Ans No Sir. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the a/cused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(3). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J J Poulin	4 Cdn Fd Svy Coy RCE
Member	Capt	A Arnold	4 Cdn Fd Svy Coy RCE
Member	Lieut	C F Delonde	4 Cdn Fd Svy Coy RCE
Judge-Advocate			
Prosecutor	Capt	R R Brown	4 Cdn Fd Svy Coy RCE
Defending Offr	Lieut	J Rivo	4 Cdn Fd Svy Coy RCE

Questions by President: Is the Prosecutor a lawyer? Ans Yes. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 85 (B) and fn 2 were not followed. See D1 p 33.)

A8. The accused D139854 Pte Desrochers JCY before arraignment make(s) (no) ~~[illegible]~~ plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(B), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB room and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 26, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared on~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(1)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No Sir.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty as to charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "C", initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If dfts plea is changed to Not Guilty, trial thereon proceeds by completing para D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 92 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will necessarily carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans .....
Do you intend to call witnesses on your behalf?
Ans .....
Are they witnesses as to character only? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 66(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Form I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No Sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement as to Character and Particulars of Service(1), and certified true copy of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination(3) and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because they purport to be signed in the manner required by AA 163(b) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(3)
(*1. MFB 351 or MFB 296. 2. MFM a. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement and Conduct Sheet and in mitigation of punishment?(1) Ans No Sir.
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to present on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 1.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.
(*1. When several accused tried sepcrately see RP 71 (D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to severances see AA 44, 138, 183, RP 46a-30, 69, 118, 119(A), KR Can 368, 330, 563-566. Overseas RO ROW 1223. MML p 60, 732-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(B), 68(1), KR Can 564. 2. RP 50. As to release from arrest on Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

THE ACCUSED, NUMBER D136854 PRIVATE JOSEPH JOHN CLAUDE YVON DESROCHERS OF 4 CDN FWD RFT BN, 1 CDN BASE RFT GROUP, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, ALLIED ARMIES IN ITALY, IS CHARGED WITH:

1ST CHARGE
A A Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from 0900 hrs 19 Jan 45 until surrendering himself at approx 0215 hrs 27 Jan 45 (7 days 17 hrs 15 mins).

(L J Flynn) Lt-col
Commanding

In the Field
12 Feb 45 4 Cdn Fwd Rft Bn - 1 Cdn Base Rft Group - CMF

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(L J Flynn) Lt-col
Commanding

In the Field
12 Feb 45 4 Cdn Fwd Rft Bn - 1 Cdn Base Rft Group - CMF

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(E).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D138854	Private		Joseph John Claude Yvon	DESROCHERS	4 Cdn Fwd Rft Bn.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 12 Feb 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr;~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Bd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint an Judge-Advocate thereat the Offr mentioned hereunder~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	JLN Poulin	4 Cdn Fwd Rft Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	A Arnoldi	4 Cdn Fwd Rft Bn
Lieut	CF Lalonde	4 Cdn Fwd Rft Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	D MacDonald	4 Cdn Fwd Rft Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(L J Flynn) (Signed personally. RP 105 fn 2.)

Lt-col (Rank.)

Date 12 Feb 45

Commanding 4 Cdn Fwd Rft Bn-1 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (F.A.86 (To Secs of AFA) 40-F & S-1867 1400)

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing *see* AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(C)), any objections (*RP* 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12340 Cpl H. Jones, RWR, sworn, states:

I am a sgt of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 89(C), 87(C), 92(C) (D).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(B)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(C).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns* 8-12, 87(C), 92(C) (D).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 81.)

(vi) Closing address by Prosecutor. (*See RP 40 fn* 7, 87(C), 92(C) (D). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(E), *KR Can* 562(a).)

(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can* 557.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used. (v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy as item of original see KR Can* 560. *As to certified copies of regimental books see AA* 163 (1) (g) (h).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 96(D).) A recommendation for mercy will be inserted in Part 1 of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 118(C), *MML p* 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

HQ

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) Para 557

FEB 13 1945

I hereby certify that I have this morning examined No D138854

PTE DESROCHERS, JJCY on strength 4 Cdn

Rft Bn, 1 C B R Gp, and in my opinion he is FIT/~~UNFIT~~ to undergo

trial by Court Martial

W J Trant Capt

Medical Officer 4 Cdn Rft Bn.

PLEA IN MITIGATION IN THE CASE OF M38854 PRIVATE DESROCHERS MJCK

Mr President and Members of the Court; Private Desrochers enlisted at the age of 18 on the 19 Jan 43. In Canada he was a Corporal and took part in a demonstration platoon in Farnham. He was reverted to the ranks on coming overseas, on the 16 Feb 44.

He came to Italy one month after. He joined his unit at the Hitler Line and stayed with his unit until evacuated from Russi for a month in hospital. He was evacuated from the theatre not because he had been wounded but because of exhaustion on account of too much work. Private Desrochers was a section leader in his unit at the time and even carried out platoon commander's work for four or five days when his platoon commander was wounded.

At this time Private Desrochers is quite worried about his family. His father is dead and his mother has to work to provide for his three young sisters and his one brother. The widow's pension his mother used to draw has been cut. He, himself has always sent home part of his pay but still it is not enough for such a family. The Padre is working now for this man to be sent home.

I am sure the Court will take all these points into consideration and act accordingly. When he went absent without leave from Farnham it was then the same trouble. Private Desrochers saw the mistake he made by going absent without leave and reported himself back at 4 Bn.

Exhibit "C"

Summary of Evidence in the case of D138854 Private Joseph John Claude Yvon DESROCHERS of 4 Cdn Fwd Rft Bn 1 C B R G who is charged with WOAB Absenting himself without leave A A 15 (1).

By direction of the Commanding Officer the evidence is taken upon oath.

1st Witness: A3885 Pte Knowles, H, 4 Bn 1 C B R G having been duly sworn states:

I am A3885 Pte Knowles, H, file clerk 4 Bn 1 C B R G Orderly Room.

I produce a certified true copy of an X-List R 22 R Part II Order No. 15 dated 2 Feb 45 purporting to relate to the accused and showing that D138854 Pte DESROCHERS JJCY absented himself without leave from 0900 hrs 19 Jan 45. (produced, shown to accused, marked Exhibit "A" and attached hereto).

I further produce a certificate under A A 163 (1) (j) purporting to relate to the accused and showing that D138854 Pte DESROCHERS JJCY surrendered himself at 0215 hrs 27 Jan 45 (produced, shown to accused, marked Exhibit "B" and attached hereto).

H Knowles

(A3885 Pte Knowles H)

The accused declines to cross-examine this witness.

Question to the Accused:

Do you wish to make a statement or to give evidence upon oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but anything you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the Accused:

No Sir.

I certify that R P 4 (c), (d) (e) and (f) have been complied with.

I certify that this summary of evidence was taken down by me in the presence and hearing of the accused.

(R R Brown) Captain
Officer taking Summary

In the Field
12 Feb 45

Certified true copy from Regimental Books in my custody.

(A E Davidson) Capt & Adjt
4 Cdn Fwd Rft Bn - 1 Cdn Base Rft Group - CMF

Last Order No. 14 31 Jan 45

"X" LIST ROYAL 22e REGIMENT
Part II Orders issued by
CANADIAN SCOTTISH, Col DUMELOW, APHQ

This Order No. 15 2 Feb 45

"A" OFFICERS

1. COURSES

(a) Proceeded on Course (No. 12 Mortar) 29 Jan 45 and att to CMTC Benevento Fm (20 Jan 45 to 17 Feb 45)
Lieut G. Major

(b) Proceeded on Course (No. 12 Mortar) 29 Jan 45 and att to CMTC Benevento Fm (20 Jan 45 to 17 Feb 45)
Lieut P.L.J.P.A. Laflèche

"B" OTHER RANKS

2. STRENGTH INCREASE

(a) T.O.S. X-3 List from Royal 22e Regiment

C53956	Pte	Albert,	A.	30 Jan 45
H106015	Pte	Bernard,	L.P.	26 Jan 45
D134205	Pte	Chartrand,	L.C.	26 Jan 45
D142084	Pte	Jacob,	P.J.	26 Jan 45
B142841	Pte	Lachance,	M.J.	26 Jan 45
B81074	Pte	Leblanc,	[illegible]	26 Jan 45
D64022	Pte	Lemaire,	M.	26 Jan 45
D116506	Pte	Martin,	[illegible]	26 Jan 45
D106653	Pte	Morel,	J.A.L.L.	26 Jan 45
C75056	L/Cpl	Moisan,	L. de P.	25 Jan 45
H142176	Pte	Pelletier,	[illegible]	30 Jan 45
H4462	L/Cpl	Perreault,	J.J.R.	30 Jan 45
D36153	L/Cpl	Provencal,	P.	27 Jan 45
D41092	Pte	Richer,	P. Clerk "C"	26 Jan 45
B42647	Pte	Rose,	P.R.	27 Jan 45
E9483	Pte	Sylvestre,	[illegible]	29 Jan 45
				26 Jan 45

(b) T.O.S. X-3 List from 6 Cdn Base Rft Sn 27 Jan 45

B46905	Pte	Menard,	R.

(c) T.O.S. X-3 List from X-9 List 26 Jan 45 on comm to 2 Cdn F.P. Comp (awarded 6 Mos TEF 13 Jan 45)

H141373	Pte	Pedneault,	[illegible]

(d) T.O.S. X-3 List from 17 Cdn Spec Emp Coy

H12121	Pte	Caron,	[illegible]	
C121760	Pte	Charron,	[illegible]	29 Jan 45
H132833	Pte	Perreault,	[illegible]	30 Jan 45
				31 Jan 45

(e) T.O.S. X-3 List from X-9 List 1 Feb 45

B5206	Pte	Matheos,	J.

3. INTERNAL POSTINGS

(a) Posted from X-4 List (Sick) to X-7 List

D116489	Cpl	Dubreuil,	A.	
C12064	Pte	Jacques,	[illegible] Mess MV "C"	27 Jan 45
				28 Jan 45

Colonel A.
Commanding Officer

3. STRENGTH POSITIONS (CONT'D)

(b) Posted from X-4 List (43n) to X-4 List (43n) 30 Jan 45
Asth - 4 Bn/02 d/25 Jan 45

B6142	Pte	Auger,	L.
B29209	Pte	Bisson,	S.
D93871	Pte	Boucher,	G.
C65767	Pte	Collette,	G.A.
D153132	Pte	Dagenais,	G.
M106214	Pte	Gilbernait,	G.J.A.
C75113	Pte	Tremblay,	S.

(c) Posted from X-3 List to X-4 List (43n)

E 9014	Pte	Bolduc,	J.	
E5793	Cpl	Caisey,	L.	27 Jan 45
D118439	Cpl	Dubreuil,	L.	27 Jan 45
D51411	Pte	Froment,	A.	25 Jan 45
E8209	Cpl	Girard,	J.	29 Jan 45
B63256	A/Cpl	Leblanc,	A. (MM)	27 Jan 45
M130383	Pte	Martel,	[illegible] Inf Bde"	27 Jan 45
E95615	Cpl	Menard,	G.	27 Jan 45
M101036	A/Cpl	Piche,	J.E.	27 Jan 45

(d) Posted from X-2 List to X-4 List (43n) 26 Jan 45 Released from 25 F.P. CanP

E10139 Pte Fortin, F.

4. ABSENT WITHOUT LEAVE

(a) A.W.L. from 0900 hrs 19 Jan 45 still absent 0900 hrs 27 Jan 45 (8th day)

X31033	Pte	Macoult,	L.	X-4 List (43n)
242181	Pte	Jackson,	R.	"
B27400	Pte	St.Jean,	A.	"

(b) A.W.L. from 0930 hrs 26 Jan 45 still absent 0930 hrs 27 Jan 45 (1st day)

B23609 Pte Wilson, C. X-4 List (43n)

(c) A.W.L. from 1245 hrs 8 Jan 45 still absent 1245 hrs 16 Jan 45 (8th day)

D109962 Pte Dumas, R. X-4 List (43n)

(d) A.W.L. from 1245 hrs 8 Jan 45 Ret from AML 1715 hrs 11 Jan 45

040232 Pte Aubin, J.H.A. X-4 List (43n)

(e) A.W.L. from 1630 hrs 24 Jan 45 still absent 1630 hrs 25 Jan45 (1st day)

E4930 Pte Prunneau, P. X-4 List (43n)

(f) A.W.L. from 0730 hrs 21Jan 45 still absent 0730 hrs 29 Jan 45 (8th day)

E5477 Pte Chouinard, H. X-3 List (10Cb)

4. ABSENT WITHOUT LEAVE(CONTD)

(g) A.W.L. from 1830 hrs 20 Jan 45 still absent 1830 hrs 26 Jan 45 (6th day)
B54780 Pte St.Arnaud, R.A. X-4 List (12Bn)

(h) A.W.L.from 2145 hrs 20 Jan 45 still absent 2145 hrs 25 Jan 45 (5th day)
B109004 Pte Boutilier, A. X-4 List (12Bn)
D104079 Pte Turenne, L. "

(i) A.W.L. from 0900 hrs 19 Jan 45 Ret 0215 hrs 27 Jan 45
D134854 Pte Desrochers, J.L.V. X-4 List (4Bn)
D144275 Pte Dube, M. "

(j) A.W.L. from 0700 hrs 7 Jan 45 Ret 2135 hrs 29 Jan 45
B4052 Pte Marsh, J.P. X-4 List (12Bn)

(k) AMENDMENT: Part II Order No 9 para 6(a) of 20 Jan 45 insofar as it refers to the a/n is cancelled
C40232 Pte Aubin, J.F.A. X-4 List (4Bn)
D109952 Pte Dumas, R. X-4 List (4Bn)

(l) AMENDMENT: Part II Order No 14 para 4(a) of 31 Jan 45 insofar as it refers to the a/n is cancelled
D109952 Pte Dumas, R. X-4 List (4Bn)

5. PUNISHMENTS

(a) On 27 Jan 45 awarded 7 days F.P. and a forf of 7 days pay for an off under AA 15(1) AWL from 1245 hrs 6 Jan 45 to 1715 hrs 11 Jan 45(absent 3 days 4 hrs 30 mins) Held in close arrest from 1715 hrs 11 Jan 45 to date of trial. Forfs 15 days pay under FR&I 149(1)(c)(ii) Forfs 4 days pay under FR&I 149(1)(c) Forfs 7 days pay under FR&I 149(2) Total forf of 26 days pay
C40232 Pte Aubin, J.F.A. X-4 List (4Bn)

(b) On 31 Jan 45 awarded 28 days F.P. and a forf of 28 days pay for (1) an off under AA 15(1) AWL from 1030 hrs 19 Jan 45 to 1822 hrs 19 Jan 45(absent 7 hrs 52 mins) (2) an off under AA 40 Forfs 28 days pay under FR&I 149(2) Forfs 1 days pay under FR&I 149(1)(c) Total forf of 29 days pay
D95872 Pte Boucher, C.V. X-4 List (12Bn)

(c) Sentence of 18 Mos Imp with R.L. awarded 29 Mar 44 vide R22eR Part II Order No 16/44 CONFIRMED 26 Jan 45 Auth - Officer i/c 1 Echelon AFHQ
C21037 Pte Marchand, Y.

(d) Sentence of 2 Yrs Imp with R.L. awarded 24 Mar 44 vide R 22e R Part II Order No 15/44 CONFIRMED 24 Jan 45 Auth - Officer i/c 1 Echelon AFHQ
D94109 Pte Menard, L.

6. NEXT OF KIN
(a) Change of address N-of-K Mrs. Helene Girard(Mother) from Iberville, station Ste St Jean, Que., Canada, to Jonquiere, 24 st Denis, Qe., Chicoutimi, P.Q., Canada
E6209 Cpl Girard, J.

7. HONOURS AND AWARDS
(a) Awarded 1939 - 45 Star
24489 Pte Desjardins, J.P.

(b) AMENDMENT Part I- Order No 4A para 5(a) of 21 Jan44 insofar as it refers to the u/n is cancelled
D106021 Pte Gagné, J.L.L. M.

8. STRENGTH DEDUCTABLE
(a) S.O.S. X-2 List to 16 Cdn Spec Emp Coy
C136275 Pte Couture, J.A. 24 Jan 45
D4175 Pte Dagnon, G. 17 Jan 45
H126541 Pte Rousseau, F. 25 Jan 45

(b) S.O.S. X-3 List to 19 List 27 Jan 45 Auth - Pend ng Reboard
D57126 Pte Delanger, Y.

(c) S.O.S. X-4 List (43a) to Royal 22e Regiment 30 Jan 45
Auth - 1 CO/160 d/27 Jan 45
D51411 Pte Fromenk, D.

(d) S.O.S. X-4 List (43a) to Royal 22e Regiment 29 Jan 45
Auth - 1 CO/160 d/27 Jan 45
E5763 Cpl Galant, L.
D56413 Cpl Kenard, G.

(e) S.O.S. X-3 List to 170Cn Spec Emp Coy 24 Jan 45
C121759 Pte Cherron, J.A.E.

(f) S.O.S. X-3 List to 16 Cdn Spec Emp Coy 23 Jan 45
D137534 Pte Binette, J.E.

(g) S.O.S. X-4 List (43a) toRoyal 22e Regiment 26 Jan 45
Auth - 1 CO/125 d/20 Jan 45
C37017 L/Cpl Barbin, F.
H6506 Sgt Dore, J.
H100130 Pte Dube, A.
H-40799 Pte Henault, J.L.C.

(h) S.O.S. X-4 List (47g) to Royal 22e Regiment 27 Jan 45
Auth - 1 CO/153 d/ 6 Jan 45
D100283 Pte Raymond, J.C.S.
D-747 Pte Rioux, R.
B4764 Pte Welch, M.

6. STRENGTH DEDUCTABLE(CONT'D)

(1) S.O.S. "X" List to "X" List 29 Jan 45 Arth - AFW 3169
C/30 Jan 45

H4671	Pte	Tremblay,	J.
H5096	Pte	Blais,	J.
H4804	Pte	Cyr,	L.
H140107	Pte	Laperrière,	J.A.
H4771	Pte	Lavoie,	M.
H213[illegible]	Pte	Morel,	J.

(1) S.O.S. "X" List (Bis) to Royal 22e Regiment 26 Jan 45
Arth - Can 027/AFS/1 C2/163 C/26 Jan 45

H40292	Pte	Aubin,	J.E.A.
H39011	Pte	Soldat,	O.
H[illegible]09	Cpl	Girard,	J.
663209	A/Sgt	Leblanc,	A. (MM)
D129323	Pte	Martel,	E.D.A. Inf Sig "C"
D101034	A/Cpl	Piche,	J.E.

(W.H. Lauchlin) Captain,
for Officer i/c
Canadian Section, 2nd Echelon, AFHQ

cHB

Exhibit "B"

CERTIFICATE UNDER ARMY ACT Section 163 (1) (i)

I Lt Col L J Flynn certify that No D138854

Rank PTE Name DESROCHERS J.J.C.Y. of the

Royal 22nd Regt surrendered himself

to R67700 CPL BRADLEY J.S. of the LCDN RIFT BN

at Guard Room on the 27-1-45 at approx 0215 hrs

as an absentee without leave / deserter.

HE WAS SOBER AND WEARING KING'S UNIFORM

A.B.S.

Signature of Provost Officer [illegible] Capt

Also of other officer into whose custody the above named soldier was taken on arrest.

Exhibit "D"

Army Form B.296 (War).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D138854	Private	DESROCHERS JJCY	4 Bn 1 CBRG

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be endorsed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA 15 (1) ..... 3 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for .....

beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for from 0215 hrs 27 Jan 45 days in civil custody; and for 17 days in military custody, *i.e.*, Nil days in open arrest, 17 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 20 years

6. The date of his attestation / enlisting or first military service is 19 Jan 43

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of† .....

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

W. 58000/1605 20,000 2/44 El.4751. Forms/B.296/War/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 12th day of February 1945

A. C. Davidson

(A. C. Davidson) Capt & Adjt

4 Cdn Fwd Hft Bn - 1 Cdn Base Hft [illegible]

CERTIFIED TRUE COPY OF ORIGINAL MPR'S

Exhibit "F"

No D138854 Name Desrochers JCY Sgt, Aircrtsy, 2CE Company "C" Corps CIC Date of enlistment 20-1-43 GC Badges One Service or Proficiency Pay R Gravel Lt Character

Date of last entry in Company Conduct Sheet 3-4-43 No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No

MFM 6 (AFB 122) 40/PASS/136 (3488)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 20 Jul 43; last entry 3 Apr 43; cases of drunkenness NIL									
Farnham Que.	17-10-43	Pte		AA 15(1) AWL from 2359 hrs 17 Oct 43 until 0350 hrs 8 Dec 43 (51 days 3 hrs 51 mins).	Documentary	21 days detn	13-12-43	Col AT Howard	73 days pay FMeI 149(1)(a)(b)
Field	30-6-44	Pte		WOAS absenting himself without leave from 0630 hrs on 30-6-44 until 0830 hrs 30 jun 44 total absence 2 hrs AA Sec 15 (1).	Sgt Fluze Y Cpl St Francois R	7 days CB 3 days F. of Pay	1 Jul 44	Maj JGC Charlebois	?
Field	8-1-45	Pte(a/Cpl)	1	AA Sec 15(1) WOAS AWL 6 days 14 hrs 30 mins	Sgt Tomblyn	Auto, forf 7 days pay. Reverted to the rank of Pte.	11 Jan 45	Lt. Col LJ Flynn	

(PTO)

RECEIPT FOR CHARGE SHEET & SUMMARY OF EVIDENCE

I hereby certify that I have this date 12 Feb. 1943 received from 4 Cdn Rft Bn, 1 C B R Gp, 1 copy of Charge Sheet and Summary of Evidence referring to charge (s) of AWL. AA 15(1)

for which I was remanded for Court Martial.

N Durocher
(Sig of Accused)

REQUEST FOR DEFENDING OFFICER

I hereby request that Lieut J. Riva

if available, act in my defence. If this officer is not available I request that the Commanding Officer of 4 Cdn Rft Bn, 1 C B R Gp appoint an officer to act in my behalf.

N. Durocher
(Sig of Accused)

Pursuant to Chap V Sec V Sub Sec 25 of MML, I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

N Durocher
(Sig of Accused)

5K-114

Ake. Desmoshers, K.

MINUTE OF PROMULGATION

FGCM 12 Apr 45 R/6171 Pte Roger DESROCHERS, R de Chaud, 10 CHR Bn

Charges	Findings	Sentence
Army Act Sec 12(1) Desertion	Guilty	To suffer penal servitude for the term of three years and to be discharged with ignominy from His Majesty's Service.
Army Act Sec 22(1) Breaking out of Arrest	Guilty	

Confirmation

I confirm the findings and sentence.

(Sgd) E C Weeks, Major-General
in charge of Administration
Canadian Military Headquarters

14 May 45

Promulgated and extracts taken in the field in ~~Belgium~~ this ~~24th~~ day of May 1945.

(J H Moorhurst) Lt Col
Officer Commanding
1 Cdn Discipline Centre

A.M. Emerton Capt
ADJA, 2 Cdn Base Rft Gp
Certified True Copy

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E-6171 Pte Roger DESROCHERS R de Chaud - 10 CBR Bn

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 12(1)	NOT GUILTY	GUILTY	
2nd	AA Sec 22(1)	GUILTY	GUILTY	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ——— beginning on (date) ——— (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial: Total of 145 days, of which ——— days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer penal servitude for the term of three years and to be discharged with ignominy from His Majesty's Service.

(Sgd) "G E Collins" Lt — Judge-Advocate, if any.
12 Apr 45 — Date awarded.
(Sgd) "P S Osler" Major — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

I RESERVE THE FINDING AND SENTENCE FOR CONFIRMATION BY SUPERIOR AUTHORITY

Date 16 Apr 45 (Sgd) "G S N Gostling" (G S N Gostling) Brigadier — Appointment 2 Cdn Base Rft Gp

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 58, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings and sentence

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1)
(1. AA 57A. Delete if not used.)

(Sgd) E C Weeks, Major-Gen
Date 14 May 45 ~~Commanding~~ i/c Administration
Confirming Officer.

I certify that there are no ill-galities in the proceedings.
Sgd. [illegible] Capt
Offg Dep Judge Adv Gen Base Sec CMHQ

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused. E6111 Pte Roger Desrochers. Date. 26 May 45 Signature of Offr. John Hurst Lt Col 1 Cdn Dis Centre Condy

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

A/Capt E Emerton
ADJA, 2 Cdn Base Rft Gp
Certified True Copy

5K-114

CFA68 (To Dept of A.P.W.) 40-P.W.&S.(1944)—(6m) 4/3885

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier G S N Gostling ED Comd 2 CBRG dated 10 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
E-6171	Pte	Roger	DESROCHERS	R de Chaud 10 CBR Bn

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 12 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 118, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)
(1. As to use of Summary of Evidence see RP 17 fn 2. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1345 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused:~~ Do you object to ——— as interpreter? Ans ———
~~The interpreter is sworn.(1)~~ Do you object to ——— as shorthand writer? Ans ———
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	P S OSLER	RCA X-9 List 3 Cdn NETD
Member	Lt	J E CHISSON	CIC 10 CBR Bn
Member	Lt	G E COLLINS	CAC HQ 2 CBRG
Judge-Advocate	Capt	C LAGASSE	CIC 10 CBR Bn
Prosecutor	Lt	C Z GODLOVITCH	CIC 10 CBR Bn
Defending Offr			

Question by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned unopened with proceedings for information of Conv Offr.
2. If Pros a lawyer, Def Offr accused is entitled to be defended by lawyer when RP 89 (B) and fn 2 were not followed. See Dir p 31.)

A8. The accused E-6171 Pte Roger DESROCHERS before arraignment make(s) (no) plea (2)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court, (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C,D,E & F

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol.6 P.72

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans no (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans no (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~a~~ (1) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), ~~and allowed on the charge(s)~~, and that, accordingly, the trial will proceed on the former, ~~but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 71 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Yes to give evidence. Do you intend to call witnesses on your behalf? Ans Yes. Are they witnesses as to character only? Ans

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A65. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up to the JA under RP 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(F).)

D8. The President ~~announces the finding(s), if any, of Not Guilty,~~ and states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.(1)

Or, ~~The President announces that the accused is found Not Guilty on all charges and, as he is released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed by~~

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans Yes call a character witness.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (a) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(2)

(1. MFB 353 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes in mitigation of punishment (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-52, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas 80 KPP 2322, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), (d)(i), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 367. As to assembly and disposal of record after trial see insets on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RSD

MEDICAL OFFICER'S CERTIFICATE

(KR(Con) Para 507)
(CRRG GL 173)

I certify that I have this day examined E-6717 Pte Roger DESROCHES (Name) (No.) and in my opinion he is

(unfit) (Sick)

~~xxxxx~~ to undergo trial by Court-Martial.

Station Field

Date. 12 Apr 45

"R H Chalmers" (Surg)

Medical Officer (unit) 10 Bn 2 CBRG

B50

CHARGE SHEET

The accused E-6171 Pte Roger DESROCHERS (R de Chaud) of the strength of 43 Coy, 10 CBR Bn, a soldier of the Canadian Army Overseas.

is charged with

FIRST CHARGE
A.A. Sec 12(1)

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

In that he

In the Field at 0800 hrs, 27 Sep 44, with intent to avoid active operations against the enemy, absented himself without leave until surrendering to the military authorities at Rouen at 2300 hrs 14 Nov 44.

SECOND CHARGE
A.A. Sec 22(1)

WHEN ON ACTIVE SERVICE, WHEN IN LAWFUL CUSTODY, ESCAPING

In that he

In the field at 1715 hrs 16 Nov 44 whilst in lawful custody at 10 CBR Bn, escaped.

In the Field
19 Mar 45.

"J Runcie"
(J Runcie) Lt-Col
O.C., C.B.R. Bn

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
10 Apr 45

"G S N Gostling"
(G S N Gostling) Brigadier
Commander
2 Cdn Base Rft Gp

B30

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-6171	Pte	Roger	DESROCHERS	R de Chaud 10 CBH Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on 10 Apr 45 (date) endorsed by me, (~~or by an offr of my staff for me,~~) " To be tried by Fd General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr,~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	P S OSLER	RCA X-9 List 3 Cdn NETC

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lt	to be detailed by OC 10 CBR Bn	10 CBR Bn
Lt	to be detailed by OC 11 CBR Bn	11 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Lt	G E COLLINS	Legal Offr att 2 CBRG(ADJA)

On Active Service in the Fd

in BELGIUM (Country.)

Date 10 Apr 45

"G S M Gostling" (G S M Gostling) Brigadier (Rank.)

2 Cdn Base Rft Gp Commanding Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (FAGO (In lieu of AFA3)

On behalf of the JAG Cdn Army Overseas I approve the appointment of Lt G E Collins as Judge Advocate the said Lt COLLINS having legal qualifications.

"H H Griffin" (HH Griffin) Capt HQ 2 CBRG

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution,

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 45 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 118 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or J.A. (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 81.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D).* *Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).*)

(vii) Summing up by J.A. if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or J.A. if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or J.A. if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 507.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 569. As to certified copies of regimental books see AA 163 (1) (g) (k).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95 (D).*) A recommendation for mercy will be inserted in Part I of defendrie on p 4 after minute of sentence awarded. (*AA 53(3), RP 118(C), MML p 799.*)

4. The President or J.A. if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

IN RE DESROCHERS

P50

PROSECUTION :

Capt E H Kinghill, formerly Records Officer 13 CBR Bn, now 1 Ech, sworn states:-

I do not recognize the accused but I do know that he went AWL sometime in September while I was records offr 13 CBR Bn. A Court of Inquiry was held at 13 CBR Bn after the 21st day of the accused's absence. A casualty return was submitted after the findings of the Court - striking the accused off strength 13 Bn as a deserter. That is normal procedure laid on by 2 Ech. Due to the fact he went AWL he was not present at the Unit when a demand came in for personnel to go forward to an operational Unit in the fie -ld. At that time the system controlling demands on 13 Bn would probably have called for approximately 12 to 15 demands during the accused's absence. The accused was at 13 Bn as a reinforcement.

No cross-examination

Court.

In September and October we could expect about 2 demands per week for a particular unit. There were occasions when we couldn't fill Chaudiere demands completely. The accused would have definitely been on one of the Chaudiere or other drafts. Demands came in on very short notice. No one could leave camp without a pass. Control was necessary to be kept over every individual.

R P 83(b) complied with.

Documentary - declaration of Ct of Inquiry assembled 26 Oct 44 @ 13 Bn 2 CBRG showing commencement of absence - 0800 hrs 27 Sep 44.

Documentary - certif of apprehension showing arrest at ROUEN @ 2300 hrs 17 Nov 44.

Prosecution closed

D.O. makes submission of no prima facie case (see attached statement)

Prosecution replies (attached)

Submission is disallowed.

DEFENCE

Accused - sworn - states: I knew a young girl who stays in ROUEN I intended to go and see her. Then I went away and stayed with her. I never made any black market in order to live. I always had the intention to report back and then I surrendered. I never wore civilian clothes during my absence, I always kept my means of identification - discs, paybooks and identity card. I was properly dressed when I surrendered in ROUEN. I stayed with my girl's family - they gave me a place to sleep - food and money.

Cross exam - I did not know while I was at 13 Bn that I was liable to go to the front. No one ever told me that I was going up front or could expect to go from CLRG. I knew that someday I would be going to the front. When I arrived at 13 Bn I did not know it was a forward Bn and that I was liable to leave at any time for the front. When I went AWL I knew that others would be leaving for the front during my absence.

...../2

A50

Accused (cont'd). I was at 13 Bn for about 1½ weeks. I did not know of any groups of men who went forward while I was at 13 Bn. I expected that when I moved I would go to 46 Coy - which is the last coy before going to "B" Echelon of a unit. When I was at 13 Bn I was A-1 although I had no re-board.

R P 83(b) complied with.

Accused introduces statement as to character given him by Capt T.P. Taschereau, R de Chaud.

E 3

Plea by DO in mitigation of sentence (attached)

E 2

Accused states he has been in close custody since 14 Nov 44 except for two days 16 - 18 Nov 44 incl, when he escaped and surrendered himself.

P 80

NON-ESTABLISHMENT OF PRIMA FACIE CASE:

The defence submits that the prosecution h s in no way proved wilful and deliberate intention on the part of the accused to avoid active operations against the enemy and has therefore not established a prima facie case. The defence feels that the evidence presented by the prosecution established only "Absence without leave but in no way supports the charge of desertion.

"C Z Godlovitch"

REPLY TO OBJECTION OF DEFENSE AS TO THE CASE BEING A PRIMA FACIE CASE:

13 CBR Bn is considered as the forward Bn of CBRG and personnel who are sent there on drafts know that they are going forward from there to the front. Pte Roger DESROCHERS went AWL - there is no doubt about that. When he went AWL he was on his way to the front and he could expect to leave at a short notice for a Unit. His offense therefore is more serious than a straight AWL offense, and should be considered as a deserter.

"C Lagasse" Capt
for prosecution.

CLOSING ADDRESS

In the Case of E-6171 Pte Roger DESROCHERS, R de Chaud.

After the evidence given before the Court there is no doubt that the a/m was AWL. The circumstances under which he went AWL classify him as a deserter of his Majesty's service He was a fit reinforcement for the field and, being at 13 CBR Bn he knew that he would be going forward soon. By being absent he avoided leaving on drafts. Under those circumstances his offense is more serious than a straight AWL offense.

"C Lagasse" Capt
Prosecution Officer.

SUM UP OF DEFENCE:-

In summing up for the defence we maintain that the prosecution has not proved wilful intent to avoid active operations against the enemy. The evidence presented by the prosecution in support of the charge of desertion is at best merely deduced from the non-conclusive circumstances surrounding the absence of the accused and is therefore based on Hypothesis rather than fact. Whereas our plea of "NOT GUILTY" is based on the following facts.

1. The accused has stated under oath that he had no intention of avoiding service with his unit ot of not returning to His Majesty's Service. This is borne out by the fact that the accused surrendered himself to the military authorities in ROUEN.

2. He has stated that never, at any time, did divest himself of his uniform or his means of identification. The fact is that on surrendering he was properly dressed and in possession of his identity card and discs.

3. The mere length of his absence is in no way conclusive . I quote CH III Sec 18 MML:-

"mere length of absence is by itself inconclusive as a test - for a soldier who has been entrapped into bad company through drink or other causes may be absent some time without any thought of becoming a deserter.

I ask the Court to consider the circumstantiability and lack of factual information in the evidence presented by the prosecution as proving intent and the evidence the defence has brought to your attention - we ask that you find the accused NOT GUILTY as charged.

"C Z Godlovitch"

J A's CLOSING ADDRESS

I wish to point out that it is part of my duty as Judge Advocate to sum up the evidence and advise the Court on the law.
The Court, however, is the sole judge of the facts and anything I may say now or may have said previously indicating my personal views as to the facts shall be entirely disregarded. The Court is the sole judge of the facts.
As to the offence of desertion (here J.A. sums up in a manner substantially the same as the charge contained in the attached statement marked 'T')

I have nothing further to say unless the Court, or Prosecutor or Defending Offr require explanation on any question I may have overlooked.

Mr President have you any points on which you wish me to address the Court? No.

Mr Prosecuting Offr have you any points on which you wish me to address the Court? No.

Mr Defending Offr have you any points on which you wish me to address the Court? No.

"G E Collins" Lt

"T"
Referred to in J.A.'s Summing up.
D.J.A.C.

JUDGE-ADVOCATE's Closing Address to the Court
SUMMING UP

DESERTION

There are two types of desertion. (1) general desertion, the intention being not to return to military duty in any corps, (2) desertion in which the intention is to avoid some important particular service, for example, engagement with the enemy, carrying of supplies of material of war for troops in operations, reinforcement drafts, etc.

The charge in this case falls into the second category since it is alleged in the charge that the accused absented himself with intent to avoid active operations against the enemy.

As the charge is so worded it is not open to you to find general desertion but the charge must be proved substantially in the wording of the particulars, although as always it is open to you to bring in a special finding should you find the accused guilty of special desertion but find that the particulars alleged vary in some immaterial respect from the wording of the charge.

To prove an intent to avoid some particular service the onus is on the prosecution to prove the necessary ingredients, such as the role which the accused's unit was carrying out at the time, the circumstances under which the accused was apprehended, any statements or admissions made by the accused, in short any circumstance or circumstances from which you could reasonably infer that the accused had a firm intention to avoid such a particular service.

Providing that evidence or some such evidence is before you it is entirely within your power to draw whatever reasonable conclusion you wish to draw from such evidence, bearing in mind always that if there is any reasonable doubt in your mind as to such intention the benefit of that doubt should be resolved in favour of the accused.

Should there not be evidence before you sufficient to substantiate a charge of desertion the Court may always make a special finding that the absence constituted absence without leave and not desertion providing that there is sufficient evidence to prove absence.

PLEA TO MITIGATION

The accused is relatively youthful and inexperienced. At the time he is 22 years of age. He enlisted in the Cdn Army when 19 years of age on 15 Dec 41. He arrived in England in July 43 and landed in France on the 11 June 44. He joined his Regiment - "the Chaudiere" on the 4 July 44 during the battle for Carpiquet airfield, and served in the line with them until Oct 44 - when he was evacuated with appendicitis - a total of four months in action.

He has never served detention before.

I ask the Court to be as lenient as possible.

"C Z Godlovitch"

E 1

WITNESS AS TO CHARACTER

Capt T. P. TASCHEREAU, R de CHAUD

I am Capt TP Taschereau O.C. #20 Coy 10 CBR Bn. I know the accused and I identify him as E-6171, Pte DESROCHERS, R. I knew the accused while he was in action in France with le Regt de la Chaudiere; I was then OC D Coy of my Unit and the accused was acting as stretcher bearer. I certify that Pte DESROCHERS, although very nervous in the front line, carried his duty very well. Furthermore I can say that I don't remember having any difficulty or any thing to say against his conduct while he was under my command.

"T P Taschereau" Capt

Witnessed By

"E G Peden"(?)
Pipe Major

"C Z Godlovitch" Lt

EXHIBIT "A"
PSO

EXHIBIT "A"
"J F Juby" Lieut
Officer detailed to take Summary of Evidence

RECORD of the Declaration of a Court of Inquiry assembled ~~at~~ in the Field on the 26th day of October 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E-6171 Pte DESROCHERS, R (R De Chaud) 13 CBR Bn

DECLARATION

The Court declare that No. E-6171 Pte DESROCHERS, R (R de Chaud) 13 C.B.R.Bn illegally absented himself without leave from 13 CBR Bn at 0800 on the 27th day of Sept 44 that he is still so absent, and that on the 26th Oct 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
Attached as Appendix 'A'			

Capt J. Fransiszyn (RCASC) 13 CBR Bn — President

Capt G.A. McVey (CH of O) 13 CBR Bn — Member

Signed ~~at~~ In the Field — Member

this 2nd day of Nov 19 44

Signature of Commanding Officer A.T. Law Commanding Officer 13 CBR Bn 2 CBR Gp

Certified true copy "RL Harrison" (R.L. Harrison) Capt & Adjt

Signature of Officer having custody of original record

W.F.D. 375
A.F.D. 115
[illegible]
[illegible]

13 CANADIAN BASE REINFORCEMENT BATTALION

2 CBR Gp

SCALE III KIT COMPLETE WITH VOCABULARY PRICES

ARTICLES	QUANTITY	VOCAB PRICE
Anklets Web prs	1	.99
Blouses Battle Dress	1	5.25
Boots Ankle Prs	2 @5.46	10.92
Beret Khaki	1	1.21
Drawers Cellular Short prs	2 @ .43¢	.86
Greatcoat Drab	1	11.55
Jersey Pullover	1	1.79
Shirts Angole Drab	2 @ 2.03	4.06
Sock prs	4 @ .37	1.48
Trousers Battle Dress prs	1	5.39
Braces	1	.28
Brushes Hair	1	.34
" Shaving	1	.37
" Sjoe Polishing	1	.28
" Tooth	1	.11
Cpas Comforter	1	.34
Combs Hair	1	.04
Dressing Field	1	.24
Discs Identity Sets	1	-
Fork NS Table	1	.07
Haldall	1	.19
Housewifr complete	1	.17
Knife Clasp	1	.86
Knife Table	1	.16
Razor Safety with blades	1	.06
Spoon NS Dessert	1	.07
Towels hand	2 @ .32¢	.64
Belts Waist	1	.67
Bottle Water	1	.82
Braces WE Right & Left	2 @ .30¢	.60
Carrier Water Bottle	1	.52
Haversack	1	1.79

EXHIBIT B
PSO

EXHIBIT "B"
"J F Juby" Lieut
Officer Detailed to take
Summary of Evidence.

CERTIFICATE IN ACCORDANCE WITH A.A. SEC 163 (i)(j)

I, Captain E. Vernon certify that No. E-6171 Rank Pte
Name: DESROCHERS, R. Unit: 'D' Coy Chaudier Regt
surrendered himself to No.1431440 Rank: L/Cpl Name: Makepeace H
C.M. POLICE at Rouen at 2300 hrs on 14th November 1944
as an absentee/deserter. He was wearing military uniform.

Date: 15 November 1944

Signed "J E Vernon" Captain
(J E Vernon) Commanding
243 H.Q. Provost Coy, C.M.P.

13 CANADIAN BASE REINFORCEMENT BATTALION

2 CBR Gp.

SCALE III KIT COMPLETE WITH VOCABULARY PRICES

ARTICLES	QUANTITY	VOCAB PRICE
Anklets Web prs	1	.99
Blouses Battle Dress	1	5.25
Boots Ankle Prs	2 @5.46	10.92
Beret Khaki	1	1.21
Drawers Cellular Short prs	2 @ .43¢	.86
Greatcoat Drab	1	11.55
Jersey Pullover	1	1.79
Shirts Angole Drab	2 @ 2.03	4.06
Sock prs	4 @ .37	1.48
Trousers Battle Dress prs	1	5.39
Braces	1	.28
Brushes Hair	1	.34
" Shaving	1	.37
" Sjoe Polishing	1	.28
" Tooth	1	.11
Cpas Comforter	1	.34
Combs Hair	1	.04
Dressing Field	1	.24
Discs Identity Sets	1	-
Fork NS Table	1	.07
Holdall	1	.19
Housewifr complete	1	.17
Knife Clasp	1	.86
Knife Table	1	.16
Razor Safety with blades	1	.06
Spoon NS Dessert	1	.07
Towels hand	2 @ .32¢	.64
Belts Waist	1	.67
Bottle Water	1	.82
Braces WE Right & Left	2 @ .30¢	.60
Carrier Water Bottle	1	.52
Haversack	1	1.79

Helmets Steel	1	2.42
Net Camouflage Helmet	1	.15
Packs	1	1.84
Straps Shoulder Haversack L & R	2 @ .32¢	.64
" Web Supporting	2 @ .13¢	.26
Tins Mess TP	1	.35
Capes A/G	1	2.76
Respirators AG complete with haversack	1	4.66
Ointment AG	2 @ 15 ¢	.30
Eyeshields AG Pkge of 6	1	.45
Detectors Individual prs	2 @ .06 ea	.24
Blanket	1	3.07
Mug Drinking	1	.13
Sheets Ground	1	2.94
Rifle No.4 Mk I	1	45.48
Bayonet No.4 Mk I	1	2.46
Bottles Oil	1	.06
Pouches Basic WE Pattern 37 Mk III	2 @ 1.19 ea	2.38
Bayonet Scabbard No.4 Mk I	1	.61
	100% Vocab Price	$123.31
	75% Vocab Price	92.48

EXHIBIT B
PSO

EXHIBIT "B"
"J F Juby" Lieut
Officer Detailed to take
Summary of Evidence.

CERTIFICATE IN ACCORDANCE WITH A.A. SEC 163 (1)(j)

I, Captain E. Vernon certify that No. E-6171 Rank Pte
Name: DESROCHERS, R. Unit: 'D' Coy Chaudier Regt
surrendered himself to No.1431440 Rank: L/Cpl Name: Makepeace H
C.M. POLICE at Rouen at 2300 hrs on 14th November 1944
as an absentee/deserter. He was wearing military uniform.

"J F Vernon" Captain

Date: 15 November 1944 Signed_____
(J E Vernon) Commanding
243 H.Q. Provost Coy, C.M.P.

EXHIBIT 'C'

PSO

SUMMARY OF EVIDENCE

In the case of E.6171 Pte Roger DESROCHERS (R de Chaud) on the strength of 43 Coy, 10 CBR Bn, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this evidence is taken on oath.

DOCUMENTARY EVIDENCE

1. The Declaration of A Court of Inquiry, produced as documentary evidence was read over to the accused, marked exhibit "A", signed by me and attached hereto.

2. The Certificate of Apprehension under A.A.163(i)(j), produced as documentary evidence, was read over to the accused marked exhibit "B", signed by me and attached hereto.

"J F Juby" Lieut
(J F Juby) Lieut
(CH of O), 10 CBR Bn.,
Officer detailed to take
Summary of Evidence.

FIRST WITNESS PROSECUTION

L-26465 Cpl Wilk M. (QOR) of 49 Coy, on the strength of 10 CBR Bn, having been duly sworn states:-

I am L-26465 Cpl Wilk M. (QOR) of 49 Coy, on the strength of 10 CBR Bn. I was Coy Orderly Cpl for 42 Coy, 10 CBR Bn on 16 Nov 44. At approx 1645 hrs, 16 Nov 44, I was escorting Pte Desrochers, the accused, whom I now recognize, to the Mess Hall for supper. At 1700 hrs, 16 Nov 44, I was escorting him back to the Guard Room, 10 CBR Bn, and he dropped his mess tins and started to run. I gave chase but I could not catch him. I searched the barracks and the accused could not be found. I reported the escape to the C.S.M., 42 Coy. I was armed at the time of the accused escape but I had received no orders allowing me to fire.

Accused declines to cross-examine this witness.

R.P. 83(b) complied with.

"M Wilk" Capl L-26465
.....
(M. Wilk) Cpl L-26465

The accused having been cautioned as follows: "Do you wish to make any statement or give any evidence on oath? You are not obliged to say anything or give any evidence unless you wish to do so, but what-so-ever you may say or any evidence you may give, will be taken down in writing and may be used in evidence", declines to give any evidence and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one(1) page, was taken down in writing by me, in the presence and hearing of the accused.

I certify that R.P. 4 (c) (d) (e) and (f) have been complied with.

"J.F.Juby" Lieut.
(J F Juby) Lieut.,
(CH of O), 10 CBR Bn.,
Officer detailed to take
Summary of Evidence.

EXHIBIT "E" PSO

3/17 MFM 6
(AFB 122)
40(PAS/(SP-1)(41))

No. E-6171 Name DESROCHERS R. Sqn, Battery, or Company | Corps CIC | Date of enlistment 15 Dec 41 | DC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Fine	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Temporary Sheet Only "W.M. Arthurs"(?Capt Offr i/c Regimental Books					

(PTO)

Exhibit P-50

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
E-6171	Pte	Roger DESROCHERS	10 C.B.R. Bn

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special mark of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For Original MFM 6 not available

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for Nil beginning on the .....day of .....

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 7 days in military custody, i.e., Nil days in open arrest, 7 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 22 yrs, 26 days

6. The date of his attestation 15 Dec 41

Please the military decorations (if any) held by accused.

7. The service which the accused is allowed to reckon is 3 yrs, 3mths, 4 days

8. The accused is in possession of † CVSM & CLASP

9. (If the accused is a warrant officer or N.C.O.). The accused has served continuously, without reduction, to the present date—

In the substantive rank of ..... Date of Promotion

In the war substantive rank of .....

In the acting rank of .....

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

"W M Arthur" Capt

Signed this 20th day of March 1945

LIST OF WITNESSES

FOR THE PROSECUTION: L-26465 Cpl WILK, M. (QOR) 49 Coy, 10 CBR Bn

FOR THE DEFENCE: NIL

LIST OF EXHIBITS

Exhibit "A" - The Declaration of a Court of Inquiry.

Exhibit "B" - The Certificate of Apprehension under AA Sec. 163(1) (j)

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE, A COPY OF THE CHARGE SHEET, THE SUMMARY OF EVIDENCE, THE LIST OF WITNESSES, AND A LIST OF EXHIBITS.

I DO DESIRE THE SERVICES OF AN OFFICER TO REPRESENT ME AT MY TRIAL BY COURT MARTIAL.

"R Desrochers"
(E-6171 Pte Roger DESROCHERS)

MINUTE OF PROMULGATION

FGCM 12 Apr 45 E/6171 Pte Roger DESROCHERS, R de Chaud, 10 CBR Bn

Charges	Findings	Sentence
Army Act Sec 12(1) Desertion	Guilty	To suffer penal servitude for the term of three years and to be discharged with ignominy from His Majesty's Service.
Army Act Sec 22(1) Breaking out of Arrest	Guilty	

Confirmation

I confirm the findings and sentence.

(Sgd) E G Weeks, Major-General
in charge of Administration
Canadian Military Headquarters

14 May 45

Promulgated and extracts taken in the field in Belgium
this 26th day of May 1945.

(J N Mcnurst) Lt-Col.
Officer Commanding
1 Cdn Discipline Centre

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-6172 Pte Roger DESROCHERS R de Chaud - 10 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA sec 12 (1)	not guilty	guilty	
2nd AA sec 22 (1)	guilty	guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lass of kit see RP 44 fn b.)

At present under sentence for ~~approved~~ beginning on (date) [*]

(*. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 142 days, of which nil days were spent in hospital.(*)

(*. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer penal servitude for the term of three years and to be discharged with ignominy from His Majesty's service

(Sgd) [illegible] 12 Apr 45 (Sgd) P J Oles Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

I RESERVE THE FINDING AND SENTENCE FOR CONFIRMATION BY SUPERIOR AUTHORITY.

Date 16 Apr 45 (Sgd) [illegible] Commanding 2 Cdn Base Rft Gp

(JG S H Gostling) Brigadier

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 739-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: Art 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn f.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the findings and sentence.

I direct that the accused be not committed to prison or detention barracks until further ordered. (See AA 57A. Delete if not used.)

Date (Sgd) [illegible]

Commanding [illegible]

14 MAY 1945 Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160

5K-114

FIELD GENERAL COURT-MARTIAL

CPA86 (In lieu of AF A3); 40/P & S/1808 (46570); 4/38B

Convened by Order of Brigadier G S N Gostling, ED Comd 2 CBRG dated 10 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed Rk, and (b) Appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number (a) Prmnt R.	(b) Appmt, A/R or A/ Appmt.	Full Christian Names.	Surname.	Unit.
B-6172	Pte	Roger	DESROCHERS	R de Chaud 10 CBR Bn

PROCEEDINGS REVIEWED [illegible] Capt. JAG
1, 3 June 45
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 12 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see forms for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order. CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is [illegible] amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [illegible] brought before the Court. At 1345 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is [illegible] fit to undergo trial by court-martial (1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~Presidnt to accused: Do you object to~~ the Interpreter is sworn.(1) Do you object to ~~The shorthand writer is sworn.~~(1) as interpreter? Ans as shorthand writer? Ans

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	P S OLES	RCA E-6 List 3 Cdn NETO	
Member	Lt	HE Jewett	CIC	11 CBR Bn
Member	Lt	JE Chrisson	CIC	10 CBR Bn
Judge-Advocate	Lt	GE Collins	CAC	HQ 2 CBR G
Prosecutor	Capt	C Lazarus	CIC	10 CBR Bn
Defending Offr	Lt	CZ Godbontal	CIC	10 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused B-6172 Pte Roger DESROCHERS before arraignment make(s) (no) [illegible] plea.

(1. If a special plea is made for separate trial see one or more charges (RP 62(E), (G)), or as to the jurisdiction of the Court (RP 34, 25(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is [illegible] arraigned (separately) on all charges in the charge sheet.(1) The accused does [illegible] not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A8s to record proceedings. 2. RP 22, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court [illegible] considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C, D, B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol. B 72.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), to call witnesses as to character and make an address in mitigation of punishment.(1)
(1. *RP 35 fn 3. 2. MML p 54 paras 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans no (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) her (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with one plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3.* *RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans no (1)
(1. *If "Yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the First charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the First charge(s), ~~and allowed on the charge(s)~~, and that, accordingly, the trial will proceed on the former, ~~but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Yes to give evidence Do you intend to call witnesses on your behalf ? Ans no Are they witnesses as to character only ? Ans ——
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if at his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes witnesses, statement, evidence and any summing up by the JA under RP 86(D)(3).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s)~~ of the Court on the First charge(s), being subject to confirmation, will be promulgated later.(1) *Or,* ~~The President announces that the accused is found~~ Not Guilty on all charges and is to be released forthwith, ~~and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. *AA 34(3) (d), RP 45, 110(A).* 2. *AA 34(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes, calls a character witness
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para.* *RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that those documents refer to the accused, because they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(2)
(1. *MFB 255 or MFB 294.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes in mitigation of punishment
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 34(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566. Overseas MO 309, 2323, MML p 90, 737-739. As to sentences assigned for civil offences to the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Medical Officers Certificate

I certify that I have this day examined E 6171 Pte Roger Desrochers and in my opinion he is fit/unfit to undergo trial by Court Martial.

Station Field

Date 17 Apr 41

R H Chalmers Capt
Medical Officer

1 Bn 2 CIB KE
Unit

CORRECTION

This document has been rephotographed to assure legibility

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. (AA 52, KR Can 562, RP 26, 29, 111.)
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless there-unto required in due course of law.

2. JUDGE-ADVOCATE. (AA 52, MML 762, RP 27, 111.)
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. (AA 52, MML 762, RP 27, 111.)
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. (AA 52, MML 762, RP 27, 111.)
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. (AA 52, MML 762, RP 27, 111.)
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. (AA 52, MML 763, RP 82, 111.)
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth

POUR LES TEMOINS. (RD (Can) 2693.)
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (RP 95(C)); any objections (RP 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.
A 12345 Cpl H. Jones, RWR, sworn, states:
I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.
Cross-exam: He did not say he was sick. (or, None.)
Re-exam: None.
Exam by Court: He said—" I've had enough parades ".
RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (RP 95 fn 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (RP 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (RP 86(C), 87(C), 92(C) (D).)
(ii) At option of accused, statement by accused (not sworn, or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 19).), or evidence by accused, as to facts or his character or both. (See RP 41 fn 3, 46 fn 1, 86.)
(iii) Evidence of witnesses for accused as to facts or his character or both. (See RP 46 fn 1.)
(iv) Evidence of witnesses for accused on new matter, if allowed by Court (RP 86(B)), or to prove previous convictions when accused has called witnesses as to character. (RP 86(C).)
(v) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (RP 86(B)), or to prove previous convictions when accused has called witnesses as to character. (RP 86(C).)
(vi) Closing address (on matters other than re mitigation of punishment) by Defending Offr or accused. (See RP 40 fns 8-12, 87(C), 92(C) (D).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (When accused charged jointly see RP 61.)
(vii) Closing address by Prosecutor. (See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 565(a).)
(viii) Summing up by JA, if any. (RP 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:
(i) Charge Sheet. (Fls 4(g).)
(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.
(iii) Medical Certificate(s). (KR Can 567.)
(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used. (As to witnessing to evidence a certified copy as here of original see KR Can 566. As to certified copies of supplemental books see AA 163 (1) (g) (h).)
(v) Exhibits numbered Ex A, Ex B, etc.
(vi) Summary of Evidence, if not already an exhibit.
(vii) Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (RP 95(D).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (AA 53(3), RP 118(C), MML p 759.)

3. Any letters or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (RP 95(D).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (AA 53(3), RP 118(C), MML p 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-6171	Pte		Roger	DESROCHERS	R de Chaud 10 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 Apr 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F S COLER	RCA X-9 List 3 Cdn MLTD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lt	to be detailed by OC 10 CBR Bn	10 CBR Bn
Lt	to be detailed by OC 11 CBR Bn	11 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Lt	G E COLLINS	Legal Offr att 2 CBRD (ADVS)

On Active Service in the Fd

in BELGIUM (Country.)

Dat 10 Apr 45

(Signed personally. RP 105 fn 2.)
(G S T Gostling)
Commanding 2 Cdn Base Rft Gp
Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40-7 M-S/1697 (H&S)

(See overleaf for oaths and notes for use on trial.)

On behalf of the JAG Cdn Army Overseas I approve the appointment of Lt G E COLLINS as Judge Advocate the said Lt COLLINS having legal qualifications.

(H H Griffin) Capt
ADJA HQ 2 CBRD

CHARGE SHEET

The accused M-6171 Pte Roger DESROCHERS (R de Chaud) of the strength of 43 Coy, 10 CBRBn, a soldier of the Canadian Army overseas.

is charged with

FIRST CHARGE
A.A. Sec 12(1)

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE.

in that he

In the Field at 0800 hrs, 27 Sept 44, with the intent to avoid active operations against the enemy, absented himself without leave until surrendering to the military authorities at Rouen at 2300 hrs 14 Nov 44.

Total absence 48 days, 15 hrs.

SECOND CHARGE
A.A. Sec 22 (1)

WHEN ON ACTIVE SERVICE, WHEN IN LAWFULL CUSTODY, ESCAPING.

in that he

In the field at 1715 hrs 16 Nov 44 whilst in lawfull custody at 10 C.B.R. Bn, escaped.

(J. BURGESS) Lt-Col.,
C.O., C.B.R. Bn.

In the Field

19 Mar 45.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G S N Gostling) Brigadier
Commander
2 Cdn Base R&T Gp

In the Field
10 Apr 45

In Re Diasnobara

p10.

Prosecution:

Capt. E. H. Kingshill – 13 CBR Bn. Amorn states:- (Forwarding Records Offs. now 1 Ech.

I do not recognize the accused but I do know that he went AWL sometime in September while I was records offr 13 CBR Bn. A court of inquiry was held at 13 CBR Bn after the 21st. day of the accused's absence. A casualty return was submitted after the findings of the court. stating the accused had struck 13 Bn as a deserter. That is normal procedure laid down by 2 Ech.; Due to fact he went AWL he was not present at the unit when a demand came in for personnel to go forward to an operational unit in the field. At that time the system controlling demands on 13 Bn would probably have called for approximately 12 to 15 demands during the accused's absence. The accused was at 13 Bn as a reinforcement.

no cross exam

In September we could expect about 2 demands per week for a particular unit. There were occasions when we couldn't fill Chandler demands completely. The accused would definitely have been on one of the Chandler or other drafts. Demands came in on very short notice. No one could leave camp without a pass. Control was necessary to be kept over every individual.

RP 83(2) complied with

P10

Documentary - declaration of ct of inquiry assembled 26 Oct 44 @ 13 Bn 2 CBRD showing commencement of absence - 0800 hrs 27 Sep 44.

Documentary - casting of apprehension - showing arrest - at Rouen @ 2330 hrs 14 Nov 44

Prosecution closed.

D.O. makes submission of no prima facie case (see attached statement)

Prosecution replies. (annexed)

Submission is disallowed.

Defence

accused - sworn - states: I knew a young girl who stays in Rouen. I intended to go and see her. Then I went away and stayed with her. I never made any black market in order to live. I always had the intention to report back and then I surrendered. I never wore civilian clothes during my absence. I always kept my means of identification - train - paybook and identity card. I was properly dressed when I surrendered in Rouen. I stayed with my girl's family - they gave me a place to sleep - food and money.

Cross exam. I did not know while I was at 13 Bn that I was liable to go to the front. No one ever told me that I was going up front or could expect to go from CBRD. I knew that someday I would be going to the front when I arrived at 13 Bn I did not know it was a forward Bn and that I was liable to leave at any time for the front. When I went AWL I knew that others would be leaving for the front during my absence.

P70

Accused (cont) - I was at 13 Bn for about 1½ weeks. I did not know of any groups of men who went forward while I was at 13 Bn. I expected that when I moved I would go to 46 Coy - which is the last coy before going to B Echelon of a unit. When I was at 13 Bn - I was A 1 although I had no re-board.

RP 83 (1) complied with

accused introduces statement as to character given to him by Capt. T.P. Tracheresan, R de Chard.

~~Formal plea recorded~~

E3

Plea by D O in mitigation of sentence (attached)

E2

accused states he has been in close custody since 14 Nov 44 except for two days 16 Nov - 18 Nov 44 incl. when he escaped and surrendered himself.

Non-establishment of Prima facie Case

P70

The defence submits that the prosecution has in no way proved wilful & deliberate intention on the part of the accused to avoid active operations against the enemy and has hereto not established a prima facie case. The defence puts that the evidence presented by the prosecution establishes only absence without leave but in no way supports the charge of desertion.

12-4-45

Reply to Objection of Defense as to the Case being a Prima Facies case

13 CBR Bn is considered as the forward Bn of CBR 9 and personnel who are sent there on drafts know that they are going forward from there to the front Pte Lloyd Aberdeen went A.W.L. There is no doubt about that when he went A.W.L. he was on his way to the front and he could expect to leave at a short notice for a thrust. His offence therefore is more serious than a straight A.W.L. offence and should be considered as a deserter

Lloyd Capt.
for prosecution

Closing Address

12-4-45

In the case of: E 6171 Pte Roger Desrochers R de Chaud

After the evidence given before the Court there is no doubt that the a/m was a.w.l. The circumstances under which he went a.w.l. classify him as a deserter of his Majesty's Services. He was a fit reinforcement for the field and ~~knew~~, being at 13 CBRBn he knew that he would be going forward soon. By being absent he avoided leaving on drafts. Under these circumstances his offence is more serious than a straight a.w.l. offence. ~~and should be~~

E Legacé Capt
Prosecuting Officer.

Summing up of Defence.

In summing up for the defence we maintain that the prosecution has not proved wilful intent to assist active operations against the enemy. The evidence presented by the prosecution in support of the charge of desertion is at best merely deduced from the non-conclusive ~~evidence~~ circumstances surrounding the absence of the accused & in therefore based on supposition rather than fact and the plea of Not guilty is based on the following facts.

1. The accused has stated under oath that he had no intention of avoiding service with his unit or of not returning to his Majesty's service. This is borne out by the fact that the accused surrendered himself to the military authorities in person.

2. He has stated that never, at any time, did he divest himself of his uniform or his means of identification. The fact that on surrendering he was properly dressed & in possession of his identity card & discs.

3. The mere length of his absence is in no way conclusive. I quote CO III Sec. 18 M.M.L.

"mere length of absence is by itself inconclusive as a test — for a soldier she has been entrapped into bad company through drink or other causes may be absent some time without any thought of becoming a deserter."

I ask the court to consider the circumstantiality of the lack of factual information in the evidence presented by the prosecution and the evidence the defence has brought to your attention — we ask that upon finding the accused Not guilty as charged.

A Godfrey Lt.

J.A.'s closing Address

I wish to point out that it is part of my duty as Judge Advocate to sum up the evidence and advise the court on the law.

The court, however, is the sole judge of the facts and anything I may say now or may have said previously indicating my personal views as to the facts should be entirely disregarded. The court is the sole judge of the facts.

As to the offence of desertion (here J.A. sums up in a manner substantially the same as the charge contained in the attached statement marked 'T')

I have nothing further to say unless the court, or Prosecutor or Defending Offr requires explanation on any question I may have overlooked.

Mr. President have you any points on which you wish me to address the court? no

Mr. Prosecuting Offr have you any points on which you wish me to address the court? no

Mr. Defending Offr have you any points on which you wish me to address the court? no.

Whelan

JUDGE-ADVOCATE's Closing Address to the Court
SUMMING UP

DESERTION

There are two types of desertion. (1) general desertion, the intention being not to return to military duty in any corps, (2) desertion in which the intention is to avoid some important particular service, for example, engagement with the enemy, carrying of supplies of material of war for troops in operations, reinforcement drafts, etc.

The charge in this case falls into the second category since it is alleged in the charge that the accused absented himself with intent to avoid active operations against the enemy.

As the charge is so worded it is not open to you to find general desertion but the charge must be proved substantially in the wording of the particulars, although as always it is open to you to bring in a special finding should you find the accused guilty of special desertion but find that the particulars alleged vary in some immaterial respect from the wording of the charge.

To prove an intent to avoid some particular service the onus is on the prosecution to prove the necessary ingredients, such as the role which the accused's unit was carrying out at the time, the circumstances under which the accused was apprehended, any statements or admissions made by the accused, in short any circumstance or circumstances from which you could reasonably infer that the accused had a firm intention to avoid such a particular service.

Providing that evidence or some such evidence is before you it is entirely within your power to draw whatever reasonable conclusion you wish to draw from such evidence, bearing in mind always that if there is any reasonable doubt in your mind as to such intention the benefit of that doubt should be resolved in favour of the accused.

Should there not be evidence before you sufficient to substantiate a charge of desertion the Court may always make a special finding that the absence constituted absence without leave and not desertion providing that there is sufficient evidence to prove absence.

E1

P10.

Insert as to character

Capt. T P Tancheresau R de Chaud

I am Capt T. P. Tancheresau O.C. # 20 Coy. 10 C B R Bde.

I know the accused and I identify him as E-6171 Pte Desrochers R. I know the accused while he was in actions in France with le Regt de la Chaudiere; I was then O C # Coy of my Unit and the accused was acting as Stretcher Bearer. I certify that Pte Desrochers although very nervous on the front line, carried his duty very well Furthermore I can say that I don't remember having any difficulty or any thing to say against his conduct while he was under my command

T. P. Tancheresau Capt.

witness By:-

[signature] Capt Major

[signature] Lt. Quartermaster Lt.

Plea to mitigation.

The accused is relatively youthful & inexperienced. At the time he is 22 years of age. He enlisted in the Can. Army when 19 years of age on 15th Dec. 41. He arrived in England in July 43 & landed in France on the 11 June 44. He joined his regiment the Chaudières on the 4 July 44 during the battle for Carpiquet airfield & served in the line with them until Oct 44 — when he was evacuated with appendicitis — a total of four months in action.

He has never served detention before.

I ask the court to be as lenient as possible.

C.J. Smith.

Exhibit A
PJO

EXHIBIT "A"
Lt. Judge Lieut
Officer Attached to Cadet Summary of Evidence

RECORD of the Declaration of a Court of Inquiry assembled ~~at~~ In the Field on the 26th day of October 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E.6171 Pte. Desrochers R. (R. de Chaud) 13 CBRBn

DECLARATION

The Court declare that No. E.6171 Pte. Desrochers R.
(R. de Chaud) 13 C.B.R.Bn.
illegally absented himself without leave from 13 CBRBn
at 0800 on the 27th day of Sept 44,
that he is still so absent, and that on the 26th Oct 1944 he was deficient, and
that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
Attached as Appendix 'A'			

Capt. J. Fransiszyn (RCASC) 13 C.B.R.Bn. — President
Capt. G.A. McVey (CH of C.) 13 C.B.R.Bn. — Member
Member

Signed ~~at~~ In the Field
this 2nd day of Nov 1944

Signature of Commanding Officer A.T. Law
Commanding Officer 13 CBRBn & CBROp

Certified true copy R.L. Harrison
Capt & Adj
Signature of Officer having custody of original record

A.F.B. 273
A.F.B. 111
MM—6-41 (750)
S.Q. (175-0-42)

13 CANADIAN BASE REINFORCEMENT BATTALION
2 C.B.R. Gp. 26 Oct 44

SCALE III KIT COMPLETE WITH VOCABULARY PRICES

ARTICLES	QUANTITY	VOCAB PRICE
Anklets Web prs	1	.99
Blouses Battle Dress	1	5.25
Boots Ankle Prs	2 @ 5.46	10.92
Beret Khaki	1	1.21
Drawers Cellular Short prs	2 @ .43¢	.86
Greatcoat Drab	1	11.55
Jersey Pullover	1	1.79
Shirts Angola Drab	2 @ 2.03	4.06
Sock Prs	4 @ .37 ¢	1.48
Trousers Battle Dress prs	1	5.39
Braces	1	.28
Brushes Hair	1	.34
" Shaving	1	.37
" Sjoe Polishing	1	.28
" Tooth	1	.11
Cpes Comforter	1	.34
Combs Hair	1	.04
Dressing Field	1	.24
Discs Identity Sets	1	-
Fork MS Table	1	.07
Holdall	1	.19
Housewifr Complete	1	.17
Knife Clasp	1	.86
Knife Table	1	.16
Razor Safety with blades	1	.06
Spoon MS Dessert	1	.07
Towels Hand	2 @ .32¢	.64
Belts Waist	1	.67
Bottle Water	1	.82
Braces WE Right & Left	2 @ .30¢	.60
Carrier Water Bottle	1	.52
Haversack	1	1.79

EXHIBIT 'B'

Exhibit B pg 10

CERTIFICATE IN ACCORDANCE W.R.A.C. SEC 163 (1)(J)

I Captain E.Vernon certify that No. B 6171 Rank. Pte

Name. DESROCHERS,E. Unit. 'D' Coy. Chaudier Regt.

surrendered himself to No. 14371440 Rank. L/Cpl. Name. H.Makepeace.

C.M.POLICE at. Rouen at. 2300 hrs. on. 14th November 1944

as an absentee/deserter. He was wearing Military uniform

Signed. E.Vernon Captain.

Date. 15 November 1944

E.Vernon Captain.
243 H.A. Provost Coy. C.M.P.

13 CANADIAN BASE REINFORCEMENT BATTALION
2 C.B.R. Gp.

26 Oct 44

SCALE III KIT COMPLETE WITH VOCABULARY PRICES

ARTICLES	QUANTITY	VOCAB PRICE
Anklets Web prs	1	.99
Blouses Battle Dress	1	5.25
Boots Ankle Prs	2 @ 5.46	10.92
Beret Khaki	1	1.21
Drawers Cellular Short prs	2 @ .43¢	.86
Greatcoat Drab	1	11.55
Jersey Pullover	1	1.79
Shirts Angola Drab	2 @ 2.03	4.06
Sock Prs	4 @ .37 ¢	1.48
Trousers Battle Dress prs	1	5.39
Braces	1	.28
Brushes Hair	1	.34
" Shaving	1	.37
" Sjoe Polishing	1	.28
" Tooth	1	.11
Cpes Comforter	1	.34
Combs Hair	1	.04
Dressing Field	1	.24
Discs Identity Sets	1	-
Fork NS Table	1	.07
Holdall	1	.19
Housewifr complete	1	.17
Knife Clasp	1	.86
Knife Table	1	.16
Razor Safety with blades	1	.06
Spoon NS Desert	1	.07
Towels Hand	2 @ .32¢	.64
Belts Waist	1	.67
Bottle Water	1	.82
Braces WE Right & Left	2 @ .30¢	.60
Carrier Water Bottle	1	.52
Haversack	1	1.79

Helmets Steel	1	2.42
Net Camouflage Helmet	1	.15
Packs	1	1.84
Straps Shoulder Haversack L & R	2 @ .32¢	.64
" Web Supporting	2 @ .13¢	.26
Tins Mess TP	1	.35
Capes A/G	1	2.76
Respirators AG Complete with Haversack	1	4.66
~~XXXXXX~~Ointment AG (	2 @ 15 ¢	.30
Eyeshields AG Pkge of 6	1	.45
Detectors Individual prs	2 @ .06 ea	.24
Blanket	1	3.07
Mug Drinking	1	.13
Sheets Ground	1	2.94
Rifle No.4 Mk I	1	45.48
Bayonet No. 4 Mk I	1	2.46
Bottles Oil	1	.06
Pouches Basic ~~WE~~ Pattern 37 Mk III	2 @ 1.19 ea	2.38
Bayonet Scabbard No. 4 Mk I	1	.61
100% Vocab Price		$123.31
75% Vocab Price		92.48

EXHIBIT "B"

Exhibit B 950

CERTIFICATE IN ACCORDANCE WITH A.A.C.I. 1251 (1)(J)

I Captain E.Vernon certify that No. H 6171 Rank Pte

Name DESROCHERS,R. Unit 'D' Coy. Chaudier Regt.

surrendered himself to No. 14371440 Rank L/Cpl. Name H.Makepeace.

C.M.P.POLICE at Rouen at 2300 hrs. on 14th November 1944

as an absentee/deserter. He was wearing military uniform

Date 15 November 1944

Signed E.Vernon Captain.
Commanding.
243 H.A. Provost Coy. C.M.P.

AD-A

Exhibit C
P10

SUMMARY OF EVIDENCE

In the case of E-6171 Pte Roger DESROCHERS (R de Chaud) on the strength of 43 Coy, 10 CHR Bn, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this evidence is taken on oath.

DOCUMENTARY EVIDENCE

1. The Declaration of a Court of Inquiry, produced as documentary evidence was read over to the accused, marked exhibit "A", signed by me and attached hereto.

2. The Certificate of Apprehension under A.A. 163(1)(j), produced as documentary evidence, was read over to the Accused, marked exhibit "B", signed by me and attached hereto.

J.F. Suby Lieut.
(J.F. Suby) Lieut.,
(CH of O), 10 CHR Bn.,
Officer detailed to take
Summary of Evidence.

FIRST WITNESS PROSECUTION

L-26465 Cpl Wilk M. (QOR) of 49 Coy, on the strength of 10 CHR Bn, having been duly sworn states:

I am L-26465 Cpl Wilk M. (QOR) of 49 Coy, on the strength of 10 CHR Bn. I was Coy Orderly Cpl for 42 Coy, 10 CHR Bn on 16 Nov 44. At approx 1645 hrs, 16 Nov 44, I was escorting Pte Desrochers, the accused, whom I now recognize, to the Mess Hall for supper. At 1700 hrs, 16 Nov 44, I was escorting him back to the Guard Room, 10 CHR Bn, and he dropped his mess tins and started to run. I gave chase but I could not catch him. I searched the barracks and the accused could not be found. I reported the escape to the C.S.M., 42 Coy. I was armed at the time of the accused escape but I had received no orders allowing me to fire.

Accused declines to cross examine this witness.

R.P. 83 (b) complied with.

M. Wilk Cpl. L-26465
(M. Wilk) Cpl L-26465

The accused having been cautioned as follows; "Do you wish to make any statement or give any evidence on oath? You are not obliged to say anything or give any evidence unless you wish to do so, but what-so-ever you may say or any evidence you may give, will be taken down in writing and may be used in evidence", declines to give any evidence and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one (1) page, was taken down in writing by me, in the presence and hearing of the accused.

I certify that R.P. 4 (c)(d)(e) and (f) have been complied with.

J.F. Suby Lieut.
(J.F. Suby) Lieut.,
(CH of O), 10 C.H.R. Bn.,
Officer detailed to take
Summary of Evidence.

Exhibit D p30

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
E-6171	Pte	Rorer DESROCHERS	10 C.B.R. Bn.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 607, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment
For	Original NPF 6 not available times	times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct —

There are no entries in the conduct sheet of the accused.

2. The accused has not been previously convicted.

3. The accused is not under sentence at the present time. The accused at the present time is under ~~sentence of~~ imprisonment of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act and dispensations with trial under section 73 of the Army Act, as set out in the schedule annexed to this statement.

~~The accused is not under sentence at the present time.~~ The accused at the present time is under ~~sentence of~~ ~~imprisonment~~ beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for Nil, days in civil custody, and 7 days in military custody, making a total of 7 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 22 yrs, 26 days.

6. The date of his ~~attestation~~ specified in his ~~attestation paper~~ record of service is 15 Dec 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs, 3 mths, 4 days.

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs, 3 mths, 4 days service.

9. The accused is entitled to reckon 3 yrs, 3 mths, 4 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*). NWM & CLASP

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer was~~ of dated

12. ~~(In the case of an officer.) The accused holds in the army the rank of~~ and in the regiment (or corps or department) the rank of dated

W.O. (M.S.) 1939. 5/42. P. [illegible] 770-3.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ Rank _____ Name _____ of _____ Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating there convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of March 1945.

_____

_____

Exhibit F p50

MFM 6
(AFH 122)
40/P&S/126 (5438)

No E-6171 Name DESROCHERS R. | Sqn, Battery or Company | Corps (CIC) | Date of enlistment 15 Dec 41 | Badges | Service or Proficiency Pay | Character

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Temporary Sheet Only					
				CPT i/c Regimental Books					

(PTO

LIST OF WITNESSES

FOR THE PROSECUTION L-26465 Cpl Wilk M. (QOR) 49 Coy, 10 CHR Bn.

FOR THE DEFENCE NIL.

LIST OF EXHIBITS

Exhibit "A" - The Declaration of a Court of Inquiry.
Exhibit "B" - The Certificate of Apprehension under A.A. Sec. 163 (1)(j).

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE, A COPY OF THE CHARGE SHEET, THE SUMMARY OF EVIDENCE, THE LIST OF WITNESSES, AND A LIST OF EXHIBITS.

I DO DESIRE THE SERVICES OF AN OFFICER TO REPRESENT ME AT MY TRIAL BY COURT MARTIAL.

.....
(B-6171 Rfn Romer DESROCHERS)

Date: 19 Mar 45

E-6171 Pte Roger DESROCHERS
(NAME OF ACCUSED)

1. I hereby acknowledge receipt of one copy of CHARGE SHEET and one copy of the SUMMARY OF EVIDENCE delivered to me 21 Mar 45 (Date).

2. (a) ~~I request that _____ if available, be appointed.~~ OR

(b) I request that an officer be appointed as my Defending Officer at my trial by Court Martial.

(Delete either (a) or (b))

(R. DESROCHERS) Pte E-6171

I hereby certify that Lt C.Z. Godbout TCA was appointed to defend E 6171 Pte DESROCHERS R at his forthcoming trial by Court Martial and that the said _____ was notified that he was Defending Officer on 21 Mar 45 (Date).

(Adjutant)
19 Cdn. Base Rft. (R.),

A M Lagasse Capt
ADJA, 2 Cdn Base Sub Gp
CERTIFIED TRUE COPY

..4..

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E-6171 Pte Roger DESROCHERS R de Chaud - 10 CBR Bn

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 12(1)	NOT GUILTY	GUILTY	
2nd	AA Sec 22(1)	GUILTY	GUILTY	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~[illegible]~~ beginning on (date) ~~[illegible]~~ nil
(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial: a total of 4[illegible]3 days, of which [illegible] days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer penal servitude for the term of three years and to be discharged with ignominy from His Majesty's Service.

(Sgd) "G E Collins" Lt — Judge-Advocate, if any. | 12 Apr 45 — Date awarded. | (Sgd) "P S Osler" Major — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I RESERVE THE FINDING AND SENTENCE FOR CONFIRMATION BY SUPERIOR AUTHORITY

Date 16 Apr 45 (Sgd) "G S N Gostling" (G S N Gostling) Brigadier — Commanding 2 Cdn Base Eft Gp

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 739-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 153, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the findings and sentence

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~
(1. AA 57A. Delete if not used.)

(Sgd) E C Weeks, Major-Gen

Date 14 May 45 — ~~Commanding~~ i/c Administration — Confirming Officer: Canadian Military Headquarters

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. | Date. | Signature of Offr.

E6171 PTE ROGER DESROCHERS — 26 MAY 45 — J M Lagasse Lt-Col, Comdg. 1 Cdn Disciplinary Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

I certify that there are no illegalities or irregularities to justify withholding confirmation of the proceedings.

E A G Cdn. Sec. GHQ 1 Echelon

E6171 Pte Roger DESROCHERS 10 CBR

5K-114

CERTIFIED TRUE COPY

Lagasse Capt
2 Cdn Base Eft Gp

FIELD GENERAL COURT-MARTIAL

CFA96 (To form of AFAG) 40/P & S/Genl (20/10)

4 SBB

Convened by Order of Brigadier G S N Gostling ED Comd 2 CBRG dated 10 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-6171	Pte	Roger	DESROCHERS	R de Chaud 10 CBR Bn

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date) 12 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence(3).
(1. As to use of Summary of Evidence see RP 17 fn 1. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1345 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the C.O.(2)~~
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ as interpreter? Ans ~~[illegible]~~
~~The Interpreter is sworn.(1)~~ ~~Do you object to~~ as shorthand writer? Ans ~~[illegible]~~
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	P S OSLER	RCA X-9 List 3 Cdn NATD
Member	Lt	J E CHISSON	CIC 10 CBR Bn
Member	Lt	G E COLLINS	CAC HQ 2 CBRG
Judge-Advocate	Capt	C LAGASSE	CIC 10 CBR Bn
Prosecutor	Lt	C Z GODLOVITCH	CIC 10 CBR Bn
Defending Offr			

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (3)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused E-6171 Pte Roger DESROCHERS before arraignment makes(s) (no) plea(s).(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 note and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 30, 112. See paras 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C, D, E & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol.6 P.72

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) charge(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO.(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) no opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the First charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the First charge(s), ~~and allowed on the charge(s)~~ and that, accordingly, the trial will proceed on the former, ~~but the accused is (are) found Not Guilty on the latter charge(s)~~.(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. Yes to give evidence. Do you intend to call witnesses on your behalf ? Ans. No. Are they witnesses as to character only ? Ans.
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 84(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 91, 92(A).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~
(1. *AA 54(3) (d), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Yes call a character witness.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 165(3) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(2)
(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes in mitigation of punishment.(2)
(1. *RP 37(C), 46(D).* 2. *Address if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 91(1) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its powers, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 42. As to sentences, see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566. Overseas NO 309, 2323, MML p 60, 737-738. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1) (b), 98(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see insert on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

B80

MEDICAL OFFICERS CERTIFICATE

(KR(Con) Para 557)
(CBRG GL 173)

I certify that I have this day examined E-6717 Pte Roger
(No.)
DESROCHES and in my opinion he is
(Rank) (Name)

fit to undergo trial by Court-Martial.
~~unfit~~

Station Field

Date. 12 Apr 45

" R H Chalmers" (Capt)
Medical Officer
(unit) 10 Bn 2 CBRG

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Con 562, RP 26, 29, 111.)*
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Con) 2693.)*
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 10 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 110 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or J.A* (*RP 40 fn 10*)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 40 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses re to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Con 562(a).*)

(vii) Summing up by J.A., if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or J.A., if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or J.A., if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Con 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Con 560. As to certified copies of regimental books see AA 163 (3) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after sentence of sentence awarded. (*AA 53(3), RP 118(C), MML p 739.*)

4. The President or J.A., if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-6171	Pte		Roger	DESROCHERS	R de Chaud 10 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 10 Apr 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	P S OSLER	RCA X-9 List 3 Cdn NETO

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lt	to be detailed by OC 10 CBR Bn	10 CBR Bn
Lt	to be detailed by OC 11 CBR Bn	11 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Lt	G E COLLINS	Legal Offr att 2 CBRG(ADJA)

On Active Service in the Fd

in BELGIUM (*Country.*)	"G S N Gostling" (*Signed personally. RP 105 (n 2)*)	Brigadier (*Rank.*)
Date 10 Apr 45	(G S N Gostling) Commanding 2 Cdn Base Rft Gp (*Convening Officer.*)	

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for notes and notes for use on trial.*)

4/38A (PASS (In lieu of AF A3).
AF F & R 8/1947 (4000).)

On behalf of the JAG Cdn Army Overseas I approve the appointment of Lt G E Collins as Judge Advocate the said Lt COLLINS having legal qualifications.

"H H Griffin" (HH Griffin) Capt HQ 2 CBRG
A/JAA

(B8)

CHARGE SHEET

The accused E-6171 Pte Roger DESROCHERS (R de Chaud) of the strength of 43 Coy, 10 CBR Bn, a soldier of the Canadian Army Overseas.

is charged with

FIRST CHARGE
A.A. Sec 12(1) WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

In that he

In the Field at 0800 hrs, 27 Sep 44, with intent to avoid active operations against the enemy, absented himself without leave until surrendering to the military authorities at Rouen at 2300 hrs 14 Nov 44.

SECOND CHARGE
A.A. Sec 22(1) WHEN ON ACTIVE SERVICE, WHEN IN LAWFUL CUSTODY, ESCAPING

In that he

In the field at 1715 hrs 16 Nov 44 whilst in lawful custody at 10 CBR Bn, escaped.

In the Field
19 Mar 45.

"J Runcie"
(J Runcie) Lt-Col
O.C., C.B.R. Bn

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
10 Apr 45

"G S N Gostling"
(G S N Gostling) Brigadier
Commander
2 Cdn Base Rft Gp

Ref 50

IN RE DESROCHERS

PROSECUTION :

Capt E H Kinghill, formerly Records Officer 13 CBR Bn, now 1 Ech, sworn states:-

I do not recognize the accused but I do know that he went AWL sometime in September while I was records offr 13 CBR Bn. A Court of Inquiry was held at 13 CBR Bn after the 21st day of the accused's absence. A casualty return was submitted after the findings of the Court - striking the accused off strength 13 Bn as a deserter. That is normal procedure laid on by 2 Ech. Due to the fact he went AWL he was not present at the Unit when a demand came in for personnel to go forward to an operational Unit in the fie -ld. At that time the system controlling demands on 13 Bn would probably have called for approximately 12 to 15 demands during the accused's absence. The accused was at 13 Bn as a reinforcement.

No cross-examination

Court.

In September and October we could expect about 2 demands per week for a particular unit. There were occasions when we couldn't fill Chaudiere demands completely. The accused would have definitely been on one of the Chaudiere or other drafts. Demands came in on very short notice. No one could leave camp without a pass. Control was necessary to be kept over every individual.

R P 83(b) complied with.

Documentary - declaration of Ct of Inquiry assembled 26 Oct 44 @ 13 Bn 2 CBRG showing commencement of absence - 0800 hrs 27 Sep 44.

Documentary - certif of apprehension showing arrest at ROUEN @ 2300 hrs 17 Nov 44.

Prosecution closed

D.O. makes submission of no prima facie case (see attached statement)

Prosecution replies (attached)

Submission is disallowed.

DEFENCE

Accused - sworn - states: I knew a young girl who stays in ROUEN I intended to go and see her. Then I went away and stayed with her. I never made any black market in order to live. I always had the intention to report back and then I surrendered. I never wore civilian clothes during my absence, I always kept my means of identification - discs, paybooks and identity card. I was properly dressed when I surrendered in ROUEN. I stayed with my girl's family - they gave me a place to sleep - food and money.

Cross exam - I did not know while I was at 13 Bn that I was liable to go to the front. No one ever told me that I was going up front or could expect to go from CBRG. I knew that someday I would be going to the front. When I arrived at 13 Bn I did not know it was a forward Bn and that I was liable to leave at any time for the front. When I went AWL I knew that others would be leaving for the front during my absence.

...../2

PSO

Accused (cont'd). I was at 13 Bn for about 1½ weeks. I did not know of any groups of men who went forward while I was at 13 Bn. I expected that when I moved I would go to 46 Coy - which is the last coy before going to "B" Echelon of a unit. When I was at 13 Bn I was A-1 although I had no re-board.

R P 83(b) complied with.

Accused introduces statement as to character given him by Capt T.P. Taschereau, R de Chaud.

E 3

Plea by DO in mitigation of sentence (attached)

E 2

Accused states he has been in close custody since 14 Nov 44 except for two days 16 - 18 Nov 44 incl, when he escaped and surrendered himself.

NON-ESTABLISHMENT OF PRIMA FACIE CASE:

The defence submits that the prosecution h s in no way proved wilful and deliberate intention on the part of the accused to avoid active operations against the enemy and has therefore not established a prima facie case. The defence feels that the evidence presented by the prosecution established only "Absence without leave but in no way supports the charge of desertion.

"C Z Godlovitch"

REPLY TO OBJECTION OF DEFENSE AS TO THE CASE BEING A PRIMA FACIE CASE:

13 CBR Bn is considered as the forward B_ of CBRG and personnel who are sent there on drafts know that they are going forward from there to the front. Pte Roger DESROCHERS went AWL - there is no doubt about that. When he went AWL he was on his way to the front and he could expect to leave at a short notice for a Unit. His offense therefore is more serious than a straight AWL offense, and should be considered as a deserter.

"C Lagasse" Capt
for prosecution.

CLOSING ADDRESS

In the Case of E-6171 Pte Roger DESROCHERS, R de Chaud.

After the evidence given before the Court there is no doubt that the a/m was AWL. The circumstances under which he went AWL classify him as a deserter of his Majesty's service He was a fit reinforcement for the field and, being at 13 CBR Bn he knew that he would be going forward soon. By being absent he avoided leaving on drafts. Under those circumstances his offense is more serious than a straight AWL offense.

"C Lagasse" Capt
Prosecution Officer.

SUM UP OF DEFENCE:

IN summing up for the defence we maintain that the prosecution has not proved wilful intent to avoid active operations against the enemy. The evidence presented by the prosecution in support of the charge of desertion is at best merely deduced from the non-conclusive circumstances surrounding the absence of the accused and is therefore based on Hypothesis rather than fact. Whereas our plea of "NOT GUILTY" is based on the following facts.

1. The accused has stated under oath that he had no intention of avoiding service with his unit ot of not returning to His Majesty's Service. This is borne out by the fact that the accused surrendered himself to the military authorities in ROUEN.

2. He has stated that never, at any time, did divest himself of his uniform or his means of identification. The fact is that on surrendering he was properly dressed and in possession of his identity card and discs.

3. The mere length of his absence is in no way conclusive . I quote CH III Sec 18 MML:-

"mere length of absence is by itself inconclusive as a test - for a soldier who has been entrapped into bad company through drink or other causes may be absent some time without any thought of becoming a deserter.

I ask the Court to consider the circumstantisbility and lack of factual information in the evidence presented by the prosecution as proving intent and the evidence the defence has brought to your attention - we ask that you find the accused NOT GUILTY as charged.

"C Z Godlovitch"

J A's CLOSING ADDRESS

I wish to point out that it is part of my duty as Judge Advocate to sum up the evidence and advise the Court on the law.
The Court, however, is the sole judge of the facts and anything I may say now or may have said previously indicating my personal views as to the facts shall be entirely disregarded. The Court is the sole judge of the facts.
As to the offence of desertion (here J.A. sums up in a manner substantially the same as the charge contained in the attached statement marked 'I')
I have nothing further to say unless the Court, or Prosecutor or Defending Offr require explanation on any question I may have overlooked.

Mr President have you any points on which you wish me to address the Court? No.

Mr Prosecuting Offr have you any points on which you wish me to address the Court? No.

Mr Defending Offr have you any points on which you wish me to address the Court? No.

"G E Collins" Lt

Referred to in J/Bs summing up. GCG.

JUDGE-ADVOCATE's Closing Address to the Court
SUMMING UP

DESERTION

There are two types of desertion. (1) general desertion, the intention being not to return to military duty in any corps, (2) desertion in which the intention is to avoid some important particular service, for example, engagement with the enemy, carrying of supplies of material of war for troops in operations, reinforcement drafts, etc.

The charge in this case falls into the second category since it is alleged in the charge that the accused absented himself with intent to avoid active operations against the enemy.

As the charge is so worded it is not open to you to find general desertion but the charge must be proved substantially in the wording of the particulars, although as always it is open to you to bring in a special finding should you find the accused guilty of special desertion but find that the particulars alleged vary in some immaterial respect from the wording of the charge.

To prove an intent to avoid some particular service the onus is on the prosecution to prove the necessary ingredients, such as the role which the accused's unit was carrying out at the time, the circumstances under which the accused was apprehended, any statements or admissions made by the accused, in short any circumstance or circumstances from which you could reasonably infer that the accused had a firm intention to avoid such a particular service.

Providing that evidence or some such evidence is before you it is entirely within your power to draw whatever reasonable conclusion you wish to draw from such evidence, bearing in mind always that if there is any reasonable doubt in your mind as to such intention, the benefit of that doubt should be resolved in favour of the accused.

Should there not be evidence before you sufficient to substantiate a charge of desertion the Court may always make a special finding that the absence constituted absence without leave and not desertion providing that there is sufficient evidence to prove absence.

PLEA TO MITIGATION

The accused is relatively youthful and inexperienced. At the time he is 22 years of age. He enlisted in the Cdn Army when 19 years of age on 15 Dec 41. He arrived in England in July 43 and landed in France on the 11 June 44. He joined his Regiment - "the Chaudiere" on the 4 July 44 during the battle for Carpiquet airfield, and served in the line with them until Oct 44 - when he was evacuated with appendicitis - a total of four months in action.

He has never served detention before.

I ask the Court to be as lenient as possible.

"C Z Godlovitch"

E 1

P30

WITNESS AS TO CHARACTER

Capt T. P. TASCHEREAU, R de CHAUD

I am Capt TP Taschereau O.C. #20 Coy 10 CBR Bn. I know the accused and I identify him as E-6171, Pte DESROCHERS, R. I knew the accused while he was in action in France with le Regt de la Chaudiere; I was then OC D Coy of my Unit and the accused was acting as stretcher bearer. I certify that Pte DESROCHERS, although very nervous in the front line, carried his duty very well. Furthermore I can say that I don't remember having any difficulty or any thing to say against his conduct while he was under my command.

"T P Taschereau" Capt

Witnessed By

"E G Peden"(?)
Pipe Major

"C Z Godlovitch" Lt

EXHIBIT "A"
PSO

EXHIBIT "A"
"J F Juby" Lieut
Officer detailed to take Summary of Evidence

RECORD of the Declaration of a Court of Inquiry assembled~~xx~~ in the Field on the 26th day of October 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E-6171 Pte DESROCHERS, R (R De Chaud) 13 CBR Bn

DECLARATION

The Court declare that No. E-6171 Pte DESROCHERS, R (R de Chaud) 13 C.B.R.Bn illegally absented himself without leave from 13 CBR Bn at 0800 on the 27th day of Sept 44, that he is still so absent, and that on the 26th Oct 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
Attached as Appendix 'A'			

Capt J. Fransiszyn (RCASC) 13 CBR Bn — President

Capt G.A. McVey (CH of O) 13 CBR Bn — Member

Member

Signed ~~xx~~ In the Field

this 2nd day of Nov 1944

Signature of Commanding Officer A.T. Law
Commanding Officer 13 CBR Bn 2 CBR Gp

Certified true copy "RL Harrison" (R.L. Harrison) Capt & Adjt

Signature of Officer having custody of original record

M.F.B. 275
A.F.B. 118
DHS—6-41 (750)
H.Q. 1773-13-267

13 CANADIAN B/SE REYNFORCEMENT BATTALION

2 CBR Gp

SCALE III KIT COMPLETE WITH VOCABULARY PRICES

ARTICLES	QUANTITY	VOCAR PRICE
Anklets Web prs	1	.99
Blouses Battle Dress	1	5.25
Boots Ankle Prs	2 @5.46	10.92
Beret Khaki	1	1.21
Drawers Cellular Short prs	2 @ .43¢	.86
Greatcoat Drab	1	11.55
Jersey Pullover	1	1.79
Shirts Angole Drab	2 @ 2.03	4.06
Sock prs	4 @ .37	1.48
Trousers Battle Dress prs	1	5.39
Braces	1	.28
Brushes Hair	1	.34
" Shaving	1	.37
" Sjoe Polishing	1	.28
" Tooth	1	.11
Cpas Comforter	1	.34
Combs Hair	1	.04
Dressing Field	1	.24
Discs Identity Sets	1	-
Fork NS Table	1	.07
Holdall	1	.19
Housewifr complete	1	.17
Knife Clasp	1	.86
Knife Table	1	.16
Razor Safety with blades	1	.06
Spoon NS Dessert	1	.07
Towels hand	2 @ .32¢	.64
Belts Waist	1	.67
Bottle Water	1	.82
Braces WE Right & Left	2 @ .30¢	.60
Carrier Water Bottle	1	.52
Haversack	1	1.79

Helmets Steel	1	2.42
Net Camouflage Helmet	1	.15
Packs	1	1.84
Straps Shoulder Haversack L & R	2 @ .32¢	.64
" Web Supporting	2 @ .13¢	.26
Tins Mess TP	1	.35
Capes A/G	1	2.76
Respirators AG complete with haversack	1	4.66
Ointment AG	2 @ 15 ¢	.30
Eyeshields AG Pkge of 6	1	.45
Detectors Individual prs	2 @ .06 ea	.24
Blanket	1	3.07
Mug Drinking	1	.13
Sheets Ground	1	2.94
Rifle No.4 Mk I	1	45.48
Bayonet No.4 Mk I	1	2.46
Bottles Oil	1	.06
Pouches Basic WE Pattern 37 Mk III	2 @ 1.19 ea	2.38
Bayonet Scabbard No.4 Mk I	1	.61
	100% Vocab Price	$123.31
	75% Vocab Price	92.48

EXHIBIT B
PSO

EXHIBIT "B"
"J F Juby" Lieut
Officer Detailed to take
Summary of Evidence.

CERTIFICATE IN ACCORDANCE WITH A.A. SEC 163 (1)(j)

I, Captain E. Vernon certify that No. E-6171 Rank Pte Name: DESROCHERS, R. Unit: 'D' Coy Chaudier Regt surrendered himself to No.1431440 Rank: L/Cpl Name: Makepeace H C.M. POLICE at Rouen at 2300 hrs on 14th November 1944 as an absentee/deserter. He was wearing military uniform.

Date: 15 November 1944

Signed "J E Vernon" Captain
(J E Vernon) Commanding
243 H.Q. Provost Coy, C.M.P.

EXHIBIT 'C'

PSO

SUMMARY OF EVIDENCE

In the case of E.6171 Pte Roger DESROCHERS (R de Chaud) on the strength of 43 Coy, 10 CBR Bn, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this evidence is taken on oath.

DOCUMENTARY EVIDENCE

1. The Declaration of A Court of Inquiry, produced as documentary evidence was read over to the accused, marked exhibit "A", signed by me and attached hereto.

2. The Certificate of Apprehension under A.A.163(i)(j), produced as documentary evidence, was read over to the accused marked exhibit "B", signed by me and attached hereto.

"J F Juby" Lieut
(J F Juby) Lieut
(CH of O), 10 CBR Bn.,
Officer detailed to take
Summary of Evidence.

FIRST WITNESS PROSECUTION

L-26465 Cpl Wilk M. (QOR) of 49 Coy, on the strength of 10 CBR Bn, having been duly sworn states:-

I am L-26465 Cpl Wilk M. (QOR) of 49 Coy, on the strength of 10 CBR Bn. I was Coy Orderly Cpl for 42 Coy, 10 CBR Bn on 16 Nov 44. At approx 1645 hrs, 16 Nov 44, I was escorting Pte Desrochers, the accused, whom I now recognize, to the Mess Hall for supper. At 1700 hrs, 16 Nov 44, I was escorting him back to the Guard Room, 10 CBR Bn, and he dropped his mess tins and started to run. I gave chase but I could not catch him. I searched the barracks and the accused could not be found. I reported the escape to the C.S.M., 42 Coy. I was armed at the time of the accused escape but I had received no orders allowing me to fire.

Accused declines to cross-examine this witness.

R.P. 83(b) complied with.

"M Wilk" Capl L-26465
.....
(M. Wilk) Cpl L-26465

The accused having been cautioned as follows; "Do you wish to make any statement or give any evidence on oath? You are not obliged to say anything or give any evidence unless you wish to do so, but what-so-ever you may say or any evidence you may give, will be taken down in writing and may be used in evidence", declines to give any evidence and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one(1) page, was taken down in writing by me, in the presence and hearing of the accused.

I certify that R.P. 4 (c) (d) (e) and (f) have been complied with.

"J.F.Juby" Lieut.,
(J F Juby) Lieut.,
(CH of O), 10 CBR Bn.,
Officer detailed to take
Summary of Evidence.

EXHIBIT "E" PSO

No E-6171 Name DESROCHERS, R. Sqn, Battery, or Company | Corps CIC | Date of enlistment 15 Dec 41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 127) 40(PAM)/136 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if order dispensing with trial	By whom awarded	Remarks
				Temporary Sheet Only					
				"W M Arthurs"(?) Capt Offr i/c Regimental Books.					

(PTO)

Exhibit D 86

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
E-6171	Pte	Roger DESROCHERS	10 C.B.R. Bn

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For Original MFM 6 not available ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for Nil beginning on the .....day of .....

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 7 days in military custody, i.e., Nil days in open arrest, 7 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 22 yrs, 26 days.

6. The date of his attestation [redacted] is 15 Dec 41

7. The service which the accused is allowed to reckon is 2 yrs, 3mths, 4 days

†State the military decorations (if any) held by accused.

8. The accused is in possession of †CVSM & CLASP

9. (If the accused is a warrant officer or N.C.O.). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	//////////////////
In the war substantive rank of	//////////////////
In the acting rank of	//////////////////

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Wt. 13479/2857 30,000 5/44 H-431 T.Ltd. Forms B.296/W(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20th day of March 1945 "W M Arthur" Capt

LIST OF WITNESSES

FOR THE PROSECUTION: L-26465 Cpl WILK, M. (QOR) 49 Coy, 10 CBR Bn

FOR THE DEFENCE: NIL

LIST OF EXHIBITS

Exhibit "A" - The Declaration of a Court of Inquiry.

Exhibit "B" - The Certificate of Apprehension under AA Sec. 163(i) (j)

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE, A COPY OF THE CHARGE SHEET, THE SUMMARY OF EVIDENCE, THE LIST OF WITNESSES, AND A LIST OF EXHIBITS.

I DO DESIRE THE SERVICES OF AN OFFICER TO REPRESENT ME AT MY TRIAL BY COURT MARTIAL.

"R Desrochers"
(E-6171 Pte Roger DESROCHERS)

XXX-118

Pte Bisrodino. R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E-6171 Pte ROGER DESROCHERS, R de Chaud, 11 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 1.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	NOT GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~As present under sentence for~~ beginning (on date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B353 or AF B296.)

Time in confinement awaiting present trial: a total of days, of which days were spent in hospital (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

~~Sentence Awarded by the Court:~~

(Sgd) Judge-Advocate, if any. 23 Sep 44 Date awarded. (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 758-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: KP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1. AA 57A. Delete if not used.)

(Sgd) Date Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 10 OCT 1944 JAG BRANCH G.H.Q.

RECORDED AT CMHQ IN AB 160 XXX-118

FIELD GENERAL COURT-MARTIAL

CFA26 (To form of AFA81) 4/38B

Convened by Order of Lt-Col H W RICK A/ Comd 2 CBRD dated 22 SEP 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
E-6171	Pte		ROGER	DESROCHERS, R de Chaud,	11 CBR Bn

PROCEEDINGS REVIEWED 10 Oct 44 J.A.C. W. E. Bench Capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Held in the Fd in (country) FRANCE on (date) 22 SEP 44

PROCEEDINGS REVIEWED Date 7 OCT 44 Sec G.H.Q. 21 Army Gp

PROCEEDINGS OF TRIAL.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 10/1/46

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns from RDs. For guidance as procedure when a variation in this form occurs, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 14 15 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Con 559. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to LT. C. LEMIEUX as interpreter? Ans NO

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer? Ans~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A/W DUNBAR,	OC of C,	11 CBR Bn
Member	CAPT	JEAN LAMY	4 Mtr Regt RCA,	12 Bde HQ RCA
Member	LT	A R DILLON	2 Svy Regt RCA,	12 CBR Bn
Judge-Advocate				
Prosecutor	CAPT	M W BAIE	LAKE SHORE,	11 CBR Bn
Defending Offr	LT	G A FCROYD	R de Chaud,	11 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) Q. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Q1 p 3.)

A8. The accused E-6171 Pte DESROCHERS ROGER before arraignment makes(s) (no) ~~no~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or in one of several accused charged jointly to be tried separately (RP 19, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas on Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML* p 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 90(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination(4) and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)

(1. *RP 37(B).* 2. *RP 27(D) fn 6.* 3. *RP 35(B) fn 5 para 2, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on .....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 27(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (F).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (No) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not~~ establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is reopened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on ~~the latter charge(s).~~(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans "I wish to give evidence on my own". Do you intend to call witnesses on your behalf ? Ans Yes. Are they witnesses as to character only ? Ans No.

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fn 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(a).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s) if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.~~(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (b), RP 45, 120(A).* 2. *AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

~~D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

~~RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.~~

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans .....

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 47(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. *MFB 355 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 363-366, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to remission from arrest by Confirming Offr see KR Can 547. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Accused Elected to be Tried by Court-Martial. [illegible]

CHARGE SHEET

The accused, E-6171 Pte DESROCHERS R, R de Chaud, unposted reinforcement on strength 11 CBR Bn, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
AA Sec 8(2)

WHEN ON ACTIVE SERVICE - USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER

in that he

In the Field, at 11 CBR Bn, on 19 Sep 44, when ordered to "Stand to attention when I address you and button up your blouse" by E-62367 GSM JACKSON R, 11 CBR Bn, said, "I am not going to take any shit from anyone around here."

(G F [illegible]) Lt-col
Comd 11 CBR Bn

In the Field
21 Sep 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(R W RICE) Lt-col
A/Comd
2 Cdn Base Rft Gp

In the Field
22 SEP 44

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined F6171 (No.)

PG (Rank) DESROCHERS R. (Name) and in my opinion he is

fit / ~~unfit~~ to undergo trial by Court-Martial.

Station FELP

Date 23 Sept 44

(Signed)
Medical Officer
HCRAM
(Unit)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K-6171	Pte		ROGER	DESROCHERS	R de Chaud, 11 CSR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above, the accused, being subject to military law, has ~~(or is)~~ committed the offences set forth in the Charge Sheet ~~(or Charges)~~ attached and on (*date*) 22 SEP 44 endorsed by me, ~~(or by an offr of my staff for me)~~, to be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr, A.A.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder;

4. ~~I am pleased to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	DUFFAR,	OC of C, 11 CSR Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by OC 12 CSR Bn	12 CSR Bn
Lieut	To be detailed by OC 12 CSR Bn	12 CSR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	To be detailed by OC 11 CSR Bn	11 CSR Bn

~~JUDGE-ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in FRANCE (Country.)

(Signed personally. RP 103 fn 2.) Lt-col (Rank.)

Date 22 SEP 44

(F W RIDE) Lt-col
Commanding A/Comd 2 Cdn Base R'T Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (FAGS (To Dels of AFAS) 40-F & S/1867 (4651))

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.
A 12345 Cpl H. Jones, RWR, sworn, states:
I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.
Cross-exam: He did not say he was sick. (or, None.)
Re-exam: None.
Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to *RP 95(A)*, be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)
(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)
(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)
(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)
(v) Closing address (*in matters other than an exposition of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)
(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 565(a).*)
(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)
(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.
(iii) Medical Certificate(s). (*KR Can 567.*)
(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.
(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy as lieu of original see KR Can 560. As to certified copies of registered books see AA 162 (1) (g) (h).*)
(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 52(9), RP 118(C), MML p 758.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

W Witness for Prosecution (1)

D3

1st W Witness K62367 C.S.M. JACKSON H, on strength 11 Bn having been duly sworn is examined:-

Q-1:- You are the C.S.M. of 'S' Coy 11 Bn?
A-1:- I am, Sir.
Q-2:- Do you recognize the accused?
A-2:- Yes Sir.
Q-3:- Will the court the events of the morning of 18 Aug concerning this charge.
A-3:- At Approximately 08:30 I had occasion to be in the Coy Orderly Room. The Accused was present at the Orderly Room. Cpl. McKenzie informed me that the Accused was about to draw that morning. I asked the accused why he was absent. I then gave him an order to parade with his battle dress and stand to attention when I addressed him. He replied "I am not taking shit from anyone about here." I ordered him to be placed under close arrest, Sir.
Q-4:- Was there any one present beside you and Cpl. McKenzie at the time?
A-4:- Yes Sir, at least four persons including one officer.
Q-5:- Was the remark made in English or in French.
A-5:- In English, Sir.

The Defending Officer cross-examines the W.Witness:-

Q-1:- When the conversation took place where were you standing?
A-1:- At the entrance to the Orderly Room!
Q-2:- Were you inside or outside?
A-2:- At the entrance.
Q-3:- Were was the accused?
A-3:- Outside.

The Prosecutor re-examines the W Witness:-

Q-6:- Had accused talked to anyone prior to talking to you?
A-6:- To Cpl McKenzie.
Q-7:- What ranks were the others present at the time?
A-7:- One officer and three juniors.
Q-8:- Had accused been talking to any others
A-8:- I cannot say Sir.

RP 8 28 Complied with

W Witness for Prosecution K67417 Cpl. McKenzie being duly sworn is examined:-

Q-1:- Are you the Orderly Room clerk?
A-1:- Yes Sir.
Q-2:- Do you recognize the accused?
A-2:- Yes Sir
Q-3:- Describe events of the morning of 18 Aug relating to the accused.
A-3:- The Dispatcher came to the Orderly Room & asked to go on Pay Parade. The Sgt. Major was standing in the Orderly Room

at the same time I asked Pte Devereaux if he had been on Sick Parade. Pte Devereaux replied he had not been on Sick Parade. The Sgt-Major asked why not and told him to stand to attention. The Accused replied: "I don't have to take any shit around here."

Q-4: Were the Sgt-Major & you together?
A-4: As close as I am now to the accused.
Q-5: How far from the accused were you?
A-5: About 3 feet.
Q-6: Did conversation take place at the Entrance to the Orderly Room?
A-6: Yes Sir.

The Defending Officer questions the Witness:-

Q-1: Were all present when you warned the new arrivals for sick parade the next morning (Aug 11) and how many were present?
A-1: Eleven sir.
Q-2: When you asked the accused about the sick parade that morning how did he reply?
A-2: Quite normally Sir.

R.P.&O.(D) complied with.

The Prosecution rests.

(3)

Witnesses for defence

(D6)

E-6171 Pte Desrochers Roger

after being Duly Sworn

Defendms Officer –

Tell the court when you arrived at 52 Coy

Accused

I arrived at 52 Coy 18 sept 1944
We were 11 soldiers.

Defending Officer –

What happened before Supper

Accused:

The Corporal on parade ground took us to 52 Coy orderly room. He brought our papers to the orderly room and went out. He told us to find ourselves that there were no mattresses at Q.M. Stores. Then he took us to supper and told us to report in front of 52 Coy to go to Q.M. stores get a blanket and a pair of sh...

Defending Officer

What Cpl was it?

Accused

The orderly Cpl told us from Ride Mon

-B-

After the parade at the Q.M. Store I asked the orderly cpl if there was a place for me to sleep. The orderly cpl answered me to go into the where there were 2 or 3 other Soldiers. I went with Pte David and we found a place to Sleep

Defending Officer

Where there any of the 11 Soldiers that Arrived at 52 Coy with that unit

Accused

No Sir

Defending Officer

Explain what occured next morning?

Accused

Next morning after breakfast I reported to the Orderly Room of 52 Coy and I asked to one soldier who was there if I had any chance of getting past. He asked me my name - I answered Corporal — He went at the back of the tent to get a mess and gave it to another Soldier there. - After this second Soldier spoke to me he was in the tent drying out. While I was outside I saw only his head + left shoulder he told me "But you report on Sick parade this morning" — I acted

"No Sir, nobody told me to go last night". — Then he told me: "Nobody told you to go at breakfast this morning and you went just the same". — Then he told me that there were too many soldiers in the Camp for him to lead them around by the hand. Then he spoke to me of the front line and said a lot more things I did not understand. As I became angry I told him I would not take shit from him. He came out of the hole and I was surprised to see he was a C.S.M. He spoke to me and told me to stand at attention and button up my tunic. My tunic was perfectly buttoned up. Only the two holes were not done up. Seeing I was angry I did not stand at attention and he called two escorts. He told me to put my cigarette out. I came back to my senses and obeyed his order.

Prosecuting Officer

Did you know who you were talking to?

Accused

I thought I was talking to a private.

(16)

Prosecutor
You made the statement of which you
are charged
accused

yes

2nd witness
(D6)

D-138696 Pte David R.

Defending Officer
You are D-138696 Pte David R.

Witness
yes Sir

Defending Off
Did you arrive at 52 Coy with
the same group as Pte Desrochers

Witness
yes Sir

Defending Off
Are you the only one of the group
who slept with him

Witness
yes Sir

Defending Off
Were you told to go on sick parade

Witness
No I was not told and I did
not go.

"No Sir, nobody told me to go last night". — Then he told me: "Nobody told you to go at breakfast this morning and you went just the same"? — Then he told me that there were too many soldiers in the Camp for him to lead them around by the hand. And he spoke to me a lot more of the same kind and said a lot of things I did not understand. As I became angry I told him I would not take that from him. He came out of the hole and I was surprised to see he was a C.S.M. He spoke to me and told me to stand at attention and button up my tunic. My tunic was perfectly buttoned up. Only the two hooks were not done up. Seeing I was angry I did not stand at attention and he called two escorts. He told me to put my cigarette out. I came back to my senses and obeyed his order.

Prosecuting Officer

Did you know who you were talking to?

Accused

I thought I was talking to a private.

SUMMARY OF EVIDENCE

IN THE CASE OF E6171 Pte DESROCHERS, Roger (R de Chaud) on strength of 11 CBR Bn, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this evidence is taken under oath.

FIRST WITNESS:

K67417 Cpl McKENZIE W N, on strength of 11 CBR Bn - PE, having been duly sworn, states:

"I am Orderly Room Cpl of 52 Coy, 11 CBR Bn. The accused whom I recognize reported to 52 Coy in the evening of 18 Sep 44 and was taken on strength of the Coy. Ten other men reported with him and the group was warned by myself at that time to parade for sick parade the following morning at 0730 hrs. The accused did not appear at 0730 hrs the following morning, although all ten of the others showed up. At about 0830 hrs the accused reported to me in the Coy Orderly Room and stated he wished to go on pay parade. CSM Jackson was with me at the time and asked the accused if he had been on sick parade that morning. The accused answered "No", whereupon the CSM told him to stand to attention. The accused replied, "I don't have to take any shit around here."

.....
(K67417 Cpl McKenzie W N)

The above evidence was read back to the witness.

The accused declined to cross-examine this witness.

SECOND WITNESS:

K62367 CSM JACKSON H, on strength of 11 CBR Bn - PE, having been duly sworn, states:

"Sir, at approx 0830 hrs on the 19 Sep 44 at 52 Coy Orderly Room, I saw E6171 Pte Desrochers R. He asked to be paid. At that moment Cpl MacKenzie (Orderly Room Clerk) informed me that the accused was absent from Sick Parade. I checked this statement and found it to be correct. I then said to the accused, "You are absent from Sick Parade this morning, why?" I also said to him, "Stand up to attention when I address you and button up your battle blouse." The accused replied, "I am not going to take any shit from anyone around here." I then ordered him to be placed under close arrest, Sir."

.....
(K62361 CSM Jackson H)
52 Coy - 11 CBR Bn.

The above evidence was read back to the witness.

The accused declined to cross-examine the witness.

The accused, having been cautioned as follows: "Do you wish to make a statement or to give any evidence on oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used as evidence", declined to make any statement.

.....
(E6171 Pte Desrochers R)

SUMMARY OF EVIDENCE

IN THE CASE OF E6171 Pte DESROCHERS, Roger (R de Chaud) on strength of 11 CBR Bn, a soldier of the Canadian Army Overseas.

I CERTIFY THAT THE FOREGOING SUMMARY OF EVIDENCE CONSISTING OF TWO (2) PAGES WAS TAKEN DOWN BY ME IN THE PRESENCE AND HEARING OF THE ACCUSED.

I CERTIFY THAT RP 4 (c)(d)(e)(f)(g) HAVE BEEN ~~EXEMPLED~~ COMPLIED WITH.

.....
(M W Babe) Capt
Officer detailed to take
SUMMARY OF EVIDENCE

In the Field
20 Sep 44.

5 V-144
Rte. Desrochers, N. D.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : E-4794 Pte DESROCHERS, Wilfred Louis - 1 CGRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 21 days, of which 14 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :
To undergo detention for a period of nine (9) months

(Sgd) ..... Judge-Advocate, if any. Date awarded. 20 NOV 45 President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 171 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further orders~~ (1)
(1. AA 57A. Delete if not used.)

Date 22 NOV 45. (Sgd) ..... Commanding Brigadier, Commanding "C" Group, Cdn. Reinforcement Units, Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
E 4794 Pte Desrochers W.L.	24 Nov 45	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5W-144

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA83) 40/P & B/1688 (6144) 4/38B

Convened by Order of Brig E.C. Plow, CBE DSO Comd "C" Gp, CRU dated 16 Nov 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-4794	Pte	Wilfred Louis	DESROCHERS,	1 CGRU

PROCEEDINGS REVIEWED
4 Dec 45 DJ Brody Maj
REVIEWING OFFICER 1 CDN ARMOURED CORPS

PROCEEDINGS OF TRIAL

Held in the Fd in (country) ENGLAND on (date) 20 NOV 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1500 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to ..... as interpreter ?~~ Ans .....
~~The Interpreter is sworn.~~(1) Do you object to C/16168 Sgt Secretariat as shorthand writer ? Ans NO
The shorthand writer is sworn.(2)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO(2).
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	LT-COL	D.L. REDMAN	HQ CRU
Member	CAPT	H B TRITES	1 CGRU
Member	LIEUT	D J PAYETTE	1CGRU
~~Judge-Advocate~~			
Prosecutor	LIEUT	W E HAGAN	1CGRU
Defending Offr	LIEUT	R SKINNER	1 CGRU

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~all~~ plea(s) .....(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 13C, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to KoP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form .....

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO STM (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*ii*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*c*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO - I W
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(1. *MFB* 355 *or MFB* 294. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. NOTHING (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to relate an oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 563-566. *Overseas AO* 309, 2323, *MML p* 66, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1) (*b*), 68(*c*), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assemble and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, E4794 Pte Wilfred Louis DESROCHERS, C.I.C., on the strength of No. 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE

SECTION 15 (1)

ARMY ACT

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, absented himself without leave from 2359 hrs 20 May 45 until apprehended by the Civil Police in Eghan, Surrey, at 2045 hrs 24 Oct 45.

Absent: 158 days, 20 hrs, 46 mins.

Comd No. 1 Canadian General
Reinforcement Unit
Canadian Army Overseas

Field,

14 Nov 45.

To be tried by Field General Court Martial

Brigadier
Commanding 9th Group, Cdn Reinforcement Units
(Convening Officer)

16 Nov 45
Bordon, Hants.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-4794	Pte		Wilfred Louis	DESROCHERS	1 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) this date endorsed by me, ~~[redacted]~~, "to be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~[redacted]~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[redacted]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[redacted]~~

(RP 106(E). Delete, if none opposed.)

PRESIDENT.

Lt-Colonel (Rank.)	D.L. Redman, VD (Must be named. RP 106.)	HQ CHU (Unit.)

MEMBERS.

Captain (Rank.)	To be detailed by CO (Named or detailed. RP 106.)	1 CGRU (Unit.)
Lieutenant (Rank.)	To be detailed by CO (Named or detailed. RP 106.)	1 CGRU (Unit.)
(Rank.)	~~[redacted]~~ (Named or detailed, if any. RP 106.)	(Unit.)
(Rank.)	~~[redacted]~~ (Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

In ENGLAND (Country.)

Dat 16 Nov 45

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Commanding "C" Group, Cdn Reinforcement Units Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CPA 88 (Dir Gen of AFA 3) 40/P & S/1697 (6148)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 80(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn 10*)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 2, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (on *matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 562(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*See fn.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 566. As to certified copies of regimental books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(3), RP 118(C), MML p 758.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICER'S REPORT

I certify that No. E. 4794 Pte. Desroche, W.L.
of # 1 C.C.R.U. is in a Fairly Good state of health,
and Fit to undergo Trial by Court martial.

Medical Officer

Station Field

Date 20 Nov 45

M. F. B. 246

E 4794 Pte. Wilfred Louis DESROCHERS C.I.C.

Plea of mitigation.

This soldier enlisted 14 Nov 39 and arrived in England 18 Dec 39. His record while in England contained a few minor offences.

He landed in Sicily with the 1st Div. July 43 and fought with them constantly in all their campaigns up to and including the assault on the Hitler line - approximately ~~one~~ 12 months of fighting.

At this time he was evacuated with shell shock and on recomendation of the medical authorities he was returned to England in March 45. and posted to 1 Can. Recep. Depot.

Added to the mental stress incurred through a long front line service this man also contracted V.D. while in the field and on returning to England voluntarily broke his engagement with his fiancée.

It is submitted that this man was under considerable strain and being of a nervous disposition he allowed an urge ~~of~~ for freedom from Army restrictions to overcome his better judgment and his conduct was not of a malicious nature.

W Hall Capt RCE.
1 C.G.R.U.
16 Nov 45.

E-3

MM

SUMMARY OF EVIDENCE

in the case of

E4794 Pte Wilfred Louis DESROCHERS, C.I.C., on the strength of No. 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas.

"I produce the following documents, pursuant to Overseas Routine Order 5352, which have been read over and shown to the Accused, and which are attached hereto as Exhibits:"

(1) Certified True Extract from the original MFM 4 concerning E4794 Pte Desrochers W. L. which declares that E4794 Pte Desrochers W. L. to be absent without leave from 2359 hrs 20 May 45, authority for said entry being No. 1 CRD Part II Order No. 122.
(Marked Exhibit "A")

(2) Army Form C 1618 signed by the Committing Magistrate at Chertsey which declares that E4794 Pte Desrochers W. L. was apprehended at Egham, Surrey at 2045 hrs 24 Oct 45.
(Marked Exhibit "B")

.....
(J.F.Hodgins) Capt
Officer detailed to take the Summary of Evidence.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused reserves his defence.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the Accused and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with".

.....
(J.F. Hodgins) Capt
Officer detailed to take the Summary of Evidence.

Field,

13 Nov 45.

EXH

Exhibit A

Certified True Extract
from Original MFM 4 re
E4794 Pte DESROCHERS W.L.

-"-

UNIT	RECORD OF ALL CASUALTIES, etc.	PLACE OF CASUALTY	DATE OF CASUALTY	ARMY RANK	AUTHORITY
1 CRD	AWL from 2359 hrs	UK	20May45	Pte	122 / 45

I certify the above to be a
true copy of an original
entry in the original MFM 4
concerning E4794 Pte Desrochers
W.L., held in my possession.

(J.F. Hodgins) Capt
Officer having custody
of original document

The refund of expenses incurred by the Police applies *only* in the case of the Police authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the_____

Police in connection with the apprehension of_____

_____and are

payable to_____

(Superintendent or Officer i/c Police Station at

Date_____

AUTHORITY for the PAYMENT of a REWARD. (*For Army use only.*)

The Command Paymaster_____ is hereby authorised to pay to_____ being the person recommended by the Committing Magistrate, a reward of_____ for the apprehension of_____

Date_____ (O.C. Unit)

Officer Commanding.

Where no reward is authorised though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

IMMEDIATE. Army Form O. 1618.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit.* The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

* (5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps. In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

* NOTE.—Special instructions apply in war for the disposal of absentees and deserters apprehended by the civil police ; *e.g.*, such personnel will be taken over from the civil authorities by the O.C. the nearest military Unit or the O.C. Troops at the nearest military station. (A.C.I. 489/1940).

[illegible] W.L.56666/1661 50,000 10/41 A.& E.W.Ltd. Gp.499 Forms/O.1618/34.

DESCRIPTIVE RETURN OF ‡ Wilfrid Louis DESROCHERS who ‡ was absent W.O. at 8.45 pm (hour) on the 24th day of October and was committed to confinement at Lethbridge on the 25th day of October 1918 as a Deserter (or Absentee without leave) from the — Bn. of the Royal 25th Regiment of Canadian Army

Age 23 years Height 5 feet 7½ inches
Complexion Sallow Hair dark Brown Eyes Brown
Marks scar left side neck In uniform or plain clothes civilian

Probable date and place of attestation	4-11-1918, Alberta, Canada
Probable date of desertion or beginning of absence and from what place	27-5-1918 place not known
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	Ready, P. Alberta. Detective Constable 245. Deputy Joint Police, Lethbridge

Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given. *

* Seen at Lethbridge Alta. Nov 24 at 8.45 pm arrested. Failed to produce pass. Denied he was an absentee. Previous information from D.S.C. Canadian Army Calgary that he was absent since 27-5-1918 Apprehended on these grounds.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he[r]

the before-mentioned Corps.

Signature
Residence
Post Town
Date of Signature
of Committing Magistrate.

Signature of Prisoner

Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence.

Signature
Residence
Post Town
of Magistrate.

Date of Signature

‡ Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be

Exhibit "B"

Army Form O.1618.

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. of

Regiment at on by

who was committed as a Deserter (or Absentee without leave) on the

RECOMMENDATION FOR REWARD.

I RECOMMEND*

Address

for a reward of

Signature of Committing Magistrate.

Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

No. E-4794 Name DESROCHERS, W. Sqn. Battery, or Company — Corps R 22 R CAO — Date of enlistment 16 NOV — GC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 122) 40/P&S/156 (7010)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 139 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunken-ness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						2 Days C.B.	19-3-40		2 Days Pay.
Field		Pte.		A.A. 15(1) AWL		168hrs. Detn.	10-7-40		11 Days Pay.
Field		Pte.		A.A. 15(1) AWL		28 days Detn.	9-9-40		50 Days Pay.
Field		Pte.		A.A. 15(1) AWL from 2230/15-8-40					
Field		Pte.		to 0140/6-9-40		2 Days Pay.	22-11-40		7 Days Pay.
Field		Pte.		A.A. 15(1) AWL		7 Days F.P.	23-12-40		
Field		Pte.		A.A. 15(1) AWL		1 Days Pay.	31-12-40		17 Days Pay.
Field		Pte.		A.A. 15(1) AWL 1 Day		14 Days Detn.	6-1-41		18 Days Pay.
Field		Pte.		A.A. 15(1) AWL		14 Days F.P.	5-2-41		1 Days Pay.
Field		Pte.		A.A. 15(1) AWL			3-4-41		1 Days Pay
Field		Pte.		A.A. 15(1) AWL			16-4-41		
Field		Pte.		A.A. 15(1) AWL					
Field		Pte.		A.A. 15(1) AWL					

(PTO)

No. E-4794 Name DESROCHERS, W. | Sqn. Battery, or Company | Corps R 22 R CAO | Date of enlistment 16 NOV 39 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/136 (7910)

Date of last entry in Company Conduct Sheet 24-10-41 | and date of last drunk | N11 | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On the 23-11-41 this soldier completed 2 years service and in accordance with R.O.71 Overseas the above regt. entries were transfered from the previous sheet which was then destroyed.									
Field	10Dec41	Pte.		WOAS sec 15AA Absenting from stand to from 1730 hrs 10-12-41 until 2235 hrs. 10-12-41	Cpl.Jette, D.	7 Days C.B.	11-12-41	M.Millette	
Field	27Jan42	Pte.		WOAS Sec 11AA Neglect to obey an order given by a superior officer	Cpl.Peloquin Cpl. Jette,D	4 Days C.B.	27-1-42	Capt.Trudeau	
Field	4Nov42	Pte.		WOAS Sec 15AAabsent from Tatoo	L/C Robideaux	3 Days C.B.	5-11-42	L. Doucet	
Field	9Nov43	Pte.		WOAS AWL absent from parade at 1315 hrs. A.A. Sec. 15(1)	CSM St.Amand Cpl. Riopel	7 Days C.B.	9-11-43	Capt. P.M.A. Simard.	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	[illegible]	Pte.		AA 15(1) AWL		7 Days Pay	12 May 43		1 Days Pay.
Field	8Aug43	Pte.		AA 40 WOAS cond.to the prej.of good order and military discipline in that he did eat without authority part of his emergency rations.	Lieut. D.R. Sharpe	7 Days C.B. Forfeits 3 Days Pay	13 Aug 43	M.J.C.	
Field	9-10-43	Pte.		(1)Sec 15AA WOAS AWL 22hrs 30mins. (2)Sec 15AA WOAS AWL 3 days 22hrs 30mins.	CSM Archambeault	28 Days Pay	28days FP1	5-10-43 Lt.ColBernichez	5 Days Pay; FR&I 149
Field	25-12-43	Pte.		AA 15(1) WOAS absenting himself without leave in that he in the field at 1430 hrs.while on open arrest absented himself without leave until he was app by MP at 2325 hrs. 9-1-44(Absent 15 days 8 hrs. 55 mins.).		14 Days F.P. 16 Days Pay.	2-2-44	Lt.Col. J.V. Allard	

-to sheet 3-

No. F-4794 Name DESROCHERS, W. Sqn, Battery, or Company — Corps R 22 R CAO — Date of enlistment 16NOV 39 — GC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 127) 40/F&S/136 (7010) Character

Sheet No. 3

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	16Feb44	Pte.		AA 15(1) In the field at about 1330 hrs on the 16 Feb 44 until arrested at Torino di Sangio at 1700 hrs 22 Feb 44 Total: 6 days 3 hrs. 30 mins.	L/Cpl. Martel Sgt. Filion, W Documents	Admonished	26 Feb 44	Capt. Chasse	7 Days Pay FR&I 149
Field	25Sep44	Pte		AA 15(1)AWL from 2200 hrs 25Sep 44 to 0800 hrs 26 Sep 44	Cpl. Parish, A.C.	2 Days Pay	26Sep 44	E.W. DAY	forfs 1 D.P.
Field	16Apr45	Pte.		AA 15(1)AWL from 0815 hrs 16Apr 45 to 1400 hrs 23 Apr 45(Absent 7 days, 5 hrs, 45 mins).		28 Days Detn.	24Apr 45	C.O. 1 C.R.U.	Forfs 28 D.P. FR&I 149(1)(b) Forfs 8 D.P. FR&I 149(1)(a)

(7010)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witness	Punishment awarded	Date of award of of order (especially with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY OF ORIGINAL MFM 6 HELD IN MY POSSESSION (J. F. Hodgins) Capt Officer having custody of original document					

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E4794	Pte	DESROCHERS W. L.	No 1 Cdn Gen Hft Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recommendations for special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA 15 (1) ..... times.

For AA 40 ..... 20 times.

For ..... 2 times.

For ..... times.

Date of first entry in Field Conduct Sheet 19 Mar 40

Date of last entry in Field Conduct Sheet 24 Apr 45

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for ..... days in civil custody; and for 27 days in military custody, *i.e.*, — days in open arrest, 27 days in close arrest; of which — days were spent in hospital.

5. The present age of the accused is 28 yrs

6. The date of his attestation is 14 Nov 39

7. The service which the accused is allowed to reckon is .....

†State the military decorations (if any) held by accused.

8. The accused is in possession of† CVSM & Clasp

EXB

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(P3607) WL3072/3703 30,000 9/41 A.&E.W.Ltd. Gp.A/99

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20 day of November, 1945

Woodgate Capt
Legal Officer
1 C 4 2 U

CASE OF E4794 Pte Wilfred Louis DESROCHERS

(i) LIST OF WITNESSES FOR PROSECUTION

Nil

(ii) LIST OF WITNESSES FOR DEFENCE

Nil

(iii) LIST OF EXHIBITS FOR PROSECUTION

(a) Certified True Extract from the Original MFM 4 concering the absence without leave of E4794 Pte Desrochers W. L.
(Marked Exhibit "A")

(b) Army Form C 1618 signed by the Committing Magistrate at Chertsey concerning the apprehension of E4794 Pte Desrochers W. L.
(Marked Exhibit "B")

(iv) LIST OF EXHIBITS FOR DEFENCE

Nil

(v) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence, taken in the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

W. L. Desrochers
(E4794 Pte Desrochers W.L.)

(vi) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of.....
if he is available.

W. L. Desrochers
(E4794 Pte Desrochers W.L.)

Signed in the Field,

this 14 day of Nov 45.

UUU-138

Pte Desnoches, C.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E-5776 Pte Marrocco, C. 2 Edn C Tpt Coy RCASC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	NOT GUILTY	Order. Lt Col
2nd alternative	NOT GUILTY	NOT GUILTY	
3rd alternative	NOT GUILTY	NOT GUILTY	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B353 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(Sgd) Gordon H. Jermyn 23 June 44 (Sgd) D A Ferguson Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 123(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date ..... Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160

CPA66/To lieu of AFA21 40/17 & 8/1606 (46761)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Lt Col J.P. Ron Smith Comd RCASC 2 Can C Tpt dated 20 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
E-5776	Pte	Conrad	Marrocco	2 Edn C Tpt Coy RCASC

PROCEEDINGS REVIEWED.
Maj
6 Sep 44

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Held in the Fd in (country) France on (date(s)) 23 Aug 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member~~, JA, ~~if any and Offrs under instr if any~~, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns KRs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for notes and instrs on how to record addresses, evidence etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1830 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete if not applicable.)

A5. President to accused: Do you object to ~~Lt Col~~ as interpreter? Ans .....

~~The Interpreter is sworn.~~(1) Do you object to ..... as shorthand writer? Ans .....

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any and Offrs under instr if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D A Ferguson	4 Edn Armd Div Tpt Coy RCASC
Member	Capt	M B Bell	34 Edn L Tpt Coy RCASC
Member	Lt.	R B Quigley	33 Edn C Tpt Coy RCASC
Judge-Advocate	Capt	G.H. Jermyn	HQ 2 Edn Corps
Prosecutor	Capt.	R.E. Vincent	2 Edn C Tpt Coy RCASC
Defending Offr	Capt.	J. Hennessey	2 Edn C Tpt Coy RCASC

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans. NO.(1)

(1. RP 2a, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros is lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See 2nd p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~the~~) plea. .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding can recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (separately) on all charges in the charge sheet.(1) The accused (does) (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; where several accused to be tried separately see RP 71(C), and see separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is informed~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 Corps Book II p 143

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans .....[5]
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) now changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.[1]
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO SIR .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~does not make~~) an opening address.[1]
(*1. RP 39(B), 60(A) (B), 90, 91(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] ~~The Defending Offr submits that the evidence for the Prosecution does not~~ establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on ~~the latter charge(s)~~.[4]
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans I will give evidence on oath. Do you intend to call witnesses on your behalf ? Ans NO SIR. Are they witnesses as to character only ? Ans N.A.
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.[2] The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of this Court on the ..... charge(s), being subject to confirmation, will be promulgated later.~~[1]
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]
(*1. AA 54(2) (c), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?[1]
Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.[3]
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?[1] Ans .....[2]
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to answer anything there or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(*1. AA 54(6), RP 122(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]
(*1. Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishments or punishments laid down in AA 42, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 142, RP 46-50, 88, 118, 119(A), KR Con 308, 338, 342-346, Overseas RO 406, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(b), (ab)(i), KR Con 364. 2. RP 52. As to release from arrest on Confirming Offr see KR Con 347. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE-SHEET

D&A

The accused, E-5776, Pte. Conrad DESROCHES, 2 Canadian Corps Transport Company, Canadian Army Overseas, B L A, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec 41 A.A.

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING

In that he

in the field on 12 Aug 44 stole the following articles from a person or persons unknown:

- One Civilian Overcoat
- Three ladies' slips
- Three pairs ladies panties
- One Ladies' Night Dress
- One pair ladies' gloves
- One ladies sweater
- One ladies' Blouse
- One bottle of wine (Full)
- One bottle of wine (Partially emptied

Second Charge
(Alternative)
Sec 41 A.A.

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE THAT IS TO SAY RECEIVING STOLEN GOODS

In that he

in the field at about 2115B hrs 12 Aug 44 received the articles set out in the first charge knowing the same to have been stolen.

Third Charge
(Alternative)
Sec 40 A. A.

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he
in the field at about 2115B hrs 12 Aug 44 was improperly in the possession of the articles set out in the first charge.

Approved pursuant to KR Can & Vo and Amdts PO 4756(13) 22 Aug 44 Comd Gp Capt ADJA Reinforcements

In the Field
22 Aug 44

(K.E. Morris) Major,
Officer Commanding,
2 Cdn C Tpt Coy, RCASC

To be tried by Field General Court Martial

22 Aug 44

(G D Ross-Smith) Lt-Col
Comd RCASC 2 Cdn C Tps

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-5776	Private		Conrad	DESROCHES	2 Cdn C Tpt Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (~~been~~ committed the offence(s) set forth in the Charge Sheet attached and on (*date*) 30 Aug 44 endorsed by me, (~~or by an offr of my visit [illegible]~~) "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offer~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President for the reasons I have~~ attached hereto.

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Maj	D A Fergusson		4 Cdn Armd Div Tpt Coy RCASC

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	M B Bell		34 Cdn C Tps Comp Coy RCASC
Lt	R B Oglesby		33 Cdn C Tps Comp Coy RCASC

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
	N/A		

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	G H Jermyn		HQ 2 Cdn Corps

On Active Service in the Fd

in France (Country.)

(Signed personally. RP 105 fn 2.) Lt-Col (Rank.)

Date 30 Aug 44

(G D Ross-Smith) Lt-Col
Commanding RCASC 2 Cdn C Tps
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for notes and notes for use on trial.*)

MEDICAL CERTIFICATE

I CERTIFY that I have this day examined E-5776 Pte Conrad DESROCHES, 2 Cdn C Tpt Coy, R C A S C, and find him FIT to undergo trial by Court Martial.

In the Field,
23 Aug 44

Medical Officer

Prosecution

First Witness

H-72 L/Cpl Pfaff, J.E. 4 Sec. 2 L of C Pro Coy, sworn states.

At about 2100 hrs 12 Aug 44 on patrol in Caen with L/Cpl Wildeboer. I saw PG Uterwelle coming towards us wearing a black civilian overcoat. When he saw us he about turned and walked in the opposite direction. We caught up with him and checked him. He had no pay book identity card or disc. He told us his name, number and unit. In the pockets of the civilian overcoat we found 1 bottle Bordeaux wine, full, 1 wrist watch, 3 prs ladies panties, 3 ladies slips one ladies blouse, 1 ladies sweater, 1 pr ladies gloves

above articles produced to the Court and marked Exhibit 'A'

I arrested Uterwelle and we escorted him to the Town Guardroom and turned him over to the guard, obtaining a receipt.

Cross-examination

It was on a side street near the church in the centre of Caen. He walked about 15 yds towards us and then turned. We caught up with him just around the corner off the main road. He was in sight until he turned the corner. There were two fellows with him when I first saw him. They all turned back together and disappeared around the corner. When we came around the corner there was only the accused standing there about 10 yds from the corner. He was wearing the coat. His arms were in it but it wasn't buttoned up. He told us that an old man gave him the coat. Then he told us some Limey's gave him the coat. The first thing he said was "get those two Limey's, they owe me some money". L/Cpl Wildeboer went after the other two and brought back two RAF men in battle dress. The accused said they weren't the two and we let them go. I noticed a bottle inside the tunic of one of the RAF men. He said he had bought it from the accused. I checked their identification but did not make a record of it and I cannot give their particulars.

R.P. 83 (h) complied with.

Second Witness

H-26794 L/Cpl Wildeboer J.W. 10 Sec. 2 L of C Pro Coy, sworn, states.

About 2110 hrs 12 Aug 44 I was on patrol with L/Cpl Pfaff. We saw PG Uterwelle and two other soldiers walking towards us. They turned around and went around a corner. When we got around the corner PG Uterwelle was standing there alone. PG Uterwelle had on a civilian coat in which were three articles. Eg A and a card with an address on it "Albert Marie, Cafe des Ecrits, 171 Rue St Pierre, Caen." PG Uterwelle said they were two Eng Irish fellows with him who had purchased a bottle of wine from him but did not pay him for it. I went after them and found two men of the RAF regiment. I don't know whether they were the same ones I first saw with the accused. I brought them back to the accused who said they weren't the fellows who were with him so we let them go. They said they had been with him but were only showing him the road back to Camp

Cross-examination

Civilian. He gave us about four different stories of how he got them. It is possible that they were purchased or even given to him. I checked the address on the card. It is a cafe that had been bombed out. The cafe was fairly well wrecked but there were apparently some people living upstairs at the far end of the building. We checked the cafe dining room and kitchen. There was nothing there except empty bottles. The S.P.S. takes over from there.

By the Court

He said it was given to him by two Eng link soldiers. That they had purchased a bottle of wine from him and he had paid him for it. I didn't see any wine in his possession. As I didn't check the identity of the RAF men.

R.P. § 3(b) complied with.

Defence

First witness

F-5776 AG Charnock, C. R Cdn CTpt Coy RCASC sworn states.

On 12 Aug 44 just after tea I started out for a walk and ended up in Caen. Then I had a few drinks and hung around the NAAFI. about 2100 hrs before it got too late I decided to go back to the unit. On the way out of Caen just before you leave town on the main drag I noticed two Eng link chaps walking in front of me. They slowed down as I got to them. One of them said "Well go have a drink Canada". So I said "sure". One of them was carrying this blue coat (Ex A). He said lets go in this side street. So we went in and he pulled out a bottle and gave me a drink. Before he gave me a drink he said hold this coat. I took the coat and threw it on my shoulder. At the time I was feeling fairly good. I noticed there was a bottle in the pocket but this is the first time I saw these things. When the provost came up they asked me what I was doing with the coat on. I had it on my shoulders but did not have my arms in the sleeves. It was unbuttoned. I'm between going up the side street this Eng link chap said carry this coat and we'll go give you a bottle of cognac. From there we went up around this block back to the main street leading for home. Then they gave me another drink. All of a sudden they saw. So I turned around and found three provosts right on top of me. One of them asked me what was I doing with this coat on. I told him I was holding it for two Eng link chaps who had run down the street and who had promised me a bottle of cognac for carrying it. So one of the provosts went down the street and came back with two air force chaps. I said these were the chaps as he told them to go. Then they arrested me. I got huffy the chaps as he told them to go. Then they arrested me. I got huffy stayed with me. I never saw the two RAF before. He asked them if they had any thing to do with me and the air force fellow said no. Then he let them go.

Cross-examination

There was only the full bottle and the one the lumys were taking me from. I didnt say the lumys owed me any money. I didnt say dont let them get away they owe me money or anything like that. The R.A.F. didnt say they had bought a bottle of wine from me. My turnie was at camp. I never saw these articles before. I saw them for the first time to-day. I can speak French. I bought a bottle of wine from a Frenchman on the 7th francs about 7 o'clock. I dont know what to make of it. It happened so quick and so funny. That was my first night in Caen except on convoys. I didnt have my identity album with me. My pay book was in my turnie in camp. I hadnt been around the corner and walked back. I didnt tell the Provosts until they came up and got me. I thought I was arrested for being improperly dressed and not having any identity. I didnt know what was in the pockets until they in front read out the charge sheet.

By the Court

I never mentioned anything about an old man. I did not notice a bottle of wine on the R.A.F. men. All I know about them is they came back and the L/Cpl. asked them if they had any thing to do with me. They said no. The L/Cpl said "you fellows can go". I had never seen them before. The fellows who were with me belonged to the Key at Bay mines.

R.P.S.3(b) complied with.

L-72 L/Cpl Puffett J.E. recalled, still on oath, questioned by the court.

L/Cpl Wiledowny brought back two RAF men to my billyard the accused. Wiledowny stood off two or three feet. The accused stood beside me. L/Cpl Wiledowny went over across a narrow road to a wine shop to look at it. I asked the RAF fellows for their A.B.64 and they showed them to me. L/Cpl Wiledowny came back across the corner. I asked the accused if the two fellows he was with. He replied no. I asked one of the RAF what he had in his turnie. He told me it was a bottle of cider which he had purchased from the accused. His words as nearly as I can remember. He said "I got it off him" pointing to the accused. I'm sure L/Cpl Wiledowny was there when I ~~got~~ was questioning about the wine.

The accused said "dont let the two lumys go it away they owe me some money"

~~I took the articles out of the pockets in the presence of the accused on the stand~~

I took the blouse and the sweater out of the coat pockets while we were on the stand when we first caught up with the accused. Every thing was taken out of the pockets in the presence of the accused at the gardenroom.

The defending officer declines to cross-examine.

R.P.S.3(d) complied with.

E-5776 PO Barnes, C. recalled with permission of the court.

They took me in the form guardroom into a little office before a Sgt. He asked me my name, number and unit. I gave it to him. They put me in a cell. Sunday morning I was brought before the same Sgt and asked if my unit had been notified and he said it had. [redacted]. They never showed me any goods in the street or at the guard room.

R.P. ¶ 3(a) complied with.

Prosecuting Officer declines to make a closing address.

Defending Officer declines to make a closing address.

Summing up by Judge Adv.

The accused is charge with:- reads charges — the court can only find the accused guilty of one of these alternatives although it may find him not guilty of all of them. What facts have been proved the credibility of the witnesses + the weight to be given to the evidence of any witness are matters for the court to decide - Stealing is defined in MML Page 118 1st column of para 5 a. reads — The offence of receiving is set out in MML 124 para 65 reads — Coupled with that I refer the court to the doctrine of recent possession set para 66 - 124 MML - reads - To find the accused guilty on the 3rd charge that the prosecution must prove not only that the accused was in possession of articles but that there was something improper in his possession - having regard to its nature + the circumstances in which it took place + applying the courts military knowledge that such improper possession amounted to conduct to the prejudice of both good order and military discipline + finally

the court will remember that the accused is to be presumed innocent until he has been proved beyond reasonable doubt to be guilty - To warrant an acquittal the doubt must not be light or capricious doubt such as kindly or passion prompts a corruption readily adopts. It must be such a doubt as upon a calm view of the whole evidence a rational understanding will suggest to be an honest doubt.

J. Jervois 4th Capt.

Summary of evidence in the case of E-5776, Pte Conrad DESROCHES, 2 Canadian Corps Transport Company, Canadian Army Overseas, B L A, charged with being in unlawful possession of civilian property, failing to carry means of identification, being improperly dressed, on 12 Aug 44.

The Commanding Officer directs that the evidence be taken on oath.

First Witness

L-72, L/Cpl Puff, J E, 8 Section, 2 L of C Provost Coy, Cdn Army Overseas, sworn, states:

I was on 12 Aug 44, and am still, Lance-Corporal of 8 Section, 2 L of C Provost Coy, Cdn Army Overseas. At about 2115B hrs on 12 Aug 44 whilst on street patrol in CAEN in company with L/Cpl Wilchowy, I noticed a soldier walking towards us wearing a black civilian overcoat. Apparently noticing us, he turned about and walked away. We followed him, caught up about one hundred yards on, and stopped him for questioning. There were no means of identification on the man but he stated he was E-5776 Pte Desroches, C., of 54 Tpt Coy. In the pockets of the civilian greatcoat we found the following articles of clothing: 3 ladies' slips, 3 pairs ladies panties, 1 ladies night dress, 1 pair ladies gloves, 1 ladies sweater and 1 ladies blouse. In addition there was a full bottle and a card addressed to M. and Mme Albert Marie, Cafe du Centre, 121 Rue St, Pierre, CAEN.
I arrested the man and took him to the town Guard house where he was detained. The articles were confiscated as evidence.

CROSS EXAMINED BY ACCUSED:

Q.- Are you sure that I about-turned and walked away because I saw you two Provost ?
A.- No, but I did get the impression that that was the case.

Q.- When you came up to arrest me, did I not tell you there were two English chaps, Royal Engineers, running away down the street?
A.- Yes. L/Cpl Wilchowy proceeded down the street immediately upon hearing this. He came back a few minutes later with two Air Force men in khaki. We asked Desroches if these were the men, and he said "No". We asked them if they were with Pte Desroches and they replied "No". I noticed a bottle inside the tunic of one of them, and on questioning he informed me that he had purchased it from Pte Desroches. When Desroches originally told us about these two English chaps running away, he said that they owed him money.

J E Puff L/Cpl

Second Witness

H-26794, L/Cpl Wilchowy, S W, 10 Section, 2 L of C Provost Coy, Cdn Army Overseas, sworn, states:-

I was on 12 Aug 44 and am still, L/Cpl of 10 Section, 2 L of C Provost Coy, Cdn Army Overseas. At about 2100B hrs on 12 Aug 44 I was on town patrol in CAEN, accompanied by L/Cpl Puff. I noticed a soldier dressed in a civilian overcoat and with a bottle in his hand. Apparently he saw us and he turned around and walked up the side street away from us. We followed him and stopped him just around the corner about a hundred yards further on. On checking him for being improperly dressed we found him in possession of some civilian ladies' clothes, a full bottle ~~of~~ partially emptied bottle of wine. L/Cpl Puff placed him under close arrest and we took him to the town Guard room. When apprehended by us he had no means of identification on him, no pay-book, no identity card, no identity discs.

CROSS EXAMINED BY ACCUSED:

Q.- Did I not tell when I was picked up my name and number and also tell you my unit was just down the road and I was going there?

A.- Yes, you did.

Q.- Are you sure that I tried to get away from you and the other Provost?

A.- No, I am not sure, but that is the way it looked to me.

Q.- When you came up to me first what was I doing?

A.- You were just standing in the road.

S W Wilchowy L/Cpl

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The accused: I desire to give evidence under oath.

The accused, E-5776, Pte Conrad Desroches, 2 Cdn C Tpt Coy, RCASC sworn, states:-

"On the evening of 12 Aug 44 I set out for a walk and ended up in CAEN. While there I had a few drinks and at about 2100 hrs I started back to the unit. On the way out of town I met two English soldiers Royal Engineers, and they stopped me and asked me if I'd carry a civilian overcoat for them. One of them promised me a bottle of cognac if I did so. I was feeling fairly good at the time, so I thought it ~~xxxix~~ was a good deal and I did it. We went along for a little way and then went up a side street where I had a drink out of a bottle they had with them. We were standing there talking when all of a sudden they ran away. I turned around to see what was going on and found the Provost right on top of me. They asked me what I was doing with this civilian coat on. I told them I was holding it for two English chaps that had just ran down the street. One of the Lance-Corporals started after them but came back with two Air Force men I had never seen before, and who said they had nothing to do with me. I have never seen any clothes that the Provost says were in the coat, nor did I know there was anything in the coat at the time.

C Des Roches
(Signature of Accused)

The accused declined to call witnesses in his own behalf

C Des Roches
(Signature of Accused)

I certify that R.P. 4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 18th day of august, 1944.

Robinson Capt

I desire the Convening Officer to detail an officer to represent me at my forthcoming trial by Field General Court-martial.
I desire the services of Major A.W. Dyas, Civil Affairs, if he is available.



G Dan Parker
(Signature of Accused)

56-119.

Re. Desroches, 6.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E5776 Pte Conrad DESROCHES 2 Cdn Corps Tpt Coy RCASC 1 Cdn Disciplinary Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1) PSO

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 27 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for nine months

(Sgd) _____ Judge-Advocate, if any. 24 Feb 45 Date awarded. (Sgd) " P S Osler " Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 739-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 513. Duties and powers of reviewing offrs: AA 57, 57A, RP 51A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed

~~I direct that the accused be and committed to prison or detention barracks until further orders~~ (1) GSBO

(1. AA 57A. Delete if not used.)

(Sgd) " G S H Gostling "

Date 24 Feb 45 (G S H Gostling) Brigadier

Commanding 2 Cdn Base Rft Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E5776 Pte Desroches C	1 Mar 45	" A O Hood " Lt-Col Comdg, 1 Cdn Disciplinary Centre

CR 143
d/1 Mar 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

SC-119

FIELD GENERAL COURT-MARTIAL

CFA86 (To form of AFA31) 40/P AG S/1698 4/4/45 4/38B

Convened by Order of Brigadier GSN Gostling ED Comd 2 CBRG dated 22 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E5776	Pte	Conrad	DESROCHES	2 Cdn Corps Tpt Coy RCASC att 1 Cdn Disciplinary Centre

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date) 24 Feb 45 PSO

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 27/34

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns from ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 995, for notes and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) PSO
The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and PSO
each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1030 hours trial commences. PSO

A4. The Prosecutor produces a Medical Certificate that accused ~~is not~~ fit to undergo trial by court-martial.(1) PSO
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ PSO

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~Provided to accused:~~ Do you object to ~~the Interpreter~~ PSO
~~The Interpreter is sworn.(1) Do you object to~~ PSO
~~The shorthand writer is sworn.(1)~~ PSO

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	P S Osler	RCA X-9 List att 3 Cdn ~~MGRD~~
Member	Capt	J P G Gagnon	CIC 13 Bn 2 ~~CBRG~~
Member	Lieut	J Y Vilandre	CIC 10 Bn 2 CBRG
Judge-Advocate		nil	
Prosecutor	Lt	J P Gougeon	CIC 10 Bn 2 CBRG
Defending Offr	Lt	W H Sparrow	CIC 10 Bn 2 CBRG

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See DI p 33.)

A8. The accused E5776 Pte Conrad DESROCHES before arraignment makes(s) (no) ~~(a)~~ plea PSO

(1. If a special plea is made for separate trial on one or more charges (RP 62(F), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or as one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposit, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ PSO
not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 88s to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is advised and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The pro- PSO
ceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), to call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 paro 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Yes.(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement (5). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) to Not Guilty on charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if charged to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (h), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 355. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been given on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ..... Do you intend to call witnesses on your behalf ? Ans. ..... Are they witnesses as to character only ? Ans. .....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AFP. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Issue the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(B).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. No.

(1. If evidence has already been given on accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. MFB 255 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes, consideration of punishment.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas AO 109, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused E5776 Pte Conrad DESROCHES, 2 Cdn Corps Tpt Coy RCASC, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with: -

FIRST CHARGE - WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE
Army Act
Sec 15 (1)

in that he

In the Field, HOLLAND, did absent himself without leave from 2359 hrs 28 Dec 44 until he was apprehended in BRUSSELS, BELGIUM, at 2000 hrs 28 Jan 45. (Total time absent: 30 days 20 hrs 1 minutes)

" A O Hood "

In the Field
21 Feb 45

(A O Hood) Lt-Col
Commanding Officer
No 1 Cdn Disciplinary Centre

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

" G S N Gostling "

In the Field
22 Feb 45

(G S N Gostling) Brigadier
Comd.,
2 Cdn Base Rft Group.

R50

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if autharized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 104.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
E5776	Pte		Conrad	DESROCHES	2 Cdn Corps Tpt Coy RCASC att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 Feb 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial". GSNG

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior (punitive) offr~~. GSNG

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. GSNG

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ GSNG

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ GSNG

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	P S Osler	RCA X-9 List att 3 Cdn NETD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by OC 13 CBR Bn	13 CBR Bn
Lieutenant	to be detailed by OC 10 CBR Bn	10 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM
(Country.)

Date 22 Feb 45

" G S N Gostling "
(Signed personally. RP 105 fn 2.)
(G S N Gostling)
Commanding 2 Cdn Base Rft Gp
Convening Officer.

Brigadier
(Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (P.A.G. (Cdn Zone) 38 A.F.A.G. 60/F & S/1447) (4001)

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Con 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 42 I ordered the accused to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the paras in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 80(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 9-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence* except as provided by *RP 46(E), KR Con 562(a).*)

(vii) Summing up by JA, if any. (*RP 82.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Con 507.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy or form of original see KR Con 560. As to certified copies of regimental books see AA 153 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after sentence of sentence awarded. (*AA 52(9), RP 118(C), MML p 759.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

Plea in Mitigation

PSO

Due to being in Hospital when his unit R.C.C.S. was sent to Italy, Pte Desroches was remustered into R.C.A.S.C.

Since that time he has been dissatisfied with his work and has made repeated attempts to transfer back to sigs. Without success. He has been discouraged and worried due to lack of mail from home - in 4½ years Overseas has received only two parcels.

" W H Sparrow " Lt

PSO

MEDICAL OFFICER'S REPORT

PSO

I certify that No E5776 Pte Desroches C of 1 C D C is in a fit state of health, and able to undergo trial by Court Martial

" A M Davis " Capt

Medical Officer

1 C Disc C

24 Feb 45

Exhibit A
PSO

Summary of Evidence in the case of E5/76 Pte DESROCHES C (2 CCTC RCASC) Canadian Army Overseas.

Charge - Absence without leave.

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from 2 CCTC RCASC Pt II Order No 3 dated 15 Jan 45

Exhibit "B" - Certification of apprehension dated 29 Jan 45

Q Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C)(D)(E)(F) and (G) have been complied with.

" J F Rutherford "

(J F Rutherford) Capt
R C Signals
Officer detailed to take Summary of Evidence

Dated in the Field
18 Feb 45

Ex A

TO: Officer Commanding
1 Cdn Disciplinary Centre

2CCTC RCASC/1 (A5e)

9 FEB 45

EXTRACTED FROM: UNIT 2 CANADIAN CORPS TRANSPORT COMPANY RCASC

Part II Order No 3 dated 15 Jan 45

ABSENT WITHOUT LEAVE

AWL from 2359 hrs 28 Dec 44 Still absent 2359 hrs 9 Jan 45 (12days)
E5776 Pte DESROCHES C

This is exhibit A referred to
in the Summary of Evidence
in the case of E5776 Pte
Desroches C taken before me
this 18th day of Feb 45.
" J F Rutherford " Capt

" G E Marin " Lt
xxx

9 Feb 45

N.A.

ELL

Exhibit B

CERTIFICATE IN ACCORDANCE WITH P.C.2797 of 10 APR 42

I certify that E5776 Pte DESROCHES C 17 Car Coy RCASC 2 Cdn Corps was arrested at BRUSSELS at 2000 hrs on 28 Jan 45 and that at the time of his arrest he was wearing military uniform.

Signature of Provost-Marshal, Assistant Provost-Marshal, or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

" J Tweddle "

(J Tweddle) A/Capt
OC 2 Cdn L of C Provost Coy

Field
29 Jan 45

This is exhibit "B" referred to in the Summary of Evidence in the case of E5776 Pte Desroches C, taken before me this 18th day of Feb 45.

" J F Rutherford " Capt

Exhibit B
PSO

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E5776	Pte	DESROCHES C	1 Cdn Disc Centre (2 CCTC RCASC)

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein dated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Absence without leave — 5 times.

For Offence under AA Sec 40 — 1 times.

For _____ — _____ times.

For _____ — _____ times.

Date of first entry in Field Conduct Sheet 1 Mar 41

Date of last entry in Field Conduct Sheet Last entry dated 5 Apr 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for N/A

beginning on the _____ day of _____

4. The accused has been awaiting trial on the present charges for N/A

days in civil custody; and for ~~14~~ 27 days in military custody, *i.e.*, _____ days in open arrest, ~~21~~ 27 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 23 yrs

6. The date of his ~~attestation~~ enlisting or the military service is 11 Jun 40

7. The service which the accused is allowed to reckon is _____

8. The accused is in possession of; CVSM with Clasp

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

Date of Promotion.

In the substantive rank of _____

In the war substantive rank of _____

In the acting rank of _____

*Strike out if not applicable.

†Insert the ordinary description of ship held by accused.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

220391: W1421/29/4396 45,000 11/44 A.& E.W.Ltd. Gp.999 Form "Z 6 (War)14

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

P50

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 24 day of Feb 45

" A O Hood "
(A O Hood) Lt Col
OC 1 Cdn Disc1p Centre

No E5776 Name DESROCHES C Sqn, Battery, or Company Corps RCASC Date of enlistment 11-6-40 GC Badges Exhibit C Service or Proficiency Pay PSO

MFM 6 (AFB 122) 40/PAM/126 (5438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Mar 41	Sgmn		AWL		168 hrs det	3 Mar 41		Forf 9 days pay
Field	15 May 42			AWL from 2200 hrs 15 May 42 to 2230 hrs 18 May 42		14 days pay	19 May 42		Forf 14 d.p.
									FR&I 149(2)
									Forf 3 d.p.
Field									FR&I 149(1)(a)
Field		L/Cpl		Admonished for an off AA 40 AA 40		Admonished	3 Nov 42		Forf 1 d p
						Reverted to Sgmn	19 Mar 43		
Field	14 Jun 43	Pte		AWL 2200 hrs 14 Jun 43 to 0105 hrs 16 Jul 43 Absent 31 days 3 hours 5 mins AA 15 (1)		28 days FP	28 Jul 43		F 28 d.p.
									F 32 d.p.
									F 12 d.p.
									IF 72 d.p.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5 Apr 44	Pte		AWL from 0430 hrs 5 Apr 44 to 2240 hrs 25 Apr 44 (Absent 20 dys 18 hrs 10 mins) AA 15(1)		14 days pay			F 14 d.p. F 21 d.p. TF 35 d.p.
Field				AA 15(1) AWL Days		28 days FP			F 28 d.p. F 4 d.p. Tf 32 d.p.
Field		Pte		AA 15(1) AWL 8 hrs		3 days pay			F 3 d.p. F 1 d.p. Tf 4 d.p.
				CERTIFIED TRUE COPY OF MFM 6 in my possession " A O Hood " (A O Hood) Lt Col Commanding Officer No 1 Cdn Disciplinary Centre					

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of Extract from 2 CCTC RCASC Pt II Order No 3 dated 15 Jan 45	"A"
Certification of apprehension dated 15 Jan 45	"B"

I, E-5776 Pte DESROCHES C hereby certify that I have read one (1) copy of charge sheet and one (1) copy of Summary of Evidence free of charge on 20 Feb 45.

" C DesRoches "

E-5776 Pte DESROCHES C

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E-57776 Pte Conrad DESROCHES 2 Cdn Corps Tpt Coy RCASC 1 Cdn Disciplinary Centre

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA sec 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~present~~ beginning on (date) (1) PJO

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 27 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for nine months

(Sgd) Judge-Advocate, if any. 24 Feb 45 Date awarded. (Sgd) P J Osler major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders. (1)

(1. AA 57A. Delete if not used.)

(Sgd) W Gostling

Date 24 Feb 45 Commanding (G.S.N. Gostling), Brigadier, 2 Cdn Base Rft Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKED. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
E 5776 Pte Desroches, C.	1 Mar 45	A Reed Lt-Col Comdg, 1 Cdn Disciplinary Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CR 143
d/1 Mar 45

RECORDED AT CMHQ IN AB 160 5C-119

FIELD GENERAL COURT-MARTIAL

CPA88 (In lieu of APA3) 40/P & B/1600 (6144) 4/38B

17 APR 1945 Judge Advocate General's Office CMHQ

Convening Order of Brigadier G.S.N. Gostling, ED Comd 2 CBRG dated 22 Feb 45

ACCUSED.

(Where the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
E-57776	Pte		Conrad	DESROCHES	2 Cdn Corps Tpt Coy RCASC att 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED 17 Apr 45 [illegible] REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date) 24 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 62-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (now) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ as interpreter? Ans

~~The Interpreter is sworn.(1) Do you object to~~ as shorthand writer? Ans ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F.S. OSLER	RCA X-9 List	att 3 Cdn NETD
Member	Capt	J P G Gagnon	C I C	13 Bn 2 CBRG
Member	Lt	J Y V Lemaitre	C I C	10 Bn 2 CBRG
Judge-Advocate		nil		
Prosecutor	Lt	J P Gagnon	C I C	10 Bn 2 CBRG
Defending Offr	Lt	W H Aparone	C I C	10 Bn 2 CBRG

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D/ p 3.)

A8. The accused E-57776 Pte Conrad DESROCHES before arraignment make(s) (not) the plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 36, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol IV P. 22.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ete, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) & call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes. subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 65, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (d), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A A 143(f) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 253 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes in mitigation of punishment (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to answer on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(4), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 142, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 363-366, Overseas RO 309, 2322, RP 48. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 364.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 367. As to assembly and dispersal of persons after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

6

P10

CHARGE SHEET

The accused, E.5776 Pte Conrad DESROCHES, 2 Cdn Corps Tpt Coy RCASC, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, HOLLAND, did absent himself without leave from 2359 hrs 28 Dec 44 until he was apprehended in BRUSSELS, BELGIUM, at 2000 hrs 28 Jan 45. (Total time absent: 30 days 20 hrs 1 minutes)

In the Field,
21 Feb 45.

(A.O. Hood) Lt-Col
Commanding Officer
No 1 Cdn Disciplinary Centre.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field,
21 Feb 45.

(G.S.N. Gostling) Brigadier,
Comd.,
2 Cdn Base Rft Group.

5

P10

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-5776	Pte		Conrad	DESROCHES	2 Cdn Corps Tpt Coy, RCASC att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 Feb 45 endorsed by me (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~).
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	P.S. OSLER		RCA R-9 List att 3 Cdn MRTD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by OC 13 CHR Bn	13 CHR Bn
Lieutenant	To be detailed by OC 10 CHR Bn	10 CHR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM
(Country.)

Date 22 Feb 45

(Signed personally. RP 105 fn 2.)
(C.S.N. Gostling)
Commanding 2 Cdn Base Rft Gp.
Convening Officer

Brigadier
(Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (For use of APAS) (To take place of AFAS 40-P-N-8/1649 (1-42))

(See overleaf for notes and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. (*AA 52, KR Con 562, RP 28, 29, 111.*)

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. (*AA 52, MML 762, RP 27, 111.*)

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. (*AA 52, MML 762, RP 27, 111.*)

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. (*AA 52, MML 762, RP 27, 111.*)

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. (*AA 52, MML 762, RP 27, 111.*)

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. (*AA 52, MML 763, RP 82, 111.*)

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. (*RO (Can) 2693.*)

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(*Referred to throughout CF A 96 as "Notes".*)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 42 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken RP 83(B) complied with.

3. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

4. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the pars in CF A 96, under which it is taken. Both sides of paper should be used.

5. DEFENCE PROCEDURE: RP 118 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 90(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP 43 fn* 2, *46 fn* 1, *86.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (on matters other than on subjection of punishment) by Defending Offr or accused. (*See RP 40 fns* 8-12, *87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 81.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn* 7, *87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy on loss of original see KR Can 560. As to certified copies of regimental books see AA 152 (1) (g) (ii).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(3), RP 113(C), MML p 758.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

P70

MEDICAL OFFICER'S REPORT

I certify that No. E 5776 Pte Desrochers C.
of 1 C W C is in a fit state of health,
and able to undergo Trial by Court martial.

Medical Officer

Station 1 C Wing C.

Date 24 Oct 45

M. F. B. 246

PJO

Plea in mitigation

RCCS.,

Due to being in Hospital when his unit, was sent to ~~Italy~~ Holy Land, Pte Desroches was transferred into R.C.A.S.C. Since that time he has been dissatisfied with his work & has made repeated attempts to transfer back to Sigs. Without success. He has been discouraged and worried due to lack of mail from home – in 4½ years Overseas has received only two parcels.

W.H. Sparrow Lt

PJO

(1) Exhibit A pge

Summary of Evidence in the case of E-5776 Pte DESROCHES C (2 CCTC RCASC) Canadian Army Overseas.

Charge - Absence without leave.

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from 2 CCTC RCASC Pt II Order No 3 dated 10 Jan 45

Exhibit "B" - Certification of apprehension dated 29 Jan 45

Q Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP4(C) (D) (E) (F) and (G) have been complied with.

J F Rutherford

(J F Rutherford) Capt
RC Signals
Officer detailed to take Summary of Evidence.

Dated in the Field
16 Feb 45

EXHIBIT A.

PART II ORDER EXTRACT FORM

TO: Officer Commanding
1 CDN DISCIPLINARY CENTRE

99/20/ 2 CCTC RCASC/1 (A 5e)

9 FEB 19 45

EXTRACTS FROM: UNIT 2 CANADIAN CORPS TRANSPORT COMPANY RCASC

Part II Order No. 3 dated 15 JAN 45

ABSENT WITHOUT LEAVE

AWL from 2359 hrs 28 DEC 44 Still absent 2359 hrs 9 JAN 45 (12 days)
E5776 Pte DESROCHES C

Certified to be a true extract from the regimental books and documents in my custody

Officer i/c Records
Con Sec [redacted]

The following documents are { attached. Please acknowledge receipt on attached duplicate. required. Please forward same.

N.A.

This is exhibit A referred to in the summary of evidence in the case of E5776 Pte DESROCHES C taken before me this 18th day of Feb 45
J.F. Lunnford Capt.

Originating Clerk's Initials ELL

for Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 [illegible]

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42

EXHIBIT B

I CERTIFY THAT No E-5776, Rank Pte. Name DESROCHES C.

Unit 17 CAR COY RCASC 2CDN CORPS was arrested at BRUSSELS (Place)

at 2000 (hour) on 28 Jan 45 (Date) and that at the time of his arrest he was wearing (military uniform) or xxxxxxxxxxxxxxxxxx.

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

(J. Tweddle) A/Capt.
OC 2 Can L of C Provost Coy.

Field
29 Jan 45.

This is exhibit "B" referred to in the Summary of Evidence in the case of E.5776 Pte Desroches C., taken before me this 18th day of Feb '45 J. F. Lumbsford Capt

Exhibit B 910

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
[illegible]	Pte	DESROCHES C	1 Can Diam Centre (2 CDD RCASC)

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For Absence without leave 2 times.

For Offences under AA 40 40 1 times.

For — times.

For — times.

Date of first entry in Field Conduct Sheet MAR 41

Date of last entry in Field Conduct Sheet last date entry 5 Apr 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for N/A beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for N/A days in civil custody; and for 23 27 PW days in military custody, i.e., ... days in open arrest, 23 27 PW days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 23 yrs

6. The date of his ~~enlistment, or last attestation, where applicable~~ attestation is 11 Jun 40

†State the military operations (if any) held by accused.

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of † C V SM with Clasp

9. (If the accused is a warrant officer or N.C.O.). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

(34979)(2827) 30,000 5/44 W. 422 T.124 Forms B.296/8/422

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended
~~F.G.C.M.~~	~~St. Pierre sur Dives~~ Aug 44	Nil	Dismissed	PHO

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20 24 PHO day of Feb 45

A.O. Hood Lt. Col
O.C. No. 1 Cdn. Discip. Centre

Exhibit C

P15/17 MFM 6 (AFW 122) 40/P&S/539 (5413)

No. 15776 Name MSHOOKES O | Sqn, Battery, or Company | Corps SCASC | Date of enlistment 11/6/40 OC | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Badges

Place	Date of offence	Rank	Cause of forfeiture of pay	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						168 hrs det	3 Mar 42		Forf 9 days pay
Field	1Mar42	Sgmn		AWL		14 days pay	19 May 42		Forf 14 days pay KR&I 149 (a) Forf 4 dys pay KR& I 149(1)(a)
Field	15May42			AWL from 2200 hrs 15 May 42 to 2230 hrs 18 May 42					
						admonished	3 Nov 42		Forf 1 dys pay
Field				Admonished for an off AA 40		Reverted to sgmn	19 Mar 43		
Field		L-cpl		AA 40					

(PTO)

Place	Date of offence	Rank	Cause of detention/hospitalization	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Jun 43	Pte		AWL 2200 hrs 14 Jun 43 to 0105 hrs 16 Jul 43 (Absent 31 days 3 hrs 5 mins) AA 15 (1)		28 days FP	28 Jul43		Forf 28 days pay Forf 32 days pay Forf 12 dys pay Total forf 72 dys pay
Field	5Apr44	Pte		AWL from 0430 hrs 5 Apr 44 to 2240 hrs 25 Apr 44 (Absent 20 dys 18 hrs 10 mins) AA 15 (1)		14 days pay			Forf 14 days pay Forf 21 days pay Total For 35 dys
Field				AA 15 (1) AWL dys		28 days FP			Forf 28 dys pay Forf 4 dys pay Total 32 dys pay
Field		Pte		AA 15(1) AWL 8 hrs		3 days pay			Forf 3 dys pay Forf 1 dys pay Total Forf 4 dys pay.

Certified True Copy of MPM 6 in my possession

(A G Reed) Lt-Col
Commanding Officer
No 1 Cdn Disciplinary Centre

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of Extract from 2 CCRC RCAMC Pt II Order No 3 dated 15 Jan 45 "A"

Certification of apprehension dated 15 Jan 45 "B"

I, E-5776 Pte DESROCHES G hereby certify that I have ~~received~~ read one (1) copy of charge sheet and one (1) copy of Summary of Evidence free of charge on 20 Feb 45.

E-5776 Pte DESROCHES G

XXX-145

Pte. Derecho. D.f.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : F60035 Pte Daniel Joseph DESROCHES, C.B.H.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	guilty	
2nd	Not guilty	Not guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn b.)

At present under sentence for ~~issue~~ beginning on ~~issue~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which 2 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo detention for 183 days

(Sgd) W.M.W. Shaw Capt 18 Aug 44 (Sgd) H.A. Sprigg President. (RP 45, 50.)
Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn b, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the finding and sentence of the Court

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) Lord Johnston Brig

Date 20 Aug 44 Commanding 11 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
F60035 Pte DesRoches, D.J.	22 Aug 44	R.S. Hammell Lt Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 XXX-145

FIELD GENERAL COURT-MARTIAL

CPA86 (In lieu of APA8) 40/P & B-1608 (2004)

Convened by Order of Brig I S Johnston, DSO, ED Comd 11 Cdn Inf Bde dated 12 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F60035	Pte		Daniel Joseph	DESROCHES	C.B.H.

PROCEEDINGS REVIEWED 5 Oct 44 H.C. Tech Cpl.

REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 18 Aug 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see Instrs for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn a. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of ~~being dealt with summarily~~ by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to ~~the~~ an interpreter ? Ans. ~~The Interpreter is sworn.~~(1) Do you object to ~~the~~ an shorthand writer ? Ans. ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans ~~The Court~~(2)

(1. RP 110. 2. If no objection, waiting member returns. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 187, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	H.A. Sprigg	Perth R
Member	Capt	S.R. Granger	M.M. 11 Cdn Inf Bde
Member	Capt	T. Allen	P.L.I. of C.
Judge-Advocate	Capt	W.M.W. Shaw	M.M. 5 Cdn Armd Div
Prosecutor	Capt	A.D. Gale	C.B.H.
Defending Offr	Lt	H.B. Beale	C.B.H.

Questions by President : Is the Prosecutor a lawyer ? Ans. No. Is the Defending Offr a lawyer ? Ans. No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 1 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to A&P cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court vic see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans. ..... [5]
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 36(B), 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.[1]
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No, Sir [1]
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) (no) opening address.[1]
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the~~ charge(s).[2] The Court is cleared, and considers the submission.[3] The Court is reopened, and the President announces that ~~the submission is disallowed as to the~~ charge(s), and allowed on the charge(s), and that, accordingly, ~~the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~[4]
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. No neither. Do you intend to call witnesses on your behalf ?
Ans. Yes, Sir. Are they witnesses as to character only ? Ans. Yes, Sir.
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 8, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ~~last~~ charge(s), being subject to confirmation, will be promulgated later.[1] ~~(or) The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~[2]
(*1. AA 54(2), (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. ~~President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?~~[1]
~~Ans.~~
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.[3]
(*1. AFB 153 or AFN 295. 2. AFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?[1] Ans. Yes, Thank you Sir [2]
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witness to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.[2]
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its jurisdiction, is to be awarded in cases of charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 361-366. Overseas RO 309, 2323, MML p 66, 737-738. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 98(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 367. As to assembly and dispersal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused F60035 Pte Daniel Joseph DESROCHES, "B" Coy Cape Breton Highlanders C.M.F., is charged with:-

First Charge
A.A.Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in the Field, at about1630 hrs 6 Aug 44 at Castiglione della Valle, was a member of a group by which a firearm was discharged in such a manner as to endanger lives and property at 25 Castiglione della Valle, ITALY.

Second Charge
A.A.Sec 40
Alternative to First Charge

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in the Field at about 1600 hrs 6 Aug 44 at Castiglione della Valle, ITALY, created a disturbance by handling a firearm in such a manner as to threaten Italians.

Field,
0 Aug 44

.....(R.B.Somerville)Lt.Col
Officer Commanding,
Cape Breton Highlanders

A.O.S.
[illegible]

To be tried by Field General Court-Martial

Field
1[illegible] Aug 44

(Ian S. Johnston) Brig
Comd 11 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PARS/1007 (12-42)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
P60035	Pte		Daniel Joseph	DESROCHES	CBH

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 12 Aug 44 endorsed by me, (~~the~~) ~~[illegible]~~ To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	H A Snelgrove *(Must be named. RP 106.)*	PERTH (Unit.)

MEMBERS.

Capt	S R Granger	HQ 11 Cdn Inf Bde
Capt (Rank.)	T Allen *(Named or detailed. RP 106.)*	P L F (Unit.)

WAITING MEMBER.

Lieut (Rank.)	G K Drynan *(Named or detailed, if any. RP 106.)*	I R C (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	W M W Shaw *(Must be named, if any. RP 106.)*	HQ 5 Cdn Armd Div (Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 12 Aug 44

(I S Johnston) *(Signed personally. RP 105 fn 2.)*

Brig (Rank.)

Commanding 11 Canadian Infantry Brigade
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

HAS

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. (AA 52, KR Can 562, RP 26, 29, 111.)

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless there-unto required in due course of law.

2. JUDGE-ADVOCATE. (AA 52, MML 762, RP 27, 111.)

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. (AA 52, MML 762, RP 27, 111.)

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. (AA 52, MML 762, RP 27, 111.)

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. (AA 52, MML 762, RP 27, 111.)

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. (AA 52, MML 763, RP 82, 111.)

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. (RO (Can) 2692.)

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (RP 95(C)), any objections (RP 95(D)), and any statements by accused, may be summarized and, the evidence, subject to RP 85(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 85(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 85(A), be taken by him verbatim. (RP 95 fn 1.) If the evidence is taken by him in narrative form, RP 85(B) should be complied with. If taken verbatim, RP 85(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 118 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (RP 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (RP 60(C), 87(C), 92(C) (D).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or J.A* (RP 86 fn 10)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 5, 46 fn 1, 86.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (RP 86(B)), or to prove previous convictions when accused has called witnesses as to character. (RP 86(C).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been *no* statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 562(a).*)

(vii) Summing up by J.A., *if any.* (*RP 45.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or J.A. if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or J.A. if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 567.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 566. As to certified copies of registered books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part 1 of Schedule on p 5 after minute of sentence awarded. (*AA 53(3), RP 113(C), MML p 759.*)

4. The President or J.A., *if any*, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

No. J.40035 Rank. Pte. Name. D.E.S. ROCHES D.C.

This is to certify that I have examined the above named soldier and find him ina fit state of health to undergo trial by F.G.C.M.

Date. 18. Aug. 44

Signed. R.W. Bowden
Medical Officer.
Cape Breton Highlanders.

WWII.

No 760656 Rank ... P.te ..... Name. [illegible] Date [illegible]

This is to CERTIFY that I have examined the a/n soldier and found him fit to undergo trial by F.G.C.M.

Signature ..... Medical Officer. Major

[illegible]

First Witness: Bertis Ivo, 25, Castiglione della Valle duly sworn states:
"18 yrs of age - remember Sunday 6 Aug 44 - was leaving house walking by road - was running - truck car came along & went in ditch & they went into place where they kept animals - don't know if any of men here - was a carrier - came down stairs & they came in & asked old man for vins - soldiers on road, I was in house - made a mistake at start of my evidence - know one of men who came in for vins (points to accd) - told had no vins & blond fellow slapped me across face with open hand - blond fellow not here - called my brother & old man - brother was upstairs - then soldiers ran away for their guns - saw them come with their pistols - D was still in house - we closed the door - when they ~~da~~ saw door closed they fired through the window - figured was them - did not see them fire the weapon - we were yelling in house & Italian fellow came running up - was Angelo Bottego - they took shot at him - heard shot as I opened door - do not know where bullet went - they started shooting again through the window - they were fired thru window into room - soldiers stopped shooting & after some of our friends came in, then knocked at door brother opened door - this man (accd) had rifle in hand & extended hand to shake, said was sorry - had rifle in hand don't know if fired - said rifle with butt on ground & right hand extended to us to shake - asked for vins and we gave them vins. Brought vins out & gave them a glass & then another who came called the cabrin out of ditch & left.
Cross Exam: 5 or 6 soldiers came in house - blond fellow asked for vins - same soldier struck me - placed in house - positive of it - at time brother sleeping & father looking after animals - when called for father & brother they ran away - returned about 1 min later - only saw one with the pistol as I closed door - sound of shooting came from the road - when shooting stopped & they knocked at door Alberto my brother opened door - was near him - only I saw man with rifle & extended hand - he had rifle holding it under his arm - soldiers on road

by front of house when gave wine to them - sabna road where carriers stuck - was raining till we opened door for them - was thundering - rifle was under man's arm - did not notice which hand was extended - before spoke hands soldier saying "Amigo Amigo" - Court appreciate have spoken to tell truth - when first saw solders I was in house & they were on road - were walking down - not carrying anything - four 6 came up the first - one man asked for wine & then left - saw some come back - saw only one come back - closed door - when brother opened door saw only this man (accd) - man with pistol on road by barrier - this man (accd) had rifle - was right by door asked for wine & they went back to road & I took wine to them - Gave a bottle to this man & he took it out to rest - remember somebody taking a statement but do not know if this Affr (Rhomulo) - not sure if made statement did speak to a woman but dont recognise affr with her - when saw soldier with rifle dont know exactly what he did - four 5 shots his house - some in windows & some inside room - dont understand difference between pistol & rifle shots - was scared - saw these men staggering - saw this man (accd) stagger not going in a straight line - not thundering when shots fired - did not see this soldier fall first - soldier who had pistol did not have pistol but a rifle - saw him coming when I closed door - had a pistol in his hand - saw them with pistol when coming back second time. R.P. 83(b) complied with.

2nd Witness Berti Guido, 25, Castiglione della Valle

67 yrs of age, duly sworn states:

Remember 6 Aug 44. - was Sunday & was raining - was looking after animals - about 5 or 6 o'clock - four 5 soldiers came in & asked me for wine - came in stable - no other Italians there - told them had no wine - soldiers were talking to my son - my son in other room - when soldiers came in, my some came in - asked son two or three times for wine - said I drank took it all away - slapped my son in face - this soldier one of most (accd) - saw them when soldiers first came in house - sure of it - called other son, Alberto, that they were killing my son - two - they went out of stable - went to get pistol - we closed door & they started shooting thru the windows - could not see who was firing - I did nothing - saw men go & same man who left came towards house with pistol - did not bother to look out - heard shots - my sons & daughters yelling for help & friends came out - Anglo Bettigo came first - Alberto [illegible] dead to let him in & they fired shot at him - heard the shot - don't know where shot went -

First Witness: Berti Ivo, 25 Castiglione della Valle duly sworn states:
"18 yrs of age - remember Sunday 6 Aug 44 - was leaving house walking by road - was raining - car came along & went in ditch & they went into place where they kept animals - dont know if any of men here - was a carrier - came down stairs & they came in & asked old man for vino - soldiers on road, I was in house - made a mistake at start of my evidence - know one of men who came in for vino (points to accd) - told had no vino & blond fellow slapped me across face with open hand - blond fellow not here - called my brother & old man - brother was upstairs - then soldiers ran away for their guns - saw them come with their pistols - I was still in house - we closed the door - when they saw door closed they fired through the window - figures who fired - did not see them fire the weapon - we were yelling in house & Italian fellow came running up - was Angelo Bottego - they took shot at him - heard shot as I opened door - do not know where bullet went - they started shooting again through the window - they were fired thru window into room - soldiers stopped shooting & after some of our friends came in, they knocked at door - brother opened door - this man (accd) had rifle in hand & extended hand to shake, said was sorry - had rifle in hand don't know if fired - saw rifle with butt on ground & right hand extended to us to shake - asked for vino and we gave them vino. Brought wine out & gave them a glass & then another who came pulled the cabrier out of ditch & left.
Cross Exam: 5 or 6 soldiers came in house - blond fellow asked for vino - some soldier struck me - faced in house - positive of it - at time brother sleeping & father looking after animals - when called for father & brother they ran away - returned about 1 min later - only saw one with the pistol as I closed door - heard shooting came from the road - when shooting stopped & they knocked at door. Alberto my brother opened door - was near him - only I saw man with rifle & extended hand - he had rifle holding it under his arm - soldiers on road

they kept on firing were firing downstairs + upstairs - shooting stopped one soldier came up + knocked on door - my son opened door + soldier there with rifle in hand - just saw one with rifle in hand - would know him (points to accd) + he said "Amigo Amigo" - my sons there + they gave him something to drink - after they went to rd carrier was pulled out of ditch + they drank wine + left.

Cross - Exam - did not see if was this soldier who struck my son - after leaving first time do not know how long until they came back - my sons saw them coming - was just a few minutes - do not remember which one had pistol - this man had rifle - had rifle levelled - cannot tell difference between rifle or pistol shot - at one time could tell difference, cannot now - have two girls - were upstairs.

Re-Exam - Nil.

Court not sure of thundering when shots fired - 6 or 7 shots fired - broke window panes - missed Angelo - did not see accd do anything with rifle - was holding rifle level + holding hand out - shots must have come from near road.

R.P. 93(3) complied with.

3rd Witness, Berti Alberto, 25 Castiglione della Valle - 26 yrs old, duly sworn states:

- Remember 6 Aug 44 - was day all firing at house - soldiers came to house I was sleeping - heard one call me - come downstairs to stable - were 4 or 5 or 6 soldiers there - don't remember this soldier (accd) being in stable - when arrived soldiers went out - came back with pistol - one had pistol in hand + when saw closed stable door (don't see them firing - heard shots - my sisters + mother started yelling + then Angelo Bottigo came to house - when heard him calling opened door + they shot at him - don't know when shot hit - heard shot right there - some more friends came over - heard rifle butts + opened door - soldier knocked + opened door - this man (accd) was there - this soldier had rifle - worked bolt + had 4 shells off - were rounds in rifle - saw them - soldier said "I am a friend" + put out hand - just saw if this soldier had any firing - saw bullet going into chamber - rifle pointing at us but when closed bolt - swung it away - asked for wine gave him wine + he left - don't remember if just inside or outside - other soldiers there.

Cross Exam - don't remember which soldier came with pistol - was not far away from soldier with rifle - was about 3 ft away (witness indicates) first time - gave wine at door - second time as rd.

Re-Exam Nil

R.P. 93(3) complied with.

Poured Witness F45937 Pte Dickson, RC. - C&H - duly sworn states.

"B Coy" was spare dvr 6 Aug 44 Sunday in B Coy carrier driven by acted Pte DesRoches - started from area 1000 hrs - down road A Coy carrier in ditch - received permission to tow carrier out - down road we slid into ditch - raining very hard - around 15:30 hrs - tried to get out, not successful - Sgt gave permission to 3 of us to go in out of rain - was in about 5 minutes - got under carrier - wanted to watch carrier - house alright - there about 5 mins & acted came out - about 10 or 15 minutes see carrier came along - came to our carrier hooked on, towed out - carrier & track came off - just about stopped raining then - put track on & proceeded - 3 soldiers there - acted & I in our carrier - Christie & dvr in other carrier - heard no shots being fired - left house, no reason except to watch stuff in carrier - had some wine - no wine at that place - some wine got in house by others - saw Dtie being wear out - believe more civilians came along from down rd - seemed to be gathering rd carrier - about 20 yds from carrier to house.

Cross Exam - Sgt told us could go in house out of rain - had my weapon with me - acted has a rifle - did not take weapons to house - was raining & thundering - heard no shots being fired - Des Roche followed me back to carrier 2 or 3 minutes after I did - looked at acted's rifle - was all wet - acted took & went to door - heard no shots - my rifle not inspected in morning at old area - wine brought to rs - just as rec carrier came along - no wine given out while there at house.

Re-Exam - acted went back to door - was thundering then quite heavy - cleared up just about as rec carrier came along - was not carrying ammo for my rifle.

Pte. 3 of us went to house - in stable part - old fellow & son there - did not see anything happen there - left - 2 or 3 minutes later acted came - heard no words in barn - don't know what was said - heard as one ask for wine - Christie did not come back from house at same time as acted - acted took rifle up road - saw Christie with rifle too - saw no pistols - did not see what happened when acted went to door & knocked - saw nothing happen - hearing good at times - could

hear rifle in reasonable distance - could not see house from under carrier -
Court Christie & accd had been drinking that day - not drunk - wine came from house brought out by Italian in glass container
R.P. 83(B) complied with.

5th Witness G17928 Sgt. Hawkins. R.F. - CBH. duly sworn states.
"3 pl Sp Coy - recall 6 Aug ++ - while in convoy came upon carrier driven by accd, Pte Des Roches which was in deep ditch - accd beside carrier told accd would get latter & told to stay near house & shelter from rain - Pte Murphy, Hakins, Turner, Christie & Dickson might have been in hearing distance - spoke to accd told would send wrecker back - told to take shelter near house 15 ft away.
Cross Exam - showed no signs of having had drink - stopped there 20 or 30 mins - only told accd to stand in shelter - Christie had other carrier & no reason to stay behind - I don't know where Dickson was but saw someone standing about 20 ft away - don't know if rifle inspected in morning.
Re-Exam - Nil.
Court - was in truck - latter & Dor with me - Hakins & Murphy names - Turnbull stopped on RC for - minute, Christie beside carrier, accd near him - I don't know anything else - was told by Turnbull that Christie had been in ditch & in towing out by accd, the accd's arm got in ditch.
R.P. 83(B) complies with.

6th Witness F84506 Lt. Maclean CH CBH duly sworn states:
pl sgt & pl -
Cross Exam - was H/SM of Convoy - rifles not inspected by me in morning
Re-Exam -
Court - no inspection in conc area that night.
R.P. 83(B) complied with.

4th Witness recalled by Court - R.P. 96.
"accd & I left scene in carrier - my rifle in carrier all time - was there in conc area accd's there also - left mine there - someone came & got accds rifle, did not fire rifle from time left place to camp accd did not either
R.P. 83(B) complies with.

7th Witness B72617 L/Cpl Irvine W.R. COC att CBH Daily.
sworn states.
" employed as fitter mv - stationed near Castelgrimo
went to move to new area - left about 15 00 hrs -
went short distance & saw Carrier, could not
do much as went on to new area - at new area
Sgt Mac told me to go down & get carrier out & ditch.
about 1/4 hr to get back - started about 1800 - about
1 1/2 hrs came back - got carrier & went back -
noticed commotion - accd Pte Des Roche was
standing in doorway of house holding rifle in
right hand at the trail - Christie also had rifle
in his hand - called to them to cut out foolishness
& get carrier out - there - heard nothing - saw
Ital Italians crowds around there - thought
due to soldiers armed there - came on out
hooked on to two carriers & finally got on road -
put track on - Christie driving other Carrier -
Cross Exam - had been thunder storm on way -
up but had cleared by this time - Italians on
doorway of house - saw accd carrying rifle at the
trail - heard no shots fired - saw no one with
pistol - Christie carrying rifle - came right away
when called - had been drinking - wine was
brought out to carrier - heard no one ask for
wine - seemed presence of soldiers, cause of
excitement - had no interest in house.
No Re Exam.
Court. heard no shooting - about 3/4 hr from time
passed carrier until arrived back - was no one
there when arrived back.
R P 83(3) complied with.
Prosn requests adjournment to obtain Capt
Mac Pherson. Def was told Court sitting Monday.
Adjt checked through summaries - on Sat night
went to Perugia to get statement - next morning back
to Cuzzo to get witnesses. Not know Saturday
afternoon Courts ~~was~~ would be sitting Monday.
Defence - would like to have Capt Mac Pherson here
to would not oppose motion.
Court closed to consider motion.
Motion allowed.
Court adjourns to 0900 hrs 19 Aug 44.
At 0900 hrs Court re-assembles, present
same members
8th Witness: Capt C P Mac Pherson C Bn duly
sworn states
" 4 Coy - 4 pl - on 6 Aug in comd 3 ton carriers.
was at approx 1000 hrs on upper reverse

questioned accd as to activities - asked if had weapon & examined carrier - found rifle which in my opinion recently fired - found in accds carrier - another rifle there had not been fired - placed weapon in pl stores veh & ordered accd in arrest.

Cross Exam - Do not know how many rifles in carrier - saw two - accd stated was spare rifle he was carrying - no rifle inspection before left in morning - saw no tommy gun in carrier.

Re Exam If smelt cordite can tell if fired recently - if day previously barrel would have rusted on second day.

R.P. 83(b) complies with.

Prosn closed.

Defence.

1st Witness, F7785 Cpl Lebesque, L - CBH - duly sworn states:

"B Coy - type cpl - know accd, Pte DesRoches - had accd about 6 or 7 months driving - very good driver & no trouble - would like to have him back - was best carrier driver I had

Cross Exam - Nil.

J.H. - got along fine with men & NCOs - thinks very honest & general reputation as a honesty good.

R.P. 82(b) complies with

2nd Witness, Capt H.K. Gale CBH duly sworn states

"2 i/c B Coy - know accd Pte DesRoches - any experience have had good - watched drivers especially when 2 i/c & CO - veh accd drives Coy Comdr's veh - accd never mentioned as trouble with Cpl - steady solid type of soldier - never been before me at any time

Cross - Exam - Nil

R.P. 82(b) complied

Pros. Offr. - accd has been good soldier but appears evidence accd at this door with gun - leave it to Court to figure what happened - old man remembers accd at door with rifle witnesses of opinion that Bottego shot at - & was shooting at time - Dickson proved only 3 there - says was told to go into house - all jibes with Italians story - know 3 carriers & 2 men - Sgt said told accd only - Dreson saw 2 carriers & gets impression something wrong. told them to come on & get out of there - Capt. Macpherson got report & found at least 2 rifles there - found had been fired - all proves accd had misfortune to become involved in this case.

Def Offr - first witness stated 5 or 6 witnesses - when she stated only 3 there - told to go to house - good soldier won't leave rifle over to get wet - said heard shooting & also thunder & did not know difference - old man's evidence similar - Dickson stated when told went to house & then returned to carriers & saw 3 members and got rifle & went back to house - only natural for Italians to become excited when see weapons - Capt Macpherson said found rifle smelling cordite - no examination of weapon in morning - ask for acquittal

Sec 1 - defines burden of proof - fact finding function.
Sec 4 c - neglect reasonable doubt, alternative charges. Credibility witnesses.

Plea in Mitigation - heard character evidence - very strong - a charge of minor nature - accd wants to get back to duty & go into action with them.

Substitute for AFB 296
Or MFB 355

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No. F60035 Rank Pte Name DesRoches, D.J. Unit C.B.Highrs

Age 24 Married or single Married No of dependents 2

Date of Attestation 23 Feb 40

Number of days in Close Arrest awaiting trial 13

Civil ..... Military 13 days Hospital ..... Total 13 days

Dates of appointments, promotions etc (if any) .....

.....

.....

Decorations Canadian Voluntary Service Medal & Clasp

In the Field 14 Aug 44
Date

.....
Officer i/c Regt'l Books

Cape Breton Highlanders
Unit

Note: Certified true copy of MFM 6 must accompany this form.

No F60073 Name DesRoches D.J. Sqn, Battery, or Company — Corps C. I. C. — Date of enlistment 23-2-40 — GC Badges — Service or Proficiency Pay — MFM 6 (AFB 122) 40(PA&T)2K (3438)

Date of last entry in Company Conduct Sheet 21-12-41 — No and date of last drunk n/a — Period not reckoning towards freedom from extra fine — Sheet No 2 — Signature OC Company, etc — Character

Place	Date of Offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified a true copy 14 Aug 44 A. K. [illegible] Capt					

(PTO)

I desire the convening officer to detail an officer to defend me at my forthcoming trial by Court-Martial.

I desire the services of Maj. Reid, I.R.Cavalry if he is available.

B.J. DeRocher

SUMMARY OF EVIDENCE

Summary of Evidence in the case of F60035 Pte Daniel Joseph,DESROCHES, "B" Coy Cape Breton Highlanders, C.M.F.,charged with one offence under 6(3)(d) of the Army Act.

The Commanding Officer directs that the evidence be taken on oath.

First Witness: BERTI, Ivo, 25 Castiglione della Valle, having been duly sworn states:

I am BERTI,Ivo, 25 Castiglione della Valle,

Q1 Do you recognize this soldier?

A1 Yes. On Sunday 6 Aug 44, when all the soldiers were leaving this area, they passed in front of our house. One of the little tanks(carriers) went in the ditch near the house. Some soldiers entered the house and asked for wine. When my father said he hadn't any, one of the soldiers asked me, and when I said no one of the soldiers struck me. When I called to my father and brother the soldiers left. After a few minutes they returned and one had a pistol. We, my father and I, closed the door and I heard shooting and the sound of breaking glass. After a few minutes silence, a friend, BOTTEGA, Angelo arrived. The shooting started again. After the shooting stopped my brother Alberto opened the door, and I saw this soldier with a rifle pointing towards the open door. I saw this soldier operate the mechanism of the rifle, and shortly afterwards this soldier shook hands with me and the others. Then I gave wine to this soldier and his companions and when they had finished, the tank was pulled out of the ditch and they left.

The accused declines to cross-examine the witness.

Original statement taken in presence of the accused and attached hereto marked Exhibit "A".

G.K.Gale, Capt.
Officer taking Summary

Second Witness: BERTI,Guilo, 25 Castiglione della Valle, having been duly sworn states:

I am BERTI,Guilo,25 Castiglione della Valle,

Q1 Do you recognize this man?

A1 Yes. On the 6 Aug 44 at about 4 o'clock in the afternoon, I was feeding the cows in our stable, and 4 or 5 soldiers came in and asked for wine. I said I hadn't any. So they went and asked my son Ivo, and when he said no they struck him. I called to Alberto, and when he came down the soldiers left. After a few minutes they came b ack, and one had a pistol. We closed the door and when I heard shooting and some windows were broken. After a short time BOTTEGA, Angelo, a friend arrived, and just as he came in there was more shooting. The shooting continued and after a few minutes it stopped and there were knocks at the door. When Alberto opened the door I saw this soldier with a gun, a rifle, pointing in our general direction. After a few minutes this soldier shook hands with me and the others and said that we were friends. Then they went away , after they had had some wine.

Q2 In what house were the windows broken?

A2 In my house.

Q3 From what direction did the shots come?

A3 From the front and back.

The accused declines to cross-examine the witness.

The original statement taken in the presence and hearing of the accused is attached hereto and marked Exhibit "B".

G.K.Gale, Capt.
Officer taking Summary

Third Witness: BERTI,Alberto, 25 Castiglione della Valle, having been duly sworn states:

I am BERTI,Alberto, 25 Castiglione della Valle.

Q1 Do you recognize this soldier?

A1 Yes. On the 6 Aug 44 at about 4 o'clock in the evening I was asleep and my brother called me saying that some soldiers had struck him. I went down to the stable and I saw three or four soldiers there. They left as I arrived. After a few minutes one arrived with a pistol. I cannot say who had the pistol. We, my brother and I closed the door and I heard shots, and some windows in our house were broken. Afterwards, BOTTEGA,Angelo, arrived and just as he entered, there was more shooting. After a few minutes silence there were more shots. After the shooting stopped there were knocks at the door, so I and the rest of the family opened the door, when I saw this soldier with a rifle pointing in our direction. I saw him operate the mechanism of the rifle at the same time swerving it away. Then this soldier shook hands saying, "we are friends", I thought you were Germans". This soldier was nearest me there were other soldiers near. I gave wine to them all and after getting their machine out of the ditch, they left.

Q2 Did you give this soldier the wine as he was at the door with the rifle?

A2 Yes.

The accused declines to cross-examine the witness.

The original statement taken in the presence and hearing of the accused is attached hereto and marked Exhibit "C".

A.L. Gale, Capt
.....
Officer taking Summary

Fourth Witness: F45937 Pte Dickson,R.C., "B" Coy Cape Breton Highlanders, C.M.F., having been duly sworn states:

I am F45937 Pte Dickson,R.C.,"B" Coy Cape Breton Highlanders C.M.F. On Sunday 6 Aug 44, I was spare driver in the carrie driven by F60035 Pte DesRoches,D.J., whom I know and recognize here as the accused. We were in convoy and "A" Coy carrier driven by F98016 Pte Christie,L.A., which was ahead of us went into the ditch on the right side of the road. Our carrier stopped behind it. Capt C.P.McPherson Sp Coy C.B.H., who was in command of the convoy arrived and told the accused Pte DesRoche, to pull "A" Coy carrier out of the ditch and tow it to the new area. We hooked onto it and were proceeding along the road and our own carrier slid in the ditch. "A" Coy carrier then attempted to pull our carrier out. We were unsuccessful and a Sgt, whom I recognized as Sgt Hawkins, came along and told DesRoches, Christie and myself to go into a nearby house out of the rain. I went in the house with the other two, and I remained about five minutes, then I left, and went to the "B" Coy carrier, and got under it out of the rain, where there was quite a bit of room due to it being tipped at an angle. There was considerable thunder at that time. Then after about ten minutes a carrier arrived and an N.C.O., and some other soldiers got out and came over to the ditched carriers. They hooked "B" Coy carrier onto their own and after pulling it out of the ditch we put the track back on "B" Coy carrier. I believe the track came off as it was being pulled out of the ditch, I'm not sure.

Q1 Why did you prefer the shelter of a carrier to that of the house?

A1 For no reason at all.

Q2 Did you hear any shots being fired while you were near this house?

A2 No.

Q3 Did you drink any vino that day?

A3 Yes I had a few drinks before I left Sp Coy area.

Q4 Did you have any vino while the carriers where stopped near the house?

A4 No. A.C. Dickson

Fourth Witness(cont'd)
The accused declines to cross-examine the witness.

Fifth Witness: B72614 L/Cpl Ireson,W.G., R.C.O.C., attached Sp Coy Cape Breton Highlanders, C.M.F., having been duly sworn states:

I am B72614 L/Cpl Ireson,W.G., R.C.O.C., attached Sp Coy., Cape Breton Highlanders, where I am employed as a Fitter MV. On the 6 Aug 44 the carrier convoy comprising all C.B.H., carriers and Fitter's truck left the area near Castiglione, in the afternoon. We hadn't gone far when I noticed a carrier in the ditch. At the time there was nothing I could do for him. There was another carrier stopped on the road behind the ditched carrier. I was riding in the Fitter's truck in the rear of the column. On arriving at the new area I was detailed by F84506 Sgt MacLean,C.H., to take a carrier and return to the ditched carrier and attept to recover it. I arrived at the ditched carrier between 1600 and 1700 hrs. The ditched vehicle was near a house, and there was a lot of Italians around. F60035 Pte DesRoches,D.J., whom I know and recognize here as the accused, was standing in the doorway of the house holding a rifle at the trail. There was another soldier, whom I recognized as F78016 Pte Christie,L.A., CBH, standing in the road also holding a rifle. There appeared to be considerable excitement amongst the Italians gathered there. I jumped out of my carrier and told the soldiers; "Come on, cut out the foolishness and get the carrier out of the ditch and let's get out of here" or words to that effect. All the soldiers walked over toward the ditched carrier, and after pulling it out of the ditch, the whole party left.

Q1 What "foolishness", did you refer to?
A1 The Italians appeared to be excited at the presence of armed soldiers near their house.

W.G. Ireson Sgt.

The accused declines to cross-examine the witness.

Sixth Witness: G17928 Sgt Hawkins,R.F., #3 Pl Sp Coy Cape Breton Highlander C.M.F., having been duly sworn states:

I am G17928 Sgt Hawkins,R.F., #3 Pl Sp Coy Cape Breton Highlanders. On the 6 Aug 44, while in convoy from Bn area to Bde area, I was driving in a truck. Between 1600 and 1700 hrs 6 Aug 44 I saw F60035 Pte ResRoche,D.J., whom I know and recognize here as the accused, standing by a ditched carrier. I stopped and looked the carrier over with a view to towing it out of the ditch. It appeared impossible to tow it out with the truck, so I told DesRoche, I would continue on in the truck and send a recovery vehicle back. I told DesRoche to stand in the shelter of the house out of the rain.

Q1 Did you tell any other soldiers //to stand in the shelter of the house?
A1 No, only DesRoche.

R.F. Hawkins Sgt.

The accused declines to cross-examine the witness.

Seventh Witness: F84506 Sgt MacLean,C.H., #4 Pl Sp Coy Cape Breton Highlander having been duly sworn states:

I am F84506 Sgt MacLean,C.H., #4 Pl Sp Coy Cape Breton Highlanders, C.M.F. On the 6 Aug 44 at about 1530 hrs the convoy of carriers moved to the Bde area. We were proceeding from Sp Coy area to Bde area when I saw two carriers, one in the ditch and the other on the road. On arriving at the Bde area I detailed B72614 L/Cpl Ireson,W.G., to return to the ditched vehicle and see whether or not he could get it out of the ditch or whether the L.A.D. truck would be necessary.

C.H. MacLean Sgt.

The accused declines to cross-examine the witness.

Eighth Witness: Capt C.P.McPherson Sp Coy Cape Breton Highlanders,C.M.F., having been duly sworn states:

I am Capt C.P.McPherson,Sp Coy Cape Breton Highlanders,C.M.F. On 6 Aug 44 acting on reports that I had received I questioned F60035 Pte DesRoches, D.J., whom I know and recognize here as the accused, as to what had happened that afternoon, and examined the carriers. I found rifle #F20741A in carrier #T14312 driven by the accused Pte DesRoches had been recently fired. DesRoches said it did not belong to him, I asked him how it got in his carrier and he said it was a spare rifle he was carrying. I ordered DesRoches placed under close arrest and put rifle #F20741A in my Pl Stores truck.

.....

The accused declines to cross-examine the witness.

The accused was warned as follows:

Do you wish to make a statement or give evidence on oath? You are not obliged to do so, but whatever you say or any evidence you may give will be taken down in writing and may be given in evidence.

The accused:
I have nothing to say at this time.

D.J. DesRoches

I certify that R.P. 4 has been complied with.

Taken by me in the Field, in the presence and hearing of the accused, this 10th day of August 1944.

C.K. Gale, Capt
Officer taking Summary

Dr. Rocke

Exhibit "A"
A.K. Gnd Capt

Berti Ivo 25 Castiglion della Vale having been duly sworn states

I am Berti Ivo 25 Castiglion della Vale.

Q. Do recognize this soldier

A. Yes. On Sunday 6 Aug 44, when all the soldiers were leaving this area, they passed in front of our house. One of the little tanks (carrier) went in the ditch near the house. Some soldiers entered the house and asked for wine. When my father said he had it any, one of the soldiers asked me and when I said no, one of the soldiers struck me. When I called to my father & brother the soldiers left. After a few minutes they returned and one had a pistol. We, my father & I closed the door and I heard shooting and the sound of breaking glass. After a few minutes silence a friend, Battaglia Angelo arrived the shooting started again. After the shooting stopped my brother Alberto opened the door and I saw this soldier with a rifle pointing toward the open door. I saw this soldier operate the mechanism of the rifle and shortly afterward this soldier shook hands with me and the others. Then I gave wine to this soldier & his companions and when they had finished, the tank was pulled out of the ditch and they left.

Berti Ivo

The accused declines to cross-examine the witness

Neg: Reches

Exhibit "B"
A. K. Gale Capt

Berta Giulio 25 Castiglion della Valle having been duly sworn states:

I am Berta Giulio, 25 Castiglion della Valle

Q. Do you recognize this man?

A. On 6 Aug 44 at about 4 o'clock in the afternoon I was feeding the cows in our stable and four or five soldiers came in and asked for wine. I said I had'nt any. So they went and asked my son Ivo and when he said no they struck him. I called to Alberto and when he came down the soldiers left. After a few minutes they came back and one had a pistol. We closed the door and then I heard shooting and some windows were broken. After a short time Bottega Angelo, a friend arrived, and just as he came in there was more shooting. The shooting continued and after a few minutes it stopped and there were knocks at the door. When Alberto opened the door I saw this soldier with a gun a rifle, pointing in our general direction. After a few minutes the soldier shook hands with me and the others and said that we were friends. Then they went away, after they had had some wine.

Q. In what house were the windows broken?

A. In my house.

Q. From which direction did the shots come?

A. From the front + back.

The accused declines to cross-examine the witness.

Berta Giulio

Exhibit "C"
A. K. Yule Capt

Berti Alberto 25 Castiglion della Valle

Q. Do you recognize this soldier?

A. Yes. On 6 Aug 44 at about 4 o'clock in the evening, I was asleep and my brother called me saying that some soldiers had struck him. I went down in the stable and I saw three or four soldiers there. They left just as I arrived. After a few minutes one arrives with a pistol. I cannot say who had the pistol. We, my brother & I closed the door and I heard shots, and some windows in our house were broken. Afterwards, Bottega Angelo arrived and just as he entered, there was more shooting. After a few minutes silence there were more shots. After the shooting stopped there were knocks at the door so I and the rest of the family opened the door when I saw this soldier with a rifle pointing in our direction. I saw him operate the mechanism of the rifle at the same time steering it away. Then this soldier shook hands saying "We are friends. I thought you were German" this soldier was nearest, there were other soldiers near. I gave wine to them all and after getting their machine out of the ditch, they left.

Q. Did you give this soldier the wine as he was at the door with the rifle

A. Yes

The accused declines to cross-examine the witness

Berti Alberto

RRR-26

PTE DESROCHES J.R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F96544 Pte Joseph Ralph DesRoches WNSR -

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 24(2)(1)(A)	not guilty	is not guilty of desertion but is guilty of absence without leave.	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lists of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be imprisoned with hard labour for a period of six months.

(Sgd) ..... Judge-Advocate, if any. 13 Jun 44 Date awarded. (Sgd) E.D.B. Mayer President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.4b(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) (1. AA 57A. Delete if not used.)

(Sgd) ..... Brig

Date 15 June 44 Commanding COMMANDER 1 CDN BASE SUB-AREA Confirming Offr

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.		Date.	Signature of Offr.
F96544	Pte Desroches J R	17 June 44	(A.S. Davidson) Capt 4 C B R Bn, 1 C B H Gp.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ IN AB 160 - RRR-26

RECEIVED 12 JUL 1944 CMHQ

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA21) 40-P & S-1608 (2894)

Convened by Order of Brig E. de B. Mayberry Comd 1 Can Base Sub-Area dated 10 June 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F96544	Pte		Joseph Ralph	DesRoches	WNSR

4 Bn 160 Bde

PROCEEDINGS REVIEWED 21 JUN 1944

R. Lawrence Lieut 12 Jul 44

JUDGE ADVOCATE OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the (or in (country)) ITALY on (dates) 13 June 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, who, instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 118, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~is not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~is not~~ brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~is not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2) ~~E.D.B.M.~~

(1. KR Con 557. 2. AA 96(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~E.D.B.M.~~ as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ~~E.D.B.M.~~ as shorthand writer? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	E.D.B. Mayer	RCE - 1 Can Base Sub-Area
Member	Lieut	H.E. Belyea	Can'l's York R.
Member	Lieut	J.H. LaRose	PPCLI.
~~Judge Advocate~~	~~Lieut~~	~~M. Dowes~~	~~Seaforth HC~~
Prosecutor	Lieut	M. Dowes	Seaforth HC
Defending Offr	Lieut	R.R. Brown	ACA.

4 Bn 160 Bde

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 31.)

A8. The accused F 96544 Pte Desroches J R before arraignment make(s) ~~no~~ plea(s).

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addressees made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~is not~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereof proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No . (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans I wish to make a statement Do you intend to call witnesses on your behalf ? Ans Yes Are they witnesses as to character only ? Ans No .
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is ~~(are)~~ recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed (2).
(1. *AA 54(3) (b), RP 43, 120(A).* 2. *AA 54(3), RP 43(c) 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No .
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 5 and Ex 6 respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No .
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(4), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-564, Overseas RO 309, 2323, MML p 66, 737-739. As to sentences assigned for civil offences to the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE-SHEET

The accused F 96544 Private Joseph Ralph DesRoches, W.N.S.R. on strength 4 Cdn Rft Bn, 1 Cdn Base Rft Group, a soldier of the Cdn Army Overseas, Allied Armies in Italy, is charged with:-

1st Charge

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE,

A.A. Sec 12

in that he,

(1)(a) In the Field, in Italy, after having been warned to proceed on draft, with intent to avoid so proceeding, absented himself without leave from 4 Bn 1 CBRGp from 0600 hrs 5 Jun 44 to 1945 hrs 5 Jun 44.
(Total time absent: 11 hrs - 45 minutes)

In the Field
5 Jun 44.

(L J Flynn) Lt.-Col.,
Commanding,
4 Cdn Rft Bn, 1 Cdn Base Rft Group - CMF

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In Italy
In the Field
10 June 44

(E.W. Haldenby) Brigadier
Commander
1 Cdn Base Rft Group
Cdn Army - C M F

FIELD GENERAL COURT-MARTIAL

CFA35 (In lieu of AFA5)
40)FA5/1697 (2006)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F-96544	Pte		Joseph Ralph	DesRoches	WNSR 4 Cdn Base Rft Bn.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has ~~have~~ committed the offence~~s~~ set forth in the Charge Sheet~~s~~ attached and on (date) 10 June 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial". Cwtt

2. And whereas I am of opinion that it is not practicable that such offence~~s~~ should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior competent offr.)~~ Cwtt

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~s~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons attached hereto.~~ Cwtt

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ Cwtt

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	L.D.H. Magee RCE (Must be named. RP 106.)	7 Bn 2 CIRU (Unit.)

MEMBERS.

Capt or Lieut	to be detailed by C.C.	4 Bn 1 CIRU
Capt or Lieut (Rank.)	to be detailed by C.C. (Named or detailed. RP 106.)	4 Bn 1 CIRU (Unit.)

WAITING MEMBER.

Capt or Lieut (Rank.)	to be detailed by C.C. (Named or detailed, if any. RP 106.)	4 Bn 1 CIRU (Unit.)

~~JUDGE ADVOCATE~~ Cwtt

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Courtenay (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 10 June 44

Commanding HQ 1 Cdn Base Rft Group
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

2nd

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/FAS/1097 (2852)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-96544	Pte	Joseph Ralph	DesRoches	WNSR 4 Cdn Base Rft Bn.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has ~~have~~ committed the offence~~s~~ set forth in the Charge~~s~~ ~~Sheet~~ attached and on (date) 10 June 44 endorsed by me, ~~(or by an offr of my staff for me)~~. " To be tried by Field General Court-Martial ". GWH

2. And whereas I am of opinion that it is not practicable that such offence~~s~~ should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to order the trial for reference to a superior qualified offr).~~ GWH

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~s~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the Court I have attached hereto.~~ GWH

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ GWH

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	W.D.B. Magee RCE (Must be named. RP 106.)	7 Bn 2 CBRD (Unit.)

MEMBERS.

Capt or Lieut (Rank.)	to be detailed by C.C.	4 Bn 1 CBRD (Unit.)
Capt or Lieut (Rank.)	to be detailed by C.C. (Named or detailed. RP 106.)	4 Bn 1 CBRD (Unit.)

WAITING MEMBER.

Capt or Lieut (Rank.)	to be detailed by C.C. (Named or detailed, if any. RP 106.)	4 Bn 1 CBRD (Unit.)
	~~JUDGE ADVOCATE~~ GWH	
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 10 June 44

GW Harding (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding HQ 1 Cdn Base Rft Group
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(C)), any objections (*RP* 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jun 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 86(C), 87(C), 92(C) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 43 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions where accused has called witnesses as to character. (*RP* 88(C).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 46 *fns* 6-12, 85(C), 92(C) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 85.)

(vi) Closing address by Prosecutor. (*See RP* 46 *fn* 7, 87(C), 92(C) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(E), *KR Can* 563(a).)

(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy in lieu of original see KR Can 586. As to certified copies of regimental books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Para 1 of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 118(C), *MML p* 738.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL CERTIFICATE
K.R. & C. NO. [illegible]

I certify that I have this morning examined No. F 96 514

Tpr. DESROCHES J.P. 4 Bty., 1 Cdn Base Reinf Depot,

and in my opinion he is fit/~~unfit~~ to undergo Trial by Court Martial.

D.J. Hastings Capt

In the Field
June 13 1944.

(A.A. (Wessman) Capt.,
Medical Officer, 4 Bty, 1 C.B.R.D.

Case of Pte. DesRochers RE 96544

Charged with deserting His majesty's service.
Time absent - 11 hrs 45 min.

Accused pleads not guilty.

D 2 — no opening address.

D 3 —

1st Witness - K 21028 Sgt. Bouchard. A.
sworn states:

Q - What is your position here in A Co?
A - Sgt. instructor in A. Coy.
Q - Do you know RE 96544 Pte Des Rochers?
A - Yes sir.
Q - Do you see him in court
(Witness recognizes accused & points him out)
Q - Do you recall the 2nd June this year?
A - Yes - I called out a draft.
Q - Who was on the draft?
A - Pte. Des Rochers
Q - What time of day was it?
A - 1400 hrs.
Q - What did you tell the draft.
A - I told them that they were warned for draft
and their field unit ready to move off at 0700 hrs the
next morning - to be on the morning parade at 0800 hrs
in full marching order. I then took them (the men) to the
R.S., and the accused was present. I then took the
men to the Quarter Stores. I asked on parade if there
were any questions or if there was anything they did
not understand - No questions were asked by the accused.
I was present at 0700 hrs on parade the 3rd June for
the roll and Pte. DesRochers was absent. I searched the
Coy. lines but could not find him. I was present

when the draft left at 0900 and the accused did not go to the draft. I saw the accused again the next morning on the parade square.

— No cross examination
RP & 3(B) complied with. "

2nd Witness for prosecution.

D 136 019 - Cpl. Stuart H., sworn states.

I am the Cpl. clerk of A Coy. I know the accused. (pointing to accused) I recall seeing the accused on the 1st & 2nd June. Whilst carrying on my duties as A Coy clerk, I was approached in my office room by the accused Pte. Dan Roches. He stated that he thought he was A.W.L. - I checked & verified and placed him under close arrest. The accused was properly dressed and sober.

"

Cross examination by Defence.

When Pte Dan Roches reported to you Cpl. Stuart, was he sober — Yes he was No. he was accompanied by Pte Allison
RP & 3(B) complied with.

NECESSITY FOR EXPLANATION

D-5 - accused makes unsworn statement

When this happened I decided to go out. and have a lot of fun before I go to the regiment. So I went up the road to an Italian house and drank to much & got drunk. I woke up the next morning in the house & I tried to find my way back. And then I started to come back and I got lost and when I arrived at camp finally, I turned myself in.

RP & 3(B) complied with. "

1st Witness for Defence.

F 33713 Pte. Allison A.L., sworn states

On the night of June 1st & 2nd, we were called out on Draft. The accused (pointing to accused & recognizing him) was nominated for this draft.

Des Roches and I decided as it was our last night in camp that we would go out & buy some wine & started drinking. We were a little too drunk to remember now what happened from then on till the next morning. We woke up in an old Italian hovel and managed to make ourselves understood to the Italian so that we were told how to find our way back. We started back getting a ride now & then and got lost as we went down the wrong road. We finally arrived at camp & immediately turned ourselves in to the orderly room. When we left on the night of June 4 it was our intention of coming back that night. It was not our intention to desert.

Cross-examination by prosecution.

There was not any doubt in my mind that I was a draft to my regiment and I clearly understood everything. I did not have a pass to leave camp that night — I was aware that unless with a pass, I was C.B. to camp — I don't know where we spent the night but it was on the way to Caserta. — It took us about ½ hr to get to this place — The first house is only a way down the main road — I don't remember how long I stayed there — I've been in this country since 1st September 40. I've drunk wine before but not excessively. — I awoke the next morning at approx. 0830 hrs or 0900 hrs I don't know how far from Caserta we were. — I know highway six — I've never been before to the main highway — I only remember it from the day we came into camp. — There were no Provost to show us the right road back just a few soldiers. — It took us from 0930 till 2000 hrs that night to get back from there. — I'll say it to you that I did not to go on this draft the next morning.

— I don't remember nor recall Pte. DeRoches saying that he did not want to go draft. We went out for a few hours only & intended to come back early. Different kinds of wine have different effects. I had a general idea of the effect of wine. I didn't realize that I was drunk till the next morning. When I awoke the next morning, I found that we were in pretty bad shape. We were shaky when we got back to camp.

No re-examination. RP 83(B) complied with.

ADDRESS
Hon of the Defence:

The charge as laid is one of desertion. ~~desertion~~ intent ~~intent~~. Embodies on the part of the accused an ~~intent~~. It is the contention of the defence but this has not been proven by the prosecution. With reference to Lt. DE Lt. 19 M.M.L. — (Quoted.) The case presented by the prosecution merely shows that the accused was absent without leave. He had been warned for draft but it was not his intention, and this is substantiated by the witness for the defence Pte. Allison, to desert or even to be absent when this draft left. But as it was this last night before going to the field they decided to celebrate and carried this celebration a little too far. The intention of desertion has never been proven and it it is the plea of the defence that this charge be reduced to a charge of A.W.L.

ADDRESS By Prosecution — (Marked.)

Addresses by Prosecution

This man was specifically warned for a specific important duty - to go forward to his field unit. There were no questions asked by the accused of the sgt who gave the warning & according to Pte Allison who gave evidence for the accused there was no doubt as to what was meant by the warning. According to Allison the two of them were anxious to go on draft - so answer that they leave camp without a pass & proceed to drink so much that they can't remember where they are even. And they take about 12 hrs from the time they wake up on the 5th to get back to camp in a country full of army transport & with plenty of provosts & signs available. The story cannot be believed, & the accused left camp undoubtedly to avoid going on that draft. They are guilty of desertion under the A.A.

To Refer to MM C.P. 19 para. 20 re desertion the intention of the accused must be concluded from the surrounding circumstances of the case.

This story is entirely new & was brought by the accused when they returned & said they had been AWL

Lieut

Summary of evidence in the case of F-96544 Pte Lee Rocker, Joseph Ralph W.N.S.R. at present on strength of 4 Bn 1 C.B.R. 2 Gp.

By order of the Commanding Officer the evidence is taken on oath.

First Witness

G-21078 Sgt Bouchard A. of "A" Coy 4 Bn 1 C.B.R. 2 Gp having been duly sworn states.

I recognize the accused. On the 4th June 1944 at about 1830 hrs I personally warned the accused on parade that he was proceeding on draft forward to Lichfield pinet at 0900 hrs the 5th of June 1944 & that he was to be ready to move at that time. That night at about 1900 hrs I personally took the accused to the M.O. & Quarter Stores for checking preparatory to draft. I asked the accused if he understood what I had said & he asked no questions & in my opinion understood what he had been told.

When the draft went on parade at 0800 hrs 5th June 1944 the accused was not present. I searched through the lay lines for him but could not find him. I did not see the accused until the morning of the 6th June 1944. When I warned the accused for draft on the 4th June I told him to be on parade at 0800 hrs 5th June & to be ready to move off at 0900 hrs that morning.

The accused declines to cross-examine.
Rule Procedure 83(b) complied with.

C Bouchard

2nd Witness
D136877 Cpl Stuart, M. of A Coy
4 Bn 1 CBR Gp having been duly sworn
states:-

I recognize the accused. He reported to me in the orderly room at 1945 hrs on 4th June 1944 stating that he thought he was AWOL. I then checked & found he was, & put him into close arrest.

The accused declines to cross-examine.
R.P. 83(b) complied with.

M Stuart Cpl

The accused was warned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, & may be given in evidence."

The accused reserves his defence.

I certify that R.P. 4(c)(d)(e) & (f) have been complied with.

I certify that these two pages of summary were taken down by me in writing in the presence of the accused.

[illegible] Lieut
Officer taking Summary

Summary of evidence in the case of F-96544 Pte Des Rosiers J.R.R. Ralph WNSR at present on strength of 4 Bn 1 CBR 2 Gp.

By order of the Commanding Officer the evidence is taken on oath.

First Witness

G-21078 Sgt Bouchard A of A Coy 4 Bn 1 CBR 2 Gp having been duly sworn states.

I recognize the accused. On the 4th June 1944 at about 1830 hrs I personally warned the accused on parade that he was proceeding on draft forward to his field unit at 0900 hrs the 5th of June 1944 & that he was to be ready to move at that time. That night at about 1900 hrs I personally took the accused to the M.O. & Quarter Stores for checking preparatory to draft. I asked the accused if he understood what I had said & he asked no questions & in my opinion understood what he had been told.

When the draft went on parade at 0900 hrs 5th June 1944 the accused was not present. I searched through the Coy lines for him but could not find him. I did not see the accused until the morning of the 6th June 1944. When I warned the accused for draft on the 4th June I told him to be on parade at 0800 hrs 5th June & to be ready to move off at 0900 hrs that morning.

Exhibit "E" Book

No F 96544 Name DesRoches J.R. Sqn. Battery or Company — Corps W.N.S.R. — Date of enlistment — OC Badges — Service or Proficiency Pay — MFM 6 (AFB 122) 40/PAS/126 (3438)

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15 May 44	Pte		AA Sec 15 (1) NCAS ANL from 0800 hrs 15 May 44 until 1230 hrs 20 May 44 (Absent: 5dys 4hrs 30mins)	Sgt Bouchard Pte Ferguson	14 dys F.P. 14 dys con-joint forf pay	22 May 44	Lt.-col L J Flynn	Auto forf pay 6 days pay

Certified true copy from Regt'l Books in my custody.

R E Davidson

(A E Davidson) Captain
Adjutant,
4 Cdn Rft Bn, 1 Cdn Base Rft Group - CMF

8 Jan 44.

(PTO)

Exhibit 6 page

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F 96544	PTE	DES ROCHES J.R.	WNSR on strength 4 Cdn Rft Bn

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, or † of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not appended to the proceedings.

† See para. 367, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, per instance being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—(i) If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 15 (1)	1 times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, N/A

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ _____ beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for from 1945 5 Jun 46 days in civil custody, and 8 days in military custody, making a total of 8 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ ~~attestation paper~~ is 22 years

6. The date of his ~~commission~~ ~~attestation~~ specified in his ~~record of service~~ ~~attestation paper~~ is 26 Mar 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)) N/A

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated _____, and in his regiment (*or* corps or department) the rank of N/A dated _____

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. R 66544 Rank PTE Name DES ROCHES J.A.J. of C.A.S.F. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th day of Jun 44

(A E Davidson) Captain, Adjt,
4 Cdn Rft Bn, 1 Cdn Base R't Group - CMF

13. The person has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years, ...

In the rank of ..... years, ...

(Insert here—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

I request that. LIEUT. R.R. BROWN .....if available not in my defence. If this officer is not available I request that the Commanding Officer of 4 Bn, 1 C.A.M.D. appoint an Officer to act in my behalf.

J.R. Duchesneau

LIST OF EXHIBITS:

Statement of Evidence by G 21076 Sgt Bouchard A. EXHIBIT

Nominal Roll of N.N.S.R. Draft. EXHIBIT

LIST OF WITNESSES FOR THE PROSECUTION:

G 21076 Sgt Bouchard A. "A" Coy 4 Cdn Rft Bn.

D 136879 Cpl Stuart M. "A" Coy 4 Cdn Rft Bn.

Date 9 June 1944

Received from 4 Cdn Base Ftr Sn, 1 Copy of Charge Sheet and Summary of Evidence referring to a charge of _____ for which I was remanded for Court Martial

J R Du Roche
Signature

40-32

Ste. Desrosiers a.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E 100 904 Pte Arthur DesRosiers R.C.R.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	S 9(2) AA	Not Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1).

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of six (6) months

(Sgd) ..... Judge-Advocate, if any. 10 Feb 45 Date awarded. (Sgd) Leslie A Jones President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 173 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) N/S

(1. AA 57A. Delete if not used.)

Date 13 Feb 45 (Sgd) E. Fenwick Brigadier Commanding 3 Can Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E 100 904 Pte Desrosiers A	13 Feb 45	[illegible] Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 100 4 21-32

RECEIVED 20 MAR 1945 JAG BRANCH CMHQ

CPA86 (In lieu of AFA81) 40/P.M.S. 4/3BB

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig P J Bernatchez DSO Comd 3 Can Inf Bde dated 8 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E 100 904	Pte	Arthur	DESROSIERS	R.C.R.

PROCEEDINGS REVIEWED 12 Mar 45 [illegible] Capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 9 Feb 45 and 10 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any,~~ and Offrs under instr, if ~~any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fms RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A85, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to E 4745 Pte Langlois B as interpreter? Ans No

The Interpreter is sworn.(1) ~~Do you object to ..... as shorthand writer? Ans ..... The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and ~~Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	Leslie A Jones	12 R.C.R.
Member	Capt	B Rousseau	R.C.R.
Member	Lieut	M S Burrell	C.G.R.
~~Judge-Advocate~~			
Prosecutor	Capt	F Marcotte	22nd R.
Defending Offr	Lieut	L Trudel	22nd R.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See D1 p 3.)

A8. The accused E 100 904 Pte Arthur DESROSIERS before arraignment makes(s) (no) plea to ..... (1)

(1. If a special plea is made for separate trial or one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D 4.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

H.11

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing lastrs as may be appropriate to result of its decision. See M M L p* 744 *lastrs* (2).

3. *As to responsibility of President to accused see RP* 50, 50(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s),(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to withdraw your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination, but anything you say will not be used in evidence against you after you change your plea. If, however, you wish to say to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) last para 2, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (not) so informed, and he (does not) change(s) his plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ..... ; initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence incons[istent] with any plea stated at an Early, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of forms D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charge(s) on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B3 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence [illegible] as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by completing [illegible] inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).~~ (2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....

(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CS A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 66(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 101 etc.*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 107. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)

(*1. MFB 333 or AFB 2946. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA if any.(2)

(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 363-366. Overseas AO 309, 2323, MML p 60, 732-738. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(5), 68(1), KR Can 364. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 367. As to assembly and dispersal of record after trial see orders on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused [illegible] Private Arthur DESROCHERS a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service is charged with:-

First Charge
Section 9(2)
Army Act

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND GIVEN
BY HIS SUPERIOR OFFICER

in that he

in the Field, in Italy, at about 1630 hours 29 January 1945, did not proceed to his post when ordered to do so by Captain Y.Dube Royal 22e Regiment.

(C.A. Turcot) Major,
T/Comd. Royal 22e Regiment.

In the Field,
3 Feb 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
6 Feb 45

(J P E Bernatchez), Brigadier,
Commanding 5 Cdn Inf Bde.

Alfd
8 Feb 45

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAM/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptn, A/rank or A/apptn, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptn, A/R or A/Apptn.	Full Christian Names.	Surname.	Unit.
E100904	Pte	Arthur	DESROSIERS	R22R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 8 Feb 45 endorsed by me, (~~as in my opn ought for more~~) "I do" tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D W McAdam	WNSR

MEMBERS.

(Rank.)	(Names or detailed. RP 106.)	(Unit.)
Lt	M S Burrell	CIH
Capt	J B Rousseau	R22R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	H W Long	WNSR

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 8 Feb 45

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding 2 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accused to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(E) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the paras in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 86.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (on *matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 46 fn 7, 87(C), 92(C) (D).* *Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 567.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of registered books see AA 163 (3) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 52(9), RP 118(C), MML p 759.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

E100904

Nto Desrosiers A. R 22 Rd

Sw the field
10-2-45

Goldstein Capt

E100904

Nto Desrosiers A. R. 22 Rd

Sw the field
9-2-45

Goldstein Capt

(D1)

Defendant Off applies for adjournment on grounds that he had insufficient time to prepare defence.

The Court considers the application and allows the request.

Proceedings are adjourned for 24 hrs Court closes at 0950 hrs

Court re-opens 0930 hrs 10 Feb 45 and trial continues.

The Prosecutor produces MO certificate that accused is fit to undergo trial

WM.

Sworn in the c a [illegible] 2 Lt 100904 Pte Arthur Desrosiers R 22eR.

Sworn states

1st witness - I am Capt [illegible] Duke, R 22eR. (the witness identifies the accused) at about 1800 hrs on the 29 Jan 45 Capt Belzile, commanding 14 Platoon called me up on the phone and told me that Pte Desrosiers had refused to go on standing Patrol for which he had been detailed I told Capt Belzile to send Pte Desrosiers down to Coy HQ. when Pte Desrosiers arrived I gave him an order to go on that standing Patrol for which he had been detailed & refused saying 'no I am not going'. I then explained to him what it meant to refuse to obey an order and the consequences of his act if he persisted in doing so. I gave him five minutes to consider that fact and gave his answer after that lapse of time I gave him a direct order to go on Standing Patrol, he again answered 'no'. I then placed him under close arrest

Cross-n by Prosecution

Q.1. will you tell the Court the exact words you used when you gave the order.

A.1. Are you or are you not going on that Standing Patrol as which you have been detailed

Q.2. Give also the exact words the accused used in reply.

A 2 The answer was 'No'.

Q. 3. Did you use the same words a second time

A. 3. I don't know.

Q.4. Did the accused give you any reason why he was refusing the order

A.4. He gave no reason for refusing the order.

Question by Defence

Q.1. Will you tell the Court what Pte Desrosiers had done previous to receiving that order.

A.1. I dont know.

Q.2. Did you know that Pte Desrosiers was on a Standing Patrol for twelve hours before.

A.2. No.

RP 83(6) complied with

Sam

Second Witness – Sworn states:

I am 54703 WO2T W. Reid. ATS attached to 'C' Coy Regt R. (The witness identifies the accused) Every evening I used to go to 'C' Coy HQ. on the evening of 24 Jan 45. I got in the house and heard Capt Duke asking Pte Desrosiers to go out on an Out Post. He told him he had five minutes to decide if he would go or not, after that time Capt. Duke told him 'Are you going or not?' and Pte Desrosiers answered 'No'.

Q.1. Did he ask him an order him to go to the out post.

A.1. He ordered him the last time.

Q.2. Give the exact words he used.

A.2. 'Will you go to the Out Post or not'

Q.3. Did the accused give any reason for not going.

A.3. No.

RP 83(6) complied with

Sam

The accused is sworn in and testifies.

I was twelve hours on a Standing Patrol I was placed at about five thirty when I was back in my platoon I was placed on a sentry Duty. I was relieved a few minutes after to go to my supper and sent on an other Standing Patrol, when Capt Belzile asked me to go there I told that it was too hard for my nerves and I would not go there, I told Capt Belzile I was willing to do two hours off and two hours on, he answered it is a duty and you have to go on the Standing Patrol, he placed me under close Arrest and sent me to Capt Dubé under escort. ~~from~~ ~~Capt Dubé gave me an order to go on the Standing Patrol~~ ~~He told me "Are you going or are you not?" He gave me five minutes to give him the answer. I refused to~~ ~~when I said "no" he asked some witness of which~~ ~~one was me.~~

I had been in the hospital ten days before this took place and still felt a bit weak.

The Prosecution declines to cross examine.

Rl 83(b) complied with

The Prosecutor and Def Off decline to make a closing address.

WR

JWR

[E3] 5 Italy 10 Feb 1945

Mitigation of sentence

Pte Hessian enlisted himself in 1943 since about
He proceeded overseas in June the same year
He took part of Hitler line gothic line and he
fought with his regiment until he was placed
under arrest.
He was wounded once and was willing to come
back to join his coy
He has his father and mother to look after
His platoon commander asks this soldier to go on
a standing patrol after being on a standing patrol
for 12 hours without any rest
I don't think that the words used: are you or are
you not going, are not to be used as an order
In my opinion it is an irritation and it is not a good
way to give order
He never refused an order before and he has been
a good soldier
I recommend him to your clemency

Lt Find Lieut
Royal 22e Regiment
C. A. C. M F.

ARMY FORM B 296

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
E-100904	Pte	Desrosiers A	Royal 22e Regt Field

1. The following is a fair and true summary of the entries in the ~~regimental and squadron, battery or company~~ conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field record sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not inserted in the proceedings.

† See para. 671, K.R., 1940.

* The numbers herein entered should correspond with the entries of entries in the conduct sheets, placement being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Illustrations.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For under sec 40 A.A.	one time	one time
For under sec 15 c) A.A.	Two times	Two times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct Nil

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~The accused at the present time is under sentence of~~ ~~imprisonment~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for 60 days in civil custody, and 12 days in military custody, making a total of 1 18 days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 20 years

6. The date of his ~~enlistment~~ attestation specified in his ~~attestation paper~~ record of service is 27-1-43

~~7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. The accused is entitled to deferred pay or gratuity in respect of 2 years service.

~~9. The accused is entitled to reckon~~ ~~service for the purpose of determining his pension, if~~

10. The accused is in possession of ~~no entitled to, no military decoration or military award (or is in possession of or entitled to~~ (*state any military decoration or award*) C.V.S.M. & clasp

~~11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer had held the rank of~~

12. (*In the case of an officer.*) The accused holds in the army the rank of ~~and in his regiment (or corps or department) the rank of~~ dated

Fell.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. E 86 904 Rank Pte Name Disrowire A of Royal 22 nd Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of February 1945

In the rank of ..... Date of Promotion .....

In the rank of ..... years .....

In the rank of ..... years .....

years .....

(INSTRUCTION.—If any entry in any of the above paragraphs cannot be stated from the regimental books, paragraph must be struck through, except that in the case of a trial by field general court martial the information may be collected from such other sources as may be available, and the paragraphs completed accordingly.)

* The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

NB100904 Name DESROSIERS A | Sqn, Battery, or Company C | Corps CIC | Date of enlistment 27.1.43 | GC Badges | Service or Proficiency Pay n/a | MFM 6 (AFB 122) 40/PAM/156 (2458)

Date of last entry in Company Conduct Sheet n/a | No and date of last drunk n/a | Period not reckoning towards freedom from extra fine n/a | Sheet No 1 | Signature OC Company, etc R. DesRivieres Capt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
SHEET DESTROYED 27 JUL 43. LAST ENTRY 8 JUN 43.DRUNKENNESS NIL R.O 2084									
Field	17 Jun 44	Pte		A.A. Sec 40 WOAS Neglect to the prejudice etc...at 0800 hrs on 17 Jun 44 was found unshaved on parade.	Sgt GADBOIS A	3 Days C.B.	17 Jun 44	Major L.F. TRUDEAU	
Field	13 Aug 44	Pte		A.A. Sec 15(1) AWL from 0900 hrs 13 Aug 44 on Church Parade till he was seen by his Pl Comd at 1000 hrs, 13 Aug 44	Sgt GADBOIS A	3 Days C.B.	14 Aug 44	Major L.F. TRUDEAU	
Field	19 Sep 44	Pte		A.A.Sec 15(1) WOAS AWL from 1600 hrs 19 Sep 44 till 0800 hrs 22 Sep 44. (2 days,16 hrs.)	Sgt Gauthier & L/C Demers A	28 Days, F.P.	2 Oct 44	Lt.Col J.Y. ALLARD	

RELEASED FRO? 1 CDN F.P. CAMP WEF 26 OCT 44 SENTENCE HAVING EXPIRED REMISSION EARNED UNDER RULES FOR F.P. CAMP ETC.....COMDS INITIALS.....

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	Ex D OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Certified to be true copy from Regt'l Books in my possession									

Lieut

SUMMARY OF EVIDENCE

In the case of H100904 Private Arthur DESROSIERS, Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service.

By the direction of the Commanding Officer the Summary of Evidence is taken under oath.

FIRST WITNESS for the Prosecution.

Captain Y. Dube, Royal 22e Regiment having been duly sworn states:-

" I am Capt. Y. Dube, R22R, officer commanding "C" company.

At about 1800 hours 29 January 1945, Capt Belzile commanding no.14 platoon phoned me and told me that H100904 Pte DESROSIERS, A. had refused to go on a standing patrol, when detailed by him to do so, I told him to send me Pte DESROSIERS at my Coy. Hq. He arrived at 1830 hours. When I ordered him to go on that standing patrol he refused using the following words / "no I am not going". I then explained to him what it meant to refuse to obey an order and the consequences of his refusal if he persisted in doing so. I gave five(5) minutes to make his decision and afterwards I gave him a direct order: " Are you going or not on that standing patrol on which you have been detailed?" Again he answered "No". I then placed him under close arrest."

Y Dube Capt

The accused declines to cross-examine the witness.

SECOND WITNESS for the Prosecution.

24703 L/Sgt Noel W Royal 22e Regiment having been duly sworn states:-

" I am 24703 L/Sgt Noel W, R22R posted to "HQ" Coy and attached to "C" company.

At about 1830 hours 29 January 1945 I was present when Capt Y Dube, R22R, officer commanding "C" coy gave the order to H100904 Pte DESROSIERS, A. to go on the standing patrol. Capt Dube used the following words:- " You will go on the standing patrol, that is an order, are you going or not?" The accused answered "No" I then left the room.

W. Noel L/Sgt

The accused declines to cross-examine the witness.

QUESTION TO THE ACCUSED

Do you wish to make any statement or give evidence upon oath. You are not obliged to do so but any statement you make or any evidence you give will be taken down in writing and may be used as evidence.

ANSWERED BY THE ACCUSED

I reserve my defence.

A. Desrosiers Pte

The accused has been cautioned in French according to K.O. 1144.

I certify that the foregoing summary of evidence has been taken down in writing by me in the presence and hearing of the accused and that R.P. 4 (c)(d)(e)(f) and (g) have been complied with.

Officer detailed to take Summary

In the Field,
3 Feb 45.

LIST OF WITNESSES FOR THE PROSECUTION

In the case of W100804 Private Arthur DESROSIERS, Royal 22e Regt.

FOR THE PROSECUTION — Captain Y Dube, Royal 22e Regiment
E4705 L/Sgt Noel, W, Royal 22e Regiment

FOR THE DEFENCE — Nil

I desire the services of any officer detailed by the Adjt. RCMP

I hereby acknowledge a receipt of a true copy of a Summary of Evidence taken prior to my trial by FGCM. I furthermore acknowledge a receipt of a true copy of a charge sheet into which I am brought into court-martial.

[signature] Pte

In the Field,
3 Feb 45.

EEE-30

GNR DESROSIER CC.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-46613 Gnr Carmine Carleton DESROSIER - 5 Cdn Gen Pioneer Coy

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 18(4)	not Guilty	Guilty	
2nd AA Sec 40 (Alternative)	" "	Not Guilty	
3rd AA Sec 18(4)	" "	" "	
4th AA Sec 40	" "	" "	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of Kit see RP 44 fn 6.)

At present under sentence for ~~imprisonment~~ beginning on (date) (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention period of Six (6) Months and to be put under Stoppages of pay ~~and~~ Allowances made award 7-2-10-0 the Cost of Escort ~~to~~ No 6582 0 Pte Hemsley & Sig Upton in 1st Class

Judge-Advocate, if any. Date awarded. (Sgd) [illegible] Lt-Col
(See back of Convening Order as to assembly and disposal of record after trial.)

3 Mar 44

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

Date 6 Mar 44 (Sgd) [illegible] Brigadier
Commanding Commanding "G" Gp Can Pnr Units
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D 46613 Gnr. Desrosier CC	6 mar 44.	[illegible] Capt. O.C. No 5 C.P.C.

PART II D.O.# 12 D.13.3.44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

ENTERED IN RECORD [illegible] (2877) 6 SEP 46 1 30

FIELD GENERAL COURT-MARTIAL

CPA86 (In lieu of AFA3) 41-P.G.U.-(1608 (2804))

Convened by Order of Brig J.R. Stewart Kough Comd "G" Gp C.R.U. dated 2 Mar 44
DSO, MC, VD.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D-46613	Gnr	Carmine Carleton	DESROSIER	5 Cdn Gen Pioneer Coy

PROCEEDINGS REVIEWED

[illegible] Capt.
21 Mar 1944
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 3 Mar 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmn RO's. For guidance in procedure when a variation in this form arises, see forms for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which duties are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(A) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1615 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial. The Prosecutor informs the Court that ~~accused elected to be tried by court-martial instead of being dealt with~~ summarily by the CO.(1)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ [illegible] as interpreter? Ans. ~~The Interpreter is sworn.~~(1) Do you object to P 57776 Sgt Schultz CMP as shorthand writer? Ans NO-SIR
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO-SIR(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt. Col	D L REDMAN	H.Q CRU
Member	Capt	C V MATSON	7 CIRU
Member	Lt	A R WILSON	4 CIRU
~~Judge Advocate~~			
Prosecutor	Lt	J ROSENBLUM	3 CIRU
Defending Offr	Lt	A.H. KRIEGER	5 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans. If so Is the Defending Offr a lawyer? Ans. Yes
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) plea
(1. If a special plea is made for separate trial on one or more charges (RP 120(E), 108), or as to the jurisdiction of the Court (RP 34, 25(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO-SIR.(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90. 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE-ATT
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on ~~the~~ any of the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on ~~the~~ each of the ..... charge(s), ~~and allowed~~ on the ..... charge(s), and that, accordingly, the trial will proceed ~~on the former, but the accused is (are) found Not Guilty on the latter charge(s)~~.(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans To Give Evidence. Do you intend to call witnesses on your behalf ? Ans NO-SIR. ~~Are they witnesses as to character only ?~~ Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AFS. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42. 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the First charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO-SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans I may say my self Offences Not-att.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2) 210
(*1. When several accused tried separately see RP 94fn. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RC 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

COUNTER NUMBER 3'48245'

HOUR 1140

OPERATOR'S INITIALS RD

RELIEVING OPERATOR MRD

CHARGE SHEET

The accused, D.46613 Gunner Carmine Carleton DESROSIER, on the strength of 5 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE — WHILE ON ACTIVE SERVICE, STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW,

AA SEC 18(4)

in that he,

at Hindhead, Hants, between the hours of 2350 hours, 15 Feb 1944, and 0700 hours, 16 Feb 1944, did steal the sum of Two Pounds, Ten Shillings, (2/10/0), 1 box of matches, 1 package Wintergreen Life Savers, 1 package Sen Sen, 1 Small Tin Sultan Prophylactics, the property of M.65820 Private HAMALIUK, F. of the 3 Canadian General Pioneer Company, a person subject to military law.

SECOND CHARGE (ALTERNATIVE) — WHILE ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

AA SEC 40

in that he,

at Hindhead, Hants, on the 16 Feb 1944, was in improper possession of the sum of Two Pounds, Ten Shillings,(2/10/0), 1 box of matches, 1 package of Sen Sen, 1 package of Wintergreen Life Savers, 1 Small Tin Sultan Prophylactics, the property of M.65820 Private HAMALIUK, F., of 3 Canadian General Pioneer Company, a person subject to military law.

THIRD CHARGE — WHILE ON ACTIVE SERVICE, STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW,

AA SEC 18(4)

in that he,

at Hindhead, Hants, between 2300 hours, 15 Feb 1944 and Reveille 16 Feb 1944, did steal the sum of One Pound (1/0/0) the property of M.60503 Private ABRAM, M. of 3 Canadian General Pioneer Company, a person subject to military law.

FOURTH CHARGE (ALTERNATIVE) — WHILE ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

AA SEC 40

in that he,

at Hindhead, Hants, on 16 Feb 1944, was in improper possession of the sum of One Pound (1/0/0), the property of M.60503 Private ABRAM, M., of 3 Canadian General Pioneer Company, a person subject to military law.

Approved (A.R. [illegible])
Lieutenant-Colonel
D.J.A. [illegible]

In the Field
1 Mar 1944.

(T.H. Reid) Captain,
Officer Commanding,
5 Cdn Gen Pnr Coy Detachment

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(J.R. Stewart Lough) Brigadier
Commander "G" Group
CANADIAN REINFORCEMENT UNITS

2 Mar 44

Convening Officer

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40)P&R/1697 (2002)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
D-46613	Gnr		Carmine Carleton	DESROSIER	5 Cdn Gen Pioneer Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 2 Mar 44 endorsed by me, (~~his commanding officer~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I have received application by the accused for the Court to be a Fd Offr as President, for the reasons stated hereby X~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint an Judge Advocate to attend the Court and the Offr mentioned hereunder X~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Unit.)
It col	D.L. REDMAN, VD (Calg Highrs) (Must be named. RP 106.)	HQ CIRU

MEMBERS.

(Rank.)		(Unit.)
A Capt	To be detailed by C.C.	7 CIRU
A Lt	To be detailed by C.C. (Named or detailed. RP 106.)	4 CIRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 2 Mar 44

(Signed personally. RP 165 fn 2.)
(J.R. Stewart Lough.)
Brigadier (Rank.)
Commanding "G" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS' CERTIFICATE
K.R. (Can) para 537

I certify that I have this morning examined No. D.46613 Pte. (Rank)

DESROSIERS, C. (Name) of 5 Cdn Gen Pioneer Coy and in my

opinion he is fit to undergo trial by Court Martial.

Station : Tournay Barracks
Farnborough Hants

Date 3 Mar 44

Sdg (Medical Officer) Capt. RCAMC
5 Cdn Inf Reinf Unit

TRIAL

of

D 46613 Gnr DESROSIER, C.C., 5 Cdn Gen Pnr Coy

EVIDENCE FOR THE PROSECUTION - NOTE D-3

1st WITNESS FOR THE PROSECUTION
M 65860 Pte HAMANIUK, F,3 Cdn Gen Pnr Coy, having been duly sworn states:

I am attached to 1 CEAU at Hindhead, Hants. I know the accused (pointing to him). I saw the accused on the 15 Feb 44, just before midnight. I woke up at about 0200 hrs, the accused was poking up the fire in the hut where I was sleeping. I did not say anything and went back to sleep. I woke up again about 0500 hrs the next morning, the accused was stoking up the fire again. I saw him again when I got up at breakfast time. When I came back from work at about 1500 hrs next day I found that some of the property belonging to me under the mattress of the bed of the accused. His bunk is next to mine. When I got up that morning, on searching in my battle dress I found that there was missing a package of sen sen, a box of Swan matches, a package of safes (Sultan prophylactics) and a green package of Life Savers, also a fountain pen and a book of stamps, and £2 10/-. The money was in four 10/- notes and there was 10/- in change, in 2/- and half crowns, I can't remember exactly the pieces.

The articles I found under the accused's bed the next afternoon were a box of Swan matches, a box or tin of safes, a package of sen sen, a roll of life savers. They were my property.

(Prosecutor shows certain articles to the witness who continues) -

This package of Wintergreen life savers are mine which I lost and found (marked Ex 1by the Court) This is my package of sen sen which I lost and found(marked Ex 2 by the Court) These are my Swan matches which I lost and found (marked Ex 3 by the Court). These are the prophylactics, Sultan brand (marked Ex 4 by the Court) which are mine.

I have known the accused for some days, he was working on the same job as me. He was attached to 1 CEAU. The second time I wakened in the morning I got up and left the room to urinate and found my tunic on the floor, which was hanging on the hook above. I then searched my pocket and found the £2 10/- missing. It was later in the day that I found the other articles missing. I did not notice when the accused came in to go to bed the night before. I had been paid on the 15th was where I had got the £2 10/-. I cannot identify the money as mine, it all looks alike. When I found my property under the mattress of the accused the next afternoon, I did not touch it, I reported to the Orderly Room and Lt Smale came back with me and he took the articles.

CROSS EXAMINATION BY THE DEFENDING OFFICER

I bought these articles in England, close to my camp. I think about fourteen men sleep in this building where the accused and I sleep. I got up that night because it was hot in the room.

2nd WITNESS FOR THE PROSECUTION
Lt R.B SMALE, 1 Cdn Gen Fnr Coy having been duly sworn states:

I know the accused (pointing at him). I know M 65880 Pte HAMALIUK, F., he is one of my men. I also know Pte ABRAM who is also one of my men.

On the 16 Feb 44 Pte Hamaliuk came to see me. He reported to me and as a result he and I went to his sleeping hut and there he pulled back a palliasse from a bed which I knew to be the bed of the accused, and there I saw four articles.

(The Prosecutor shows the witness Exhibits 1,2,3 and 4 and the witness continues)

To the best of my knowledge these are the four articles which I saw there. I took possession of them and took them to the Orderly Room, and later I handed them to Cpl HERTZOG of the Canadian Provost Corps. I am the Officer Commanding these men, a working party attached to 1 CRAU. There was a pay parade for the whole party on the 15 Feb. I was present, and to the best of my knowledge each man was paid in 10/ notes. It was quite noticeable, in fact it was spoken about.

CROSS EXAMINATION BY THE DEFENDING OFFICER

Sixteen people sleep in the hut where the accused sleeps.

3rd WITNESS FOR THE PROSECUTION
M 60803 Pte ABRAM, M, 3 Cdn Gen Fnr Coy, having been duly sworn states:

I know the accused (pointing to him). On the 15 Feb 44 we were paid, the accused, Pte Donovan and I went for a few drinks. I do not know how much money was spent that night, but I think it was over £2. I do not know how much money the accused had before he was paid, but he was paid £12 on the 15 Feb. He told me it was all in 10/ notes. I was paid two £1 notes. The saw the accused take £2 out of his purse before we left for the pub. Later I saw him take out another pound from his purse. He bought a round of drinks. The accused and I came back to the barracks about 2300 hrs. I went to bed and do not know anything more until next morning. I found £1 in sterling missing from my pocket when I got up. I can't tell one pound from another. I have known the accused about a week and a half. I reported the theft. No one has given my back my pound yet, nor has there been any sign of it.

CROSS EXAMINATION BY THE DEFENDING OFFICER

I had considerable to drink that night. I did not keep track of my drinks. I think the accused had approximately the same amount as I. I spent about 16/ myself on drink that night.

4th WITNESS FOR THE PROSECUTION
F 42143 Sgt BAXTER, W, 5 Cdn Gen Fnr Coy, having been duly sworn states:

I know the accused (pointing to him). On the morning of the 16 Feb 44 Pte Hamaliuk came to the Coy Orderly Room to me with a report, after listening to him I notified Lt Smale. About 1520 hrs Lt Smale, Pte Hamaliuk and I went to Hut No 3 where Hamaliuk and the accused sleeps. I saw four articles under the pillow of the accused.

(Prosecutor shows the witness Exhibits 1, 2, 3 and 4, the witness continues)

These are the articles I saw Lt Smale take to the Coy Orderly Room. I placed the accused under arrest at approximately 1700 hrs that afternoon.

Trial of D 46613 Gnr DESROSIER, C.C., 5 Cdn Gen Fnr Coy

4th WITNESS FOR THE PROSECUTION (Cont'd)

CROSS EXAMINATION BY THE DEFENDING OFFICER

Defending Officer declines to cross examine 4th Witness.

NOTE; The Prosecutor and Defending Officer discussed taking the evidence of the next witness which did not appear in the summary. The Defending Officer did not object to it being taken.

5th WITNESS FOR THE PROSECUTION
B 748711 Pte GARDHOUSE, S.H., 1 CEAU having been duly sworn states:

I am a member of the R.P. of 1 CEAU at Louisburg South, Bordon. On 16 Feb 44 I was on duty in the guard room. I know the accused (pointing to him). I saw him at the guard room that day. He was brought in under close arrest by Sgt Baxter. I searched him and took away his personal belongings. I found among his possessions these articles - one £1 note and twenty 10/- notes, 5/- 6pd in change.

CROSS EXAMINATION declined by the Defending Officer.

6th WITNESS FOR THE PROSECUTION
Capt T.H. REID, 5 Cdn Gen Fnr Coy, having been duly sworn states:

I am the Officer who took the Summary of Evidence in this case, on the 29 Feb 44.The accused was present at the taking of the Summary. After the evidence of the several witnesses had been taken I cautioned the accused in accordance with RP 4. I said to him

"Do you wish to make any statement or give evidence on Oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused then made a statement to me.

NOTE: The Defending Officer, at this point stated that he had no objection to this statement, being a statement contained on the last two pages of the Summary of Evidence in this case.

The Witness continued -
The signature "C. Desrosier"on the last page of the Summary is the signature of the accused. I saw him sign it. (The statement of the accused contained in the Summary was then read to the Court as evidence in the Prosecutor's case). The witness continued - I read over the statement to the accused before he signed it and he said it was correct and he then signed it.

CROSS EXAMINATION BY THE DEFENDING OFFICER

Defending Officer declined to cross examine this witness.

PROSECUTION IS CLOSED.

THE DEFENDING OFFICER MADE A SUBMISSION UNDER RP 40 - that

The Prosecution had not made a prima facie case with respect to any of the four charges. He particularly said "go ahead."

The ownership is not clearly proven as evidence and that the Prosecution's own evidence states that the accused went through several pockets and there is nothing but the presumption that the money might have been stolen from some one else and he referred the Court to Note 6, Page 4 MML.

THE PROSECUTOR REPLIED - stating that

First I submit that the law is properly set forth in the said Note 6 and I have clear proof of the ownership of the property, establishment of the identity of the money is not possible because a $1 note and the 10/- notes look like every other $1 note and 10/- notes, and
Secondly this is only an ommission for the prima facie case. I would ask the Court a question, "If the accused has spent all the money he admits he stole, and the owners came into court and say they lost that much money by theft, is the accused to be aquitted of that theft?"

COURT IS CLOSED

COURT RE-OPENED

The submission is not allowed with respect to each of the four charges.

EVIDENCE FOR THE DEFENCE -- NOTE: D-5

1st WITNESS FOR THE DEFENCE
D 46613 Gnr DESROSIER, C.C., 5 Cdn Gen Pnr Coy, having been duly sworn states:

On the night of 15 Feb 44 I went to a pub at about 1930 hrs. Pte Abram and another soldier went with me. We drank. We drank quite a little wiskey and beer, I am not sure how much. We left at closing time and walked home, we had to carry one of the others. When we got home I put this man to bed then I went to the lavatory. Then I put some wood on the fire. Then I sat down for a while and I started to think of most everything. Suddenly I began to think of going on the loose, then I wanted to steal something, that stayed in my mind and I got up from the bench. That is all I remember, I just passed out.

The Defending Officer then read to the accused a portion of his statement starting with the words "This thought persisted...." and read to the words "..... time I went to bed."

The witness continues - That is what I thought then.

QUESTION by the Court

Did you do this?

ANSWER: I do not know if I did do it.

I got up the following morning about 0800 hrs. I usually get up about 0730 hrs. (The Defending Officer shows the accused Exhibits 1, 2, 3, and 4) I do not know whether these were under my pillow or not. I did not have time to look under my pillow when I got up in the morning.

I have been convicted of drunkeness in the Army about 12 times.

1st WITNESS FOR THE DEFENCE(Cont'd)

CROSS EXAMINATION BY THE PROSECUTOR

I was going on leave the next day, or very soon after, and that is why I drew £12. The pay which I drew was all in 10/- notes. I had £1 and 10/- before I was paid, I am sure that it was a £1 note. I do not know how much I spent at the pub. I do not know whether I spent the £1 note at the pub or not. When I gave the statement to Captain Reid I was confused and I thought that I had done it all.

2nd WITNESS FOR THE DEFENCE

F 40897 Gnr DONOVAN, J.M., 3 Cdn Gen Pnr Coy, having been duly sworn states:

I was with the accused on the night of 15 Feb. We went out for a beer, it was going on 2000 hrs when we left. We had Pte Abram with us. We went into the pub and bought a round of whiskies, the first round was doubles and after that singles, after each round of whiskey we had a round of beers. The pub closed at 2200 hrs. We bought four quarts and a pint of beer to take out. On coming down the road I broke one of the quarts. There was one quart and the pint left when we got to the hut. I do not remember getting to the hut or getting put to bed. The accused drank as much as I did.

PROSECUTOR DECLINES TO CROSS EXAMINE THIS WITNESS.

THE DEFENCE IS CLOSED

THE DEFENDING OFFICER ADDRESSED THE COURT ON THE FINDING

The nature of the offence of theft requires that the Prosecution shall clearly prove that the intention of the accused was to take this money. Now the evidence before the Court as to the activities of the accused on the night of the event shows fairly clearly that a considerable amount of drinking was going on. The evidence that one of the party who had gone out drinking with the accused and drank an equal amount as the accused, and as a result of that drinking he had to be carried home and put to bed never knowing anything about it. The accused claims that he was able to walk home, but it is in the evidence that the accused had as much to drink as the other members of the party, and there is reason that we can assume that the condition of the accused mind, on the night of this particular event, was not such that we can say that he had the intention which is essential to constitute the offence of theft. Now it is clear that when intention forms a very evident part of the defence, evidence of a state of drunkeness should be sufficient to render that offence less serious and I suggest to the Court that all the evidence before it should permit it to bring the behaviour of the accused within that provision. That is the nature of my defence. As to the state of the accused on the night of the event there is no reason why we should believe that the accused condition was unaffected by this drink. They drank a great deal that evening, and without stretching our imagination to far realize that the accused was under the effects of intoxicating drink. We have seen that he did drink a lot, has been convicted of drunkeness several times in the past. In regard to this question of theft the evidence of the Prosecution is that the accused went through the pockets of several people. There is nothing to suggest that this money was stolen from the complainants pockets, or from someone else's pockets. He had gone through the pockets of several people. In his statement he says that he went through several people's pockets looking for money.

Trial of D 46613 Gnr DESROSIER, C.C. 5 Cdn Gen Pnr Coy

DEFENDING OFFICER'S ADDRESS ON THE FINDING (Cont'd)

There were sixteen people sleeping in that hut, why can't we then assume that the money was taken from any one of the sixteen, and why can't we assume that it was taken by any one of the sixteen people, and I think that is the total nature of my defence to these charges and my case rests there.

THE PROSECUTOR ADDRESSED THE COURT ON THE FINDING

Several facts have been proven - First that the Exhibits 1, 2, 3, and 4 were found in the possession of the accused. Secondly that Pte Hamaliuk lost these articles plus £2 10/-, his property.
Thirdly that Pte Abram had £1 stolen from him.
Fourthly that on arrest the accused was found with some of the money on him (£11 5/- 6½d).
Fifthly that the accused was awake and about the barrack room at various and suspisious hours, namely at 0200 hrs and 0500 hrs stoking the fire. The suggestion that the Prosecution has made that he was doing something more than that seems to be reasonable.
The next fact proven is the statement of the accused himself who admits forming the intention to steal and further he admits stealing these things by going through as many pockets as he could find looking for money. He says,"As I found it, I put it into my pocket,there were several bank notes, also some silver which I put into my pocket. The other articles which I had taken from trouser and tunic pockets I put under my pillow." That is where the other articles were found, under the pillow or if desired to state it differently under the palliasse. He told the Officer in charge the detachment that he was willing to return all the money that was stolen. His statement was taken before a responsible officer after the proper caution had been given. The defence would appear to be "drunkeness", I refer the Court to page 25 MML, para 48. This says in fact that drunkeness is not an offence under the law of England, but a fact in mitigation. If the Court comes to the conclusion that drunkeness in this case was sufficient to initiate the formation of the intent to steal, then it can come to any other conclusion and result in the finding of not guilty, but guilty of improper possession.

The Prosecutor asked that the accused be put under stoppages respecting £2 10/-, the loss occasioned by the commission of the offence to Pte Hamaliuk in the first charge. He also requested that the Court ask the Confirming Officer to make out an order restoring Exhibits 1, 2, 3, and 4 to the owner thereof, Pte Hamaliuk.

—o—o—o Des Rosiers

= Qe-23

Born - Sheldon Mount

Schooling - 11th grade

Age at quitting - 15

NOTE E-3

Parents - living

single -

occupation - farm labour, salary - $10/month

Enlisted - 1944 Shilo Manitoba

Arrived - 1945

- Italy (3 years)

Promoted - Lab 1 43-

Entertainment - Basketball.

Put upgrade on this day - 1.12

Went to pub at 2:30 P.M. with Graham & Tupper & bought several rounds of beer (double) & left in time to catch one bus also. Graham did not as he left the pub & lined Tupper home. was wobbly too, had to be assisted.

Disciplinary - fined $5 per 7 days, it stuck in my head.

Did you decide to marry Tupper - yes.

At Tupper's bed, Bombardier put him to bed

(H.S. pioneer corps Capt Reid) 17

Exhibit DeRosiers Case

Plea in mitigation

The accused is a person of very limited intelligence, he cannot read, he cannot write, he was born in Vermont, & worked there as a farm laborer for the salary of $10 per month. From the questions he asked me, & from his behaviour before the Court I feel that he broadly understands a person he only is not much use to altogether of a young child. I admit that I exaggerate when I say this. I would ask the Court to review considerably this matter. I would point out to the Court that the accused has a fairly good record, save that he seemed to be quite fond of drink & that there are several convictions against him for drunkedness. I suggest to the Court that his conduct at the time of the offence contributed very largely to the offence he committed. The accused made very effort to assist the Court. He made no attempt to conceal having the money. I would ask that all these be taken into consideration in favour entered

NOTE E-3

MM

—o—o—o DesRosiers

= Age - 23
Born - Sheldon Vermont
schooling - 11th grade
Age at quitting - 15
Parents - living
wife -
occupation - farm laborer, salary - $10/month
Enlisted - 1944 Rutland Center - 3
Address - 1941,
- City (3 years)
Pioneers - left 1943 -
and officers - Lieutenants.

Got up early on that day - 5:12
- Went to pub at 7:30 + met with Graham + Tupper
+ bought several rounds of drinks (double) + left in time
to catch Jo + drank one beer also.
Stood that 8:30 o'clock left the pub + helped Tupper home.
was wobbly bow. had to be assisted:
Lieutenants - said effect of eggs, it affects my head:
Did you check to make sure Tupper - yes:
At Tupper to bed. Lieutenants put him to bed.
(U.S. pioneer corps left Paris) 47

- Sat by the fire, the room was very
warm, went to bed a couple of times.
sat by the fire, sat there thinky,
felt a little tired too, sat still cause I
what I was doing.
started to cry, stroked my arm, then all these
other same thing kind of things kind
"go home"
mind could go clearly, body sturdy;
Awoke, felt ok, I remember so much;
(just had the money)
(somebody might hope put the money there)
Remember my pillow
Left them there I went away;
Slept on that morning;
Still why?

James D. Rosiers Case #

Plea in mitigation.

The accused is a person of very limited intelligence, he cannot read, he cannot write, he was born in Vermont, & worked there as a farm laborer for the salary of $15 per month. From the questions he asked me, & the answers, & from his behavior before the court I feel that he understands very little for a person he really is not much above the intelligence of a young child. I don't think I exaggerate when I say this. I would ask the Court to seriously consider this matter. I would point out to the Court that the accused has a fairly good record, save that he seemed to be quite fond of drink & that there are several convictions against him for drunkenness. I suggest to the court that his conduct & the ~~manner~~ might of the offence contributed very largely to the offence he committed. The accused made very effort to assist the Court. He made no attempt to conceal having the money. I would ask that all these be taken into consideration in fixing sentence

NOTE E-3

JMS

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE, A COPY OF SUMMARY OF EVIDENCE, CHARGE SHEETS, LIST OF WITNESSES AND LIST OF EXHIBITS.

I DESIRE AN OFFICER TO DEFEND ME.

E Desrosiers

(D.46613 Gnr DESROSIERS, E.G.)
5 Cdn Gen Pnr Coy

LIST OF EXHIBITS

In the case of D.46613 Gunner Carmine Carleton DESROSIER, on the strength of 5 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

EXHIBIT "A"	1 Box Swan Matches
EXHIBIT "B"	1 Pkg Wintergreen Life Savers
EXHIBIT "C"	1 Pkg Sen Sen
EXHIBIT "D"	1 Small Time Sultan Prophelactics

SUMMARY OF EVIDENCE

In the case of D.46613 Gunner CARMINE CARLETON DESROSIER, on the strength of 5 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken under Oath

---

FIRST WITNESS FOR THE PROSECUTION

M.65820 Private HAMALIUK, P., on the strength of 3 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas, having been duly sworn, states: I am M.65820 Private HAMALIUK, P., of 3 Canadian General Pioneer Company, attached to No. 1 C.E.A.U. On the 15 Feb 1944 at approximately 2350 hours, I went to bed and left my battle dress trousers and tunic hanging on a hook above my bed. The four articles found on Gunner DESROSIER's bed I can identify as my own, and they were in my tunic and trouser pockets when I retired, in the follwoing places. 1 Box of Swan matches, in front pocket of trousers, 1 package of Sen Sen in Field Dressing Pocket, Sultan prophilactics in rear trouser pocket. I went to sleep shortly after going to bed and awoke sometime later owing to the heat in the room. The time may have been about 0200 hours, 16 Feb 1944. I noticed Private DESROSIER stoking the fire. The lights were out, but I recognized Private DESROSIER by the glare of the fire in the stove. After tossing around for a little while, I dropped off to sleep, awakening at approximately 0530 hours, when I again saw Gunner DESROSIER stoking the fire. Hearing him closing the hut door I got out of bed to urniate, returning to my bed I noticed that my tunic was on the floor. I picked it up and by my torch light examined the pockets. I found £2/10/0 had been taken, this was made up Four Ten Shilling Notes and Ten shillings in Silver. The money had been in my Pay Book. The other articles I have mentioned before and in to those are 1 Fountain Pen, Dark Red, one book of stamps, one Artillery Badge, one Field Service Cap. After going through all my pockets, I hung up my clothes and lay down on my bed. About 30 minutes later Gunner DESROSIER returned to the hut and stoked up the fire again, and then went to bed in the bottom bunk at approximately 0700 hours, 16 Feb 44 I reported the loss my money and other articles to Sergeant BAXTER, also telling him of Private DESROSIER strange behaviour of the previous night.

P. Hamaliuk.

(M.65820 Pte HAMALIUK, P.)
3 Cdn Gen Pnr Coy.

The accused declines to question the witness

SUMMARY OF EVIDENCE

In the case of D.46613 Gunner Carmine Carleton DESROSIER, on the strength of 5 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken under Oath

---

SECOND WITNESS FOR THE PROSECUTION

M.60503 Private ABRAM, M. on the strength of 3 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas, having been duly sworn states: I am M.60503 Private ABRAM, M. on the strength of 3 Canadian General Pioneer Company attached to No. 1 C.E.A.U. On the evening of the 15 Feb 1944 I accompanied Private DESROSIER to a Pub where we had a few drinks together. We returned at approximately 2300 hours and I went to bed. At this time I had the sum of ONE POUND in my tunic pocket. At reveille, 16 Feb 1944 after hearing that some money had been stolen, in the hut, I discovered that the ONE POUND was missing from my tunic. I immediately informed the Section Sergeant, Sergeant FOX, L. of this fact who in turn informed Lieutenant SMALE, who was in charge of the Detachment at that time.

M Abram
(M.60503 Pte ABRAM, M.)
3 Cdn Gen Pnr Coy

The accused declined to question the witness

THIRD WITNESS FOR THE PROSECUTION

K.42143 Sergeant BAXTER, W. on the strength of 5 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas, having been duly sworn states: I am K.42143 Sergeant BAXTER, W. on the strength of 5 Canadian General Pioneer Company, attached to No. 1 C.E.A.U. I am employed as permanent Orderly Sergeant at the Pioneer Detachment attached to No. 1 C.E.A.U. Lindford Camp. At approximately 0700 hours, 16 Feb 1944 Private HAMALIUK on strength of the Pioneer Detachment reported to me in the Company Orderly Room that money to the amount of TWO POUND, TEN SHILLINGS was stolen from his pockets during the night 15-16 Feb 1944. I made a note of this and then informed Lieutenant SMALE, Detachment Commander, who checked on this matter. Later in the day, 16 Feb 1944 at approximately 1520 hours, Lieutenant SMALE asked me to accompany him to Hut Number Three, where he showed me a number of articles under the pillow of Gunner DESROSIER's bed, namely 1 Box Matches, 1 Package of Life Savers, 1 Package of Sen Sen, 1 samll tin, presumably condoms. These articles were retained by Lieutenant SMALE and turned over to Corporal HERTZOG of No. 9 Provost Company, Canadian Provost Corps. At approximately 1600 hours 16 Feb 44, I telephone to No.9 Canadian Provost Company, advising Corporal HERTZOG of the theft; He instructed me to place Private DESROSIER under close arrest.

SUMMARY OF EVIDENCE

In the case of D.46613 Gunner Carmine Carleton DESROSIER, on the strength of 5 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas. (Continued).

By direction of the Commanding Officer the Summary of Evidence is taken under Oath

---

THIRD WITNESS FOR THE PROSECUTION (Continued)

On arrival of vehicles from the Workshops, at approximately 1700 hours, 16 Feb 1944, I placed Gunner DESROSIER under arrest and escorted him to No. 1 C.E.A.U. Guard Room, where he was detained pending investigations by the Canadian Provost Corps. At the same time I instructed the Military Police in charge of No.1 C.E.A.U. Guard Room to have Gunner DESROSIER searched and all articles in his possession, regardless of kind or size be retained as evidence for investigation. At approximately 1700 hours, 17 Feb 1944, Corporal HERTZOG, No. 9 Company, Canadian Provost Corps, arrived at unit lines to conduct an investigation

W. Baxter Sgt.

(K.42143 Sgt BAXTER, W.)
5 Cdn Gen Pnr Coy

The accused declines to question the witness

FOURTH WITNESS FOR THE PROSECUTION

M.45316 Corporal HERTZOG, T.P. on the strength of Number NINE Provost Company, a soldier of the Canadian Army Overseas, having been duly sworn states: I am M.45316 Corporal HERTZOG, T.P. on the strength Number NINE Provost Company. At approximately 1600 hours, 16 Feb 1944, I received a phone call from Sergeant BAXTER of the Pioneer Company attached to No. 1 C.E.A.U. who informed me that several personal articles had been found on a Gunner DESROSIER's bed, which would point to him as having committed thefts of money in the unit, in that the articles mentioned were allegedly taken from the tunic of one, Private HAMALIUK, on the night of the 15-16 Feb 1944 and that £2/10/0 which Private HAMALIUK missed from this same tunic at reveille on 16 Feb 1944. I then instructed Sergeant BAXTER to place Gunner DESROSIER under close arrest and to make sure that Gunner DESROSIER did not get a chance to go near his kit. At approximately 1700 hours, 17 Feb 1944, I arrived at the Pioneer Company's lines and contacted Sergeant Baxter and Lieutenant SMALE who gave me the details and circumstances surrounding the thefts of money and other personal articles within the unit on the night of 15-16 Feb 1944. I then interviewed all personnel who had lost money and personal effects and a complete investigation was carried out and a report submitted to the D.A.P.M's Office, C.M.H.Q.

J. T. Hertzog

(M.45316 Cpl HERTZOG, T.P.)
#9 Coy, Canadian Provost Corps.

The accused declined to question the witness

SUMMARY OF EVIDENCE

In the case of D.46613 Gunner Carmine Carleton DESROSIER, on the strength of 5 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken under Oath.

STATEMENT OF THE ACCUSED

The accused was cautioned in accordance with Rules of Proceedure 4, as follows. "Do you wish to make any statement or give evidence on Oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The Accused then made the following statement:

admitted in evidence

Ex 5

STATEMENT:

On the 15 Feb 1944 about 1900 hours, I left my unit lines accompanied by Private ABRAM and another Canadian soldier from my hut. We went to a Pub near Headley. I don't know the name of it. There we drank a considerable amount of beer and whiskey. I spent quite a lot of money for the drinks. The three of us left the Pub about closing time, about 2200 hours. We arrived at our unit lines quite late, I don't remember the time as I was feeling quite drunk. I was feeling quite drunk when I went into the hut, there were still some of the boys up. I helped to put one of the boys called TRAPPER to bed as he was drunker than I. After this I went outside to the lavatory and was there for sometime. When I came back everybody was in bed in the hut, the time may have been 12 o'clock. I stoked up the fire in the stove and then went out to the lavatory to urniate, came back and sat down near the fire for a little while. I started to think about all kinds of things, one of them was to go A.W.L. then I thought of stealing things. This thought persisted and I started going through as many pockets as I could find, looking for money. As I found it, I put it into my pocket. There were several bank notes, also some silver which I also put into my pocket. The other articles which I had taken from the different trouser and blouse pockets, I put under my pillow. I don't remember what there was, whatever it was it should still be there. I don't remember what time I went to bed. In the morning of 16 Feb 1944 I over slept and got out of bed just in time to get the work truck at about 0800 hours, not having time to look at the articles I had taken previous and put under my pillow. I just grabbed my wallet with the money I had drawn on pay day 15 Feb 1944. I also put the money I had stolen into my wallet. As I was in a hurry I told the hut Orderly Private ASHELINE to make up my bed, which he promised to do.

SUMMARY OF EVIDENCE

In the case of D.46613 Gunner Carmine Carleton DESROSIER, on the strength of 5 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken under Oath.

STATEMENT OF THE ACCUSED (Continued)

Ex 5 cont.

I then proceeded by truck to the R.C.O.C. Depot I worked there until 1700 hours, returning to my unit lines by truck. I was placed under close arrest by Sergeant BAXTER and conveyed to Stagging Camp, Guard Room at approximately 1730 hours, 16 Feb 44. I told the officer in charge of the Detachment that I was willing to return all the money I had stolen.

Witnessed: Wgsteen

C Desrosier

(D.46613 Gnr DESROSIER, C.C.)
5 Cdn Gen Pnr Coy.

As the accused is unable to read, the above statement was read over to him and witnessed by Sergeant STEEN in the presence of the Accused.

I certify that the foregoing Summary of Evidence consisting of Five pages was taken down by me in the presence and hearing of the accused and that Rules of Proceedure 4 (c), (d), (e), and (f), have been complied with.

T.H. Reid Capt

(T.H. Reid), Captain,
Officer Detailed to
Take Summary of Evidence.

Farnborough, Hants
29 February, 1944.

M.F.M. 6
(A.F. B.122)
40/F & /8136 (2665)

No. D46613 Name DESROSIER, C.C | Sqn., Battery, or Company | Corps | Date of enlistment 20 Sep 40 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				PREVIOUS SHEET DESTROYED ON COMPLETION OF 6 MONTHS SERVICE 20 Mar 41					
Debert N.S.	30 Mar 41	Gnr		(1) Drunkenness	Bdr Willock	$10.00 Fine	2 May 41	Lt.-Col D.R. Agnew	
				(2) Str'king a guard	Bdr Evans	14 days Det.	2 May 41		
Field	12 Oct 41	Gnr		A.A.15(1) Failing to appear at a place of parade	L/S. McASKILL	7 days C.B.	13 Oct 41	Lt.-Col D.R. Agnew	
Field	6 Jan 42	Gnr		Neglect to obey Regt'l Pt I Order	Lt.-Blosse	5 days C.B.	8 Jan 42	Major MacHolt	
Field	14 Feb 42	Gnr		Drunkenness, A.A. 19	L/S. Lloyd	$10.00 Fine	17 Feb 42	Lt-Col D.R. Agnew	
Field	18 May 42	Gnr		Drunkenness, A.A. 19	L/Bdr Maillet				
				(2)A.A.24 Wilfully injuring Regt'l Property	Gnr Blake,H.B.	28 days F.P.	18 May 42	Lt.-Col D.R. Agnew	
				(3)A.A.81 Str'king superior officer	L/B.Maillet				
Field	15 Jul 42	Gnr		Drunkenness, A.A. 19	BSM Roth	$15.00 Fine	18 Jul 42	Lt.-Col D.R. Agnew	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 27	Oct 42	Cnr		A.A. 40		6 months Detn	28 Oct 42	F.C.C.M.	
Field 3	Jan 44	Pte		AWL from 0200 hrs 3 Jan 44 to 1030 hrs 3 Jan 44. Absent: 8 Hrs 30 Mins. A.A. 15(1)	Documentary	7 days C.B.		R.B.Smale Lieut	1 days forf pay 149 (1)(a)

Certified true copy consisting of one sheet.

S.B.Reid Capt.
Officer having custody of original documents.

Date. 3rd May 1944

M.F.B. 355
22M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-46613	Pte	Desrosiar C.C.	5 Cdn Gen Pioneer Coy.

1. The following is a fair and true summary of the entries in the ~~Regimental conduct sheets~~ Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AA 19	0	times	6	times
For AA24 (1)	0	times	1	times
For AA 15 (1)	1	times	4	times
For		times		times

Number of instances of gallantry or distinguished conduct Nil

or,

~~There are no entries in the regimental conduct sheets of the accused~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not previously been convicted~~

or.

Previous convictions of the accused by a court-martial or a civil court, summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time under sentence is~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 15 days in military custody, making a total of 15 days in custody, of which 20 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 23

6. The date of his attestation specified in his attestation paper 20 Sept 40

7. The service which the accused is allowed to reckon towards discharge is 3 years 5 mons. 9 days.

8. The accused is entitled to reckon 3 years 5 months 9days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward (or is in possession of or entitled to). State any military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of

Ex 13

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....Unit Regiment

Name.....of.....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	28 Oct 42 Field	(1) AA 40 (2) AA 40	6 Months detention	128 days remission

J. H. Reid Capt.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd day of Mar 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

EX B

MHS

21 R.

Gnr DESROSIER. C.C.

O. H. M. S.

M. F. B. 270

21 R.

Gnr DESROSIER, C.C.

O. H. M. S.

M. F. B. 270

Correspondence to be PINNED here.

21 R.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. [illegible] Tuchtie Major
Order convening the Court.

On Active Service, this 26th day of October, 19 42.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery, 3 Cdn. Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~such that it is not practicable to obtain the assembly of a competent qualified officer~~

† Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~This was unable to appoint —~~
~~Three officers of the Army~~
~~A Field Officer as President~~
~~Three officers having more than one year's service~~

~~and the following reasons namely —~~

PROCEEDINGS REVIEWED

Reviewing Officer (A.D.C.) H.Q.

138

President.

Rank.	Name.	Regiment.
Major	W.J. TUCHTIE	13 Fd. Regt. RCA

Members.

Rank.	Name.	Regiment.
Capt.	G. SHEWELL	3 A. Tk. Regt. RCA
Lieut.	L.W. PEAT	12 Fd. Regt. RCA.
Waiting Member Lieut.	J.B. LESSLIE	14 Fd. Regt. RCA.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed E.C. Plow
(E.C. Plow) Brigadier,
Commanding C.R.A., 3 Cdn. Div.
Convening Officer.

21 R.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court

On Active Service, this 26th day of October, 1942

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery, 3 Cdn. Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the matter so as to obtain a qualified officer~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~And it is not practicable to appoint—~~
~~three officers to form the Court~~
~~a Field Officer as President~~
~~five Officers having more than one year's seniority~~

~~and the following reasons exist—~~

PROCEEDINGS REVIEWED

138

President.

Rank.	Name.	Regiment.
Major	W.J. TUCHTIE	13 Fd. Regt. RCA

Members.

Rank.	Name.	Regiment.
Capt.	G. SHEWELL	3 A. Tk. Regt. RCA
Lieut.	L.W. PEAT	12 Fd. Regt. RCA.
Waiting Member Lieut.	J.B. LESSLIE	14 Fd. Regt. RCA.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (E.C. Flow) Brigadier,
Commanding C.R.A., 3 Cdn. Div.
Convening Officer.

SCHEDULE.

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D.46613 Gnr. DESROSIER, C.C. 14 Fd. Regt. RCA	(1) A.A. 40	Guilty	"Guilty on both charges." Sentenced to 6 months	Confirmed (d) [illegible] 15-9 [illegible]
	(2) A.A. 40	Guilty		

Dated at the field this 28th day of Oct 1942

Major [illegible] Regt
President

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) [illegible] (E.C. Plow) Brigadier,
Commanding C.R.A., 3 Cdn. Div.
Convening Officer (e)

(Signed) [illegible] Major 13th Fd Regt R.C.A.
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings

I certify that the above Court assembled on the 28th day of Oct 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~)
4. ~~The officers under instruction~~) were duly sworn.

* Omit if not applicable.

Signed this 28th day of Oct 1942

Major [illegible] Regt
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (j) on page 102 M.M.L. 1929.

~~I certify that the terms of A.C.I. 390 of 1918 have been complied with.~~

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*(~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

Signed this 29th day of Oct 1942.

[illegible]
Confirming Officer.
(E.C. Plow) Brigadier,
C.R.A., 3 Cdn. Div.

Promulgated and extracts taken in the case of D.46613 Gnr. DESROSIER, C.C.

(a) (Dated) 2 Nov. 42. (Signed) [illegible] Capt.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(31756) Wt. 40123—493 200 m. 1/42 P. St. G. 640

"B 2"

CHARGE-SHEET

The accused, D-46613 Gnr Desrosiers, C.C., of the 34th Bty., 14 Field Regt., R.C.A. a soldier of the Canadian Army Overseas is charged with:-

First Charge

Conduct to the prejudice of good order and military discipline

In that he

was improperly in possession of a bicycle the property of C-51259 Gnr Yanch, F.C.

Second Charge

Conduct to the prejudice of good order and military discipline

In that he

improperly disposed of a bicycle lamp the property of a comrade , C-51259 Gnr Yanch, F.C., by throwing away the said lamp.

(H.B.Griffin),Lt.-Col. R.C.A.
Commanding 14 Field Regt. R.C.A.

In the Field

26 Oct 42

To be tried by F.G.C.M.

(E.C. Plow) Brigadier,
C.R.A., 3 Cdn. Div.

26 Oct. 42.

MEDICAL OFFICER'S CERTIFICATE

K.R. (Can.) Para 557

I certify that I have this morning examined No. D-41611 Gnr Desrosier, C.C. of 14 Field Regt, RCA and, in my opinion he is fit to undergo trial by Court Martial.

Station In the Field

Date 26 Oct 42

(Henry I. Wilson) Capt.
Medical Officer

MEDICAL OFFICER'S CERTIFICATE

K.R. (Can.) Para 557

I certify that I have this morning examined

No. D-46613 Gnr Desrosier, C.C. of 14 Field Regt. RCA and,

in my opinion he is fit to undergo trial by Court Martial.

Station In the Field

Date 28 Oct 42

Chas. I. Wilson Capt.
Medical Officer

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of ~~a~~ Field General Court-Martial held at Summerville Camp

on the 28th day of October 1942 by order of

Brig E.C. Plow.

Commanding C.R.A. 3 Cdn Div

dated the 26th day of Oct 1942

Major W.D. Tuchtie President.

1270 Regt. R.C.A.

Members.

Capt G. Stengel 3 A.Tk Regt. R.C.A.

Lieut R.W. Peat 1270 Regt R.C.A.

, Judge Advocate.

Trial of* D46613 Gnr Desrosiers C.C.

1270 Regt R.C.A.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that is not available~~ to serve owing to

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† major M.C.H. Holt.

Counsel‡ or defending officer† Capt A.B. Medland 1270 Regt R.C.A.

At 10 AMo'clock the Trial commences.

The order convening the Court is read, and is marked , signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer. No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).

† Here state Rank and Name, and Regiment (if any).

‡ Qualification to be stated.

Q4574. 50,000/6/42. (S.R.O. 3,000). A. & H., Ltd. (46/2111). Forms A 9/22a.

B

The President, members ~~and judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (B) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? Guilty *Question to the accused.*

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read? Guilty. *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which ~~you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to ~~the~~ first and second charges, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[~~The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.~~]

The accused D 46613 Gnr Desrosiers C.C. 147 Regt R.C.A. is found guilty of First and Second Charges.

†The summary (or abstract) of evidence is read, marked "I" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. no.

~~The accused in mitigation of punishment says:—~~

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer.

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

The Court find that the accused

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

~~*The Court being re-opened, the accused is again brought before it.~~

Capt J. A. Sagar
1st 7th Regt R.C.A.
is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* yes.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked J & K, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* yes.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. yes.

~~Cross-examined by the accused.~~

[Observations.—If the nature of the offence of the accused is a serious one, or otherwise the finding of the Court renders such course necessary, exceptional punishment in addition to that to be awarded by the Court, the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of the additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused D 46613 Gnr Desrosiers G.E. Sentence
14 7d Regt R.C.A.
to undergo detention for a term
of 6 months.

Signed at Summers Place Internment Camp
this 28th day of Oct 42

Major W.F. Ritchie
13 7d Regt R.C.A. (A.F.)
President.

"I" in French mayor

SUMMARY OF EVIDENCE IN THE CASE OF D-46613 Gnr Desrosier, C.C. 34 Fd Bty, 14 Field Regt. R.C.A., a soldier of the Canadian Army Overseas.

FIRST WITNESS

C-51259 Gnr Yanch, F.C., having been suly sworn states:- On Sunday 18 Oct 42 I went to the 34 Bty Wagon Lines with the intention of getting my bicycle which I had left there under chain and lock. On looking for my bicycle I found it was missing. I immediately reported this fact to L/Sgt Dorey who was in charge of the wagon line picket at the time.

On Monday 19 Oct 42 I mentioned to Gnr Grisdale the fact that my bicycle was missing. He said "I think I know where your bicycle is as I saw a certain fellow in Horsham with the bicycle." Then Gnr Grisdale said to me "I saw this chap in Horsham on Saturday night 17 Oct 42 with a bicycle and know that he has not one of his own. I asked him where he got the bicycle. He said that he had gotten it near a hut in camp. I told him that he had better return it or he would get into trouble to which he made no reply. He then rode away on the bicycle."

About half an hour after this conversation Gnr Grisdale came to my hut and called me out side. He then repeated the above conversation and named Gnr Desrosiers as the person he saw.

After receiving this information I notified B.S.M. Roth of Gnr Grisdale's conversation with me. I accompanied B.S.M. Roth to see Gnr Desrosiers. During the interview which followed Gnr Desrosiers admitted having the bicycle on Sat 17 Oct 42 but claimed it to be the property of his brother whom he claimed to be in the R.C.E.. B.S.M. Roth asked, "To what Division and to what Company does your brother belong?", to which Gnr Desrosiers replied, "The fourth division, but I do not know what company because he never told me." On being asked where his brother's unit was he replied, "Near Horsham right close to where we were stationed."

The accused declines to cross-examine. Gnr C. Yanch.

SECOND WITNESS

C-50556 L/Sgt Dorey, J.B. having been duly sworn states:- On 17 Oct 42 at 1800 hrs I became M.T.Guard Commander. I was on duty untill 1600 hrs 18 Oct 42. At 1300 hrs 18 Oct 42 C-51259 Gnr Yanch, F.C. reported to me that his bicycle was missing from the Wagon Lines. I searched the Wagon Lines for the missing bicycle and when it could not be found reported the loss to B.S.M. Roth, P.L.

The accused declines to cross-examine. J.B. Dorey.

THIRD WITNESS

C-1711 Gnr Lafrance, F.J. having been duly sworn states:- On 17 Oct 42 I saw the accused, D-46613 Gnr Desrosiers, C.C., at approximately 2130 hrs in Horsham with a bicycle. I spoke to him and he passed on without holding any conversation with me.

The accused declines to cross-examine. F.J. La France

FOURTH WITNESS

C-1445 Gnr Grisdale, L.S. having been duly sworn states:- On 17 Oct 42 at 2130 hrs in Horsham I was waiting at the Bus Stop when Gnr Desrosiers came along with a bicycle. I spoke to him, asking him, "Where did you get the bicycle?" Gnr Desrosiers replied, "I got it in camp near a hut". I then said to him, "If it is not yours you had better take it back or else you will get into trouble." Gnr Desrosiers did not answer me. He got onto the bicycle and rode away.

Question: Why did you ask Gnr Desrosiers "Where did you get the bicycle."

Answer: "Because I knew that he did not own one"

On 19 Oct 42 in the Mess Hall Gnr Yanch informed me that his bicycle had been stolen. During my conversation with Gnr Yanch I told him that I had seen Gnr Desrosier in possession of a bicycle in Horsham on Sat 17 Oct 42 after this conversation I met Gnr Desrosier in the Mess Hall. I said to him, "Gnr Yanch is looking for his bicycle and if you get it and return it you will not get into trouble." Gnr Desrosiers replied, "I have it hidden half a mile from camp and I am going to keep it," he then got up and walked out.

The accused declines to cross-examine. L S Grisdale

FIFTH WITNESS

D-7500 S.S.M.Roth, P.L. having been duly sworn states:- At 2000 hrs on 18 Oct 42 L/Sgt Dorey reported to me that a bicycle belonging to Gnr Yanch, P.O. was missing from the Bty Wagon Lines. On 19 Oct 42 in company with Gnr Yanch I questioned Gnr Desrosiers as to the whereabouts of the bicycle. During my questioning of Gnr Desrosiers I established the following: Gnr Desrosiers admitted

1. having a bicycle in Horsham on 17 Oct 42.
2. that the bicycle was not his-though he claimed that it did belong to his brother whom he said was in a 4 divisional engineer company,
3. that he did not know his brother's number or company and knew only his brother's first name.

I then reported to the Bty Commander. He ordered Gnr Desrosiers to be given transport to Horsham to contact his brother and allowed him four hours in which to bring his brother's bicycle to this camp for inspection, with the intention of giving Gnr Desrosiers the opportunity of proving his statement that "The bicycle belonged to his brother."

Gnr Desrosiers failed to accomplish this. As a result at 1700 hrs 19 Oct 42 I had Gnr Desrosiers placed in the unit guard room under close arrest.

The accused declines to cross-examine.

SIXTH WITNESS

C-50750 Sgt. Dick, H.J. having been duly sworn states:- On the afternoon of 19 Oct 42 I took Gnr Desrosiers to Horsham for the purpose of locating his brother. Just

SIXTH WITNESS (CONT'D)

before leaving Gnr Desrosiers told me that his brother was in a 4 Divisional Engineer Company which was stationed close to Horsham. When Gnr Desrosiers and I reached Horsham I enquired at the 3rd Divisional Ordnance Workshop for the location of the 4 Divisional Engineers who were in the area. The workshop people did not know of any 4 Div. Engineers in the area.

We then went to the R.T.O. the clerk on duty said, "There are no 4 Div. Engineers in this area" I then informed Gnr Desrosiers that he was mistaken as there were no 4 Div. Engineers in the area. Gnr Desrosiers now said that he was no longer sure of what Div. his brother was in I questioned him and tried to help him but he was unable to give me any information.

We then returned to camp and I reported to B.S.M.Roth that Gnr Desrosier had not found his brother and did not know to what unit his brother belonged. T

H. J. Holt

The accused declines to cross-examine.

SEVENTH WITNESS

L-10179 Sgt Reid, R. having been duly sworn states:-

In response to a phone call I received from Major Holt on the 21 Oct 42 to the effect that a bicycle had been taken , the property of a gunner of the 14 Field Regt. R.C.A. I proceeded to the 14 Field Regt, at 1000 hrs. on 22 Oct 42 where I questioned Gnr Desrosiers. As a result of my questioning Gnr Desrosiers said "I will take you where the bicycle is concealed". I accompanied him to a place 500 yds north of of the camp where I found the bicycle lying concealed in some brush. I asked Gnr Desrosier to get the bicycle out of the brush which he did. I examined it and found it intact with the exception of the lamp which was missing. I returned it to camp where it was identified by the owner.

L Reid

The accused declines to cross-examine.

The accused having been duly warned, declines to make a statement.

Rules of Procedure 4 (c), (D), (E) have been complied with.

Taken by me In the Field this 26 Oct 42.

G E Purcell

(G.E.Purcell), Capt., R.C.A.
14 Field Regt. R.C.A.

Summary of evidence in the case of D-46613 Gnr Desrosiers, C.C., 34 Field Bty., 14 Field Regt. R.C.A., a soldier of the Canadian Army (Overseas).

FIRST WITNESS

C-51259 Gnr Yanch, F.C. having been duly sworn states:-

When I last saw my bicycle at 1200 hrs. on Saturday 17 Oct 42 it was equipped with a battery type headlamp. When the bicycle was returned at 1630 hrs on 22 Oct 42, by Sgt Reid of Cdn Provost Corps the lamp was missing.

Gnr C. Yanch

The accused declines to cross-examine.

SECOND WITNESS

L-10179 Sgt. Reid, R. having been duly sworn states:-

I was given a verbal description of the missing bicycle before the bicycle was located. The description included a lamp mounted on the bicycle. When we had found the bicycle I checked it over and found the lamp missing. I asked Gnr Desrosiers what he had done with the lamp. He replied "It was no good so I threw it away." I then asked him where he threw the lamp away. He said that he had thrown it into the ditch beside the road. The lamp could not be found.

The accused declines to cross-examine.

R. Reid

The accused having been duly warned, declines to make a statement.

Rules of Procedure 4 (C), (D), (E) have been complied with.

Taken by me In the Field this 26 day of October 1942.

G.E. Purcell

(G.E.Purcell) Capt. R.C.A.
14 Field Regt. R.C.A.

No. D4663 Name Desrosiers, C.C. Son., Battery or Company 14 Fd. Regt. R.C.A. Corps Date of enlistment 20/9/40 G.C. Badges Service or Proficiency Pay Character

M.F.M. 6 (A.F.B. 122) 500M—8-39 (1702) H.Q. 1771-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Shelf Camp	16.1.41	Pte.	1	Drunkenness - creating disturbance	Cpl Aberdeen J.	7 days C.B.	17.1.41	Major Lyon	
"	20.1.41	"		AWL 5.0hrs 30mins 8.30 - 20.1.41 to 1.00 22.1.41	Cpl Lawson R.	The Substitution	24.1.41.	Col Mac Kelly	
"	3.2.41	"	2	Drunkenness 2nd Offence	Cpl Auckland J.	5 days pay	4.2.41	Major Lyon	
"	3.2.41	"		AWL 8 hrs	Cpl Lawson R.	14 days Detention	4.2.41	Col Mac Kelly	
Lebret	30.3.41	Gnr.	3	1. Drunkenness (2nd Offence) 2 stripping a guard on whose custody he was placed	Bdr. Wilford Bdr. Evans	$10.00 fine 14 days Detention	2 May 41 2 May 41	Lt. Col. O. Ridgeway Lt. Col. O. Ridgeway	
Cowbell	12.8.41	Gnr		Failing to appear at place of parade	Sgt. McDonald	7 days C.B.	13 Aug 41	Lt. Col. O. Ridgeway	
Indian Field	6 Jan 42	Gnr		See 55(2) QR(I) K.R. & Rules 19 & 24 of 44 Refusing to obey a lawful command given by Lt. J. Brodie	Lt. J. Brodie	5 C.B.	8 Jan 42	My O.C. Batt.	
Indian Field	14.1.42	Gnr	4	Blankets &c " Drunkenness (4th offence)	Sgt Lloyd	$20.00 fine	15.1.42	Lt Col Ogilvie	
Indian Field	9 May 42	Gnr	5	Drunkenness (5) A.A. Sec 19	Sgt Mc Donald				

Place	Date of offence	Rank	Cases of drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award of order duplicating with that	By whom awarded	Remarks
Smithfield	9 May 02	Gnr		(2) Wilfully injured Govt property damage £ Pence pens of 3 0 £ 7 1 1 5 £ 9 9 2 4	Gnr Clark H.P.				
				(3) Using his uniform in such manner in a manner as to bring discredit on the service in that he in execution of his office, in that he at Dragons Camp on 9 May 02 struck with his fist - Gnr Mailler J.A.	Sgt Maillet J.A.				
				Dec 1988. Punishments		28 days C.B.	18 May 02	3rd Div Engrs	
Smithfield	15 July 02	Gnr	6		OS Mitchell F.	Fined £5.00	22 July 02	Lt Col Topp R.E.	

Certified a true copy

J.A. Evans Capt

J Fraschetti major

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
D-46613	Gnr.	Desrosier, C.C.	14 Field Regt. R.C.A.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this statement may be compiled from the field conduct sheet.

The conduct sheets mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 877, K.R., 1940.

* The numbers inserted should correspond with the number of entries in the conduct sheets, punishments being given in the most serious offence to each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For Drunkenness	3 times	6 times
For Absent without leave A.A.15 (1)	0 times	2 times
For A.W.L. A.A. 15 (2)	0 times	1 times
For A.A.11	0 times	1 times
For A.A.24	1 times	1 times
For A.A. 6 (1)	1 times	1 times

[redacted]

2. [redacted]

3. The accused is not under sentence at the present time [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and one fourteen days in military custody, making a total of one fourteen days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 21 years 6 months

6. The date of his attestation specified in his record of service is 20 Sep. 40

7. [redacted]

8. [redacted]

9. [redacted]

10. He deemed to be recommended for military decoration & military award [illegible]

11. [redacted]

12. [redacted]

[illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act **and of cases in which trial has been dispensed with of accused.**

No. D-46613 Rank Gnr Name Dearesler, C.C. of 14 Field Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22 day of October, 1942

J. A. Eagan Capt
Adjutant 14th Cdn. Fd. Regt. R. C. A.

13. [illegible]

[illegible] [illegible]

[illegible] [illegible]

[illegible] [illegible]

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraphs must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs entered amended accordingly.*)

4A-47

Pte Desrosiers, J.P.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E 14572 Pte. Desmarais, J.P. 4 C.I.B. Coy RCASC.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 403 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and as loss of kit see RP 44 fn 6.)

~~Still~~ at present under sentence for ~~.....~~ beginning on (date) ~~.....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: to suffer Field Punishment for twenty-eight (28) days and to forfeit all ordinary pay for a period of twenty-eight (28) days.

(Sgd) Ernest Miller Drougall Judge-Advocate, if any. ~~CMPT~~ 7 Oct 44 Date awarded. (Sgd) J.M.P. Mauve President. (RP 45, 90) Lieut

(See back of Convening Order as to custody and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 122(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1. AA 57A. Delete if not used.) (Sgd) ~~.....~~

Date 8 Oct 44 Commanding 6 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E14572 Pte Desmarais J.P.	10 Oct 44	John F Fry Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 166 on 44-47

RECEIVED 23 OCT 1944 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFAES (In lieu of AFAS) 40-7 de 8/1698 (2001)

4/388

Convened by Order of Lt Col Guy Gauvreau Comd 6 C I B. dated 5 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E 14572	Pte.	Jean Paul	Desmarais	4 C.I.B. Coy RCASC.

~~PROCEEDINGS REVIEWED~~ JCtC Lt-Lieutenant 23 Oct 44 ~~REVIEWING OFFICER, JAG BRANCH C.M.H.Q.~~

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 7 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 11/122

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Cautions do NOT include all relevant fms RCs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AFS, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 43-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto. The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1530 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

The Interpreter is sworn.(1) Do you object to ~~.....~~ as shorthand writer? Ans .....
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 23, 71, 19, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj.	J. M. P. Sauve	Fus MR
Member	Capt.	H. A. Adams	1 Sask R
Member	Lt.	R. S. Graham	1 Fd Pk Coy RCE
Judge-Advocate	Capt.	E. K. MacDougall	HQ 2 Cdn Inf Div.
Prosecutor	Capt.	J. F. Fry	4 C.I.B. Coy RCASC
Defending Offr	Lt.	R. H. Tillier	4 C.I.B. Coy RCASC

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused E 14572 Pte. Desmarais before arraignment makes(s) (no) ~~.....~~ (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(F), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or as bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~.....~~ on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and run separate copies of CF AFA to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AB 166a Ref - Vol I Fol 113

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(II), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No Sir.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.~~(1) The Court decides not to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ~~charge(s)~~. The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ~~charge(s)~~. Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence as to fact or character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ..... Do you intend to call witnesses on your behalf? Ans. ..... Are they witnesses as to character only? Ans. .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No Sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. Y and Ex. Z respectively.(3)
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 3.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes Plse on my Def Sheet.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried conjointly see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas AO 309, 2323. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, E-14572 Pte Jean Paul Desrosiers, 4 Cdn Infantry Brigade Company, Royal Canadian Army Service Corps, a soldier of the Canadian Army Overseas is charged with:-

Army Act Sec 15(1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field on the night of 29 Sep 44, while acting as a sentinel, went absent without leave from approximately 2000 hrs 29 Sep 44 to 2345 hrs 29 Sep 44. (total time absent 3 hrs 45 mins)

H.A. Macdonell

(H.A. Macdonell) Major
O.C. 4 Cdn Inf Bde Coy
R.C.A.S.C.

In the Field
30 Sep 44

To be tried by Field General Court Martial

(J.G. Gauvreau) Lt-Col
A/Comd 6 Cdn Inf Bde

In the Field
5 Oct 44

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of AFA 33)
40/PAM/1697 (2008)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
E 14572	PTE	–	JEAN PAUL	DESROSIERS	4 C.I.B. Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~have~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 Oct 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and ~~that it is not practicable to delay the trial for reference to a superior qualified offr.~~) JP
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ JP
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

MAJ (Rank.)	J.M.P. SAUVE (Must be named. RP 106.)	FUS M.R (Unit.)

MEMBERS.

CAPT	~~H.~~ A. ~~D.~~ ADAMS	S SAM R
LT. (Rank.)	R.S. GRAHAM (Named or detailed. RP 106.)	1 Fd PA Coy RCE (Unit.)

WAITING MEMBER.

LT (Rank.)	M.L. BORROWMAN (Named or detailed, if any. RP 106.)	7 Fd Coy RCE (Unit.)

JUDGE-ADVOCATE.

CAPT (Rank.)	E.R. McDOUGALL. (Must be named, if any. RP 106.)	HQ 2 Cdn Inf Div (Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.) (Rank.)

Date 5 Oct 44

Commanding 6 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL CERTIFICATE

I have this day examined E-14572 Pte Desrosiers J.P. and found him medically ~~fit~~ to undergo trial by F.G.C.M.

In the Field
7 Oct 44

(M.O.)

MITIGATION

Pte Desrosiers,J.P.

In this case, the Summary is a particularly clear statement of fact. However, ther are factors which detract from the seriousness of the charge.

I do not in the least wish to discount the importance of proper guard duty, especially in a theatre, but, if I may be allowed to offer my very humble opinion, I am somewhat surprised that this matter was not handled summarily. One reason why I say this is that I know the man. In the last three months approx, he has been a dvr, a batman and a D/R.

His intentions are good,- two years and eight months in the Army and he never has an entry on his MFM 6- but he is awkward, To use proper expressions, he is a"cowboy", always putting his foot in it, "a kid" who probably won't grow up for another ten years- always the first to be surprised that his good ideas have such miscarriages.

His error was one of judgement - the whole thing was a matter of judgement. He should have known better than to leave to get his coat - but rashly he went because the Unit might move at a moment's notice. Again, once out he should have known better than to stay so long, but foolishly he decided it would be enough if he returned in time for his shift. He would have been back in time for his shift if he had been with a man who was wounded. I told him the guard might have been called out - he said the guard post was only forty yards from our wasp area where men were stirring. Apparently, the accused, till now, has had a conception all his own of the functions of a guard.

Poor judgement was the cause of this whole thing - may I suggest to the court that, in view of the facts that the accused has never had an award of any kind, a very small sentence is all that is needed to impress him that, in the future, he should think not twice but three times before he leaps.

Thank you.

"A"

SUMMARY OF EVIDENCE

In the Case of

E-14572 Pte Jean, Paul, Desrosiers, 4 Cdn Inf Bde Coy RCASC, a soldier of the Canadian Army Overseas.

The accused is informed of his rights

The O.C. directs that evidence be taken under oath.

1st Witness for the prosecution — B-86581 Sjt Pollington L., 4 Cdn Inf Bde Coy RCASC, having been duly sworn states:

I am B-86581 Sjt Pollington L., adm Sjt of Comp Pl, 4 Cdn Inf Bde Coy RCASC, and in such capacity I detail all guards and fatigues. On 29 Sep 44 I detailed the following personnel for guard: Cpl Wigley L.W. NCO of the guard and Ptes Lalonde, McDonald and Desrosiers as members of the guard. I turned this guard list over to Cpl Wigley and he warned the members of his guard.

The Accused declines to cross-examine the witness.

L. Pollington

(B-86581 Sjt Pollington L.)
4 Cdn Inf Bde Coy RCASC

2nd Witness for the prosecution — B-86348 Cpl Wigley L.W., 4 Cdn Inf Bde Coy RCASC, having been duly sworn states:

I am B-86348 Cpl Wigley L.W., of Comp Pl, 4 Cdn Inf Bde Coy RCASC. On 29 Sep 44 I was detailed as NCO of the guard and the following were members of my guard: Ptes Lalonde, McDonald and Desrosiers. The guard fell in at 1800 hrs at which time I inspected them and explained the guard orders completely to them. I submit a copy of the guard orders that were explained to the guard. I told the guard off into shifts, posted Pte Lalonde and went with Ptes McDonald and Desrosiers to the guard tent. At approx 2000 hrs I noticed that Pte Desrosiers was missing. I looked around the general area of the guard tent but there was no sign of Desrosiers. He reported in to the guard tent at approx 2345 hrs, at which time I placed him under arrest.

The Accused declines to cross-examine the witness.

Copy of guard orders accepted and marked as Exhibit "A".

L. W. Wigley

(B-86348 Cpl Wigley L.W.)
4 Cdn Inf Bde Coy RCASC

3rd Witness for the prosecution — P-28150 Pte McDonald G.R., 4 Cdn Inf Bde Coy RCASC, having been duly sworn states:

I am P-28150 Pte McDonald G.R. of 4 Cdn Inf Bde Coy RCASC. I was detailed for guard on 29 Sep 44 along with Ptes Lalonde and Desrosiers. Cpl Wigley was Cpl of the guard. We fell in at 1800 hrs and Cpl Wigley explained the guard orders to us. I have read a copy of the guard orders and Cpl Wigley covered all points of these orders. At approx 2000 hrs Cpl Wigley asked me where Pte Desrosiers was and I replied I didn't know, but Pte Desrosiers was not in the guard tent. Shortly after this I was given

.....2

3rd Witness (Cont'd) permission to go to Wksp kitchen to get a pot of tea and I went on post at 2030 hrs. Pte Desrosiers was to have relieved me at 2300 hrs but he did not show up until approx 2345 hrs.

The Accused declines to cross-examine the witness.

G R McDonald

(P-28150 Pte McDonald G.R.)
4 Cdn Inf Bde Coy RCASC

The Accused having been duly cautioned in accordance with RP 4(e) says:

"I want to make a statement under oath".

The Accused E-14572 Pte Desrosiers J.P., 4 Cdn Inf Bde Coy RCASC, having been duly sworn states:

Last night at 2000 hrs I went out to get my DR coat at a Cafe. I went there and talked with the owner for a while until about 2200 hrs. At 2200 hrs I went to another Bistro and after that took the road for camp. It was then about 2300 hrs. When I left the last Cafe, Pte Arseneault was with me and also Pte Gleason. We came back slowly on the street and Pte Arseneault was firing in the air with his rifle. The first thing we knew he told us he had been hit in the leg and I immediately went to get a doctor to look after him. I showed the Doctor where Arseneault was and he went to see him. I then came back directly to camp to take over my guard before it was too late. When I arrived in camp Pte McDonald was on post and I took his shift. I did all my shift and made up the 45 minutes that I had missed, in the morning.

J P Desrosiers

(E-14572 Pte Desrosiers J.P.)
4 Cdn Inf Bde Coy RCASC

1st Witness for the defence C-100374 Pte Gleason J.Y., 4 Cdn Inf Bde Coy RCASC, having been duly sworn states:

I am C-100374 Pte Gleason J.Y. of 4 Cdn Inf Bde Coy RCASC. At approx 2230 hrs Ptes Desrosiers, Arseneault and myself left a Cafe and started to come home. Pte Arseneault was shooting his rifle in the air. Suddenly he said he was wounded. I told Pte Desrosiers to get a Doctor and I stayed with Arseneault.

The Accused declines to cross-examine the witness.

J Y Gleason

(C-100374 Pte Gleason J.Y.)
4 Cdn Inf Bde Coy RCASC

Certified that RP 4 has been complied with.

In the Field
30 Sep 44

J F Guy Capt.
(Offr detailed to take the Summary)

EXHIBIT "A"

In the Field,
23rd September, 1944.

INSTRUCTIONS TO THE CORPORAL OF THE GUARD TO BE READ AND SIGNED BY SAID CORPORAL BEFORE TAKING OVER HIS TOUR OF DUTY.

1. The period of guard duty is from 1800 Hours to 0800 Hours the next day.

2. The Corporal with his complete Guard, repeat, complete guard, stays in the tent provided to that effect during the whole of his period of duty. No man is allowed to leave the vicinity of guard tent unless he has a legitimate reason. Permission will be asked to Guard Commander.

3. The Corporal of the Guard will be responsible for the dress of his men while on post.

4. The Corporal of the Guard will change each post. He will also visit each post at least once between changing of post.

5. The Corporal of the Guard will leave Guard tent and area clean on completion of his tour of duty.

6. The Corporal of the Guard will turn in a report to Composite Platoon Orderly Room on completion of duty.

7. The Corporal detailed for Guard Duty will not change his tour with another Corporal unless he has a legitimate reason, repeat, legitimate reason, and permission has been granted.

S/Sjt. Ouellettte, M.
Composite Platoon,
4th C.I.B.Coy.R.C.A.S.C.

C. Saltzman Cpl
Signed 23rd September 1944

L/Cpl H.S. Gillis
Signed 25th September 1944

Cpl Trempe L.
Signed 26th September 1944

Cpl Wigley L.W.
Signed 29th September 1944

Sjt L. Pollington
Signed 24th September 1944

L/Cpl E. Boulay
Signed 27th September 1944

Cpl Wood W.
Signed 28th September 1944

Signed 30th September 1944

Certified true copy
of Original.

.....Capt.
4 Cdn Inf Bde Coy RCASC

4 Jours

(Substitute for A.F.B.296 or M.F.B. 385)

STATEMENT OF CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED.

REGT'L NO. E-14572 RANK Pte NAME Desrosiers, J.P.

AGE 23 MARRIED OR SINGLE Single DEPENDENTS IF ANY One

DATE OF ATTESTATION 29 Jan 41

TIME SPENT IN CLOSE ARREST (To date of Trial)

CIVIL Nil HOSPITAL Nil MILITARY 8 Total. 8

DATE OF PROMOTIONS, REVERSIONS, APPOINTMENTS, IF ANY

Nil

A Certified true copy of M.F.M. 6 must accompany this form.

J. J. Fuy Capt.
Officer i/c RECORDS.

DATE THIS Seventh DAY OF October 1944

STATION Field 'Belgium'.

TO BE SIGNED AND DATED AS OF DATE OF TRIAL.

No. E14572 Name Desrosiers, J. Sqn., Battery, or Company — Corps R.C.A.S.C. — Date of enlistment 29 Jan 41 — G.C. Badges 1 29 Jan 43 — Service or Proficiency Pay N/A

M.F.M. 6 (A.F.H. 172) 175M—7-41 (1219-20) H.Q. 1772-39-1602

Date of last entry in Company Conduct Sheet N/A — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No. 3 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				Sheet destroyed on the 29 Jan 43. Date of last entry N.1 Cases of Drunkenness was awarded a good conduct badge wef 29 Jan 43.		N.1		L.L.G.	L.L.G.

Certified true copy of original
J. F. Fuy Capt.

MMM-110

PTE DES ROSIERS L.

MMM-110

PTE DES ROSIERS L.

RECORDED AT CMHQ IN AB 160 MMM-110

A.M. Russell
Major

F. 114

Correspondence to be PINNED here

Certified true Copy
Captain
(R. CORDEAU)

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighteenth day of March, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted] "TGG"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*[redacted] "TGG"

for the following reasons, namely:—[redacted]

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.M. Russell	West NSR

Members

Rank.	Name.	Regiment.
Captain	R.G. Thexton	West NSR
Captain	J.B. Jalbert	R 22e R
Lieut	R. Piche	R 22e R

(Waiting)

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "T.G. Gibson" Brigadier

Commanding 3 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B57655 Pte Leonard DESROSIERS, R 22e R	First Charge Sec 12(1)(a) AA	Not Guilty	Not Guilty	
	Second Charge Sec 9 (2) AA	Guilty	Guilty Two years imprisonment with hard labour	Confirmed "AMR" "TGG"

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) "T.G. Gibson" Brigadier (Signed) "A.M. Russell" Major

Commanding 3 Cdn Inf Bde
Convening Officer (c) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 20th day of March 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(~~The following persons (instructor)~~ "AMR"

were duly sworn.

*Omit if not applicable.

Signed this 20 day of March 19 44

"A.M. Russell" Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 782 M.M.L., 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this "AMR" day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention has been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~The sentence of the Court upon the soldier named in the margin be not carried into execution until~~ "AMR" "TGG"

Signed this 21 day of March 19 44.

"T.G. Gibson" Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of B57655 Pte. L. Desrosiers

(a) (Dated) 22 Mar 44 (Signed) "P.A. Tremblay" Lieut.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] 2-42 A.G.R.O. Cp 656

Certified true Copy
(R. CORDEAU) Capt

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No E.57695 Pte. Leonard DESROSIERS Unit R 22e R.

Sentenced to Two years imprisonment-hard labour on 20 Mar 44

Age on, and date of enlistment 2 Mar 1942 Term of service Duration

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....
Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....
Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date .....
Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....
Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....
Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date .....
Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed at not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(15710) W3-24040-1/19 7,000 8/43 S.S. & E.W. Ltd. Gp.698
(18618) W3-30611/39 7,000 12/43 " " Forms/A.3104/11

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. AA Sec 9(2) x	17 Mar 44	20 Mar 44
WOAS: In the Field, on 17 Mar 1944, refused to obey an order given by Capt P.E. Chasse, to proceed to the front line. "P.A. Tremblay" Lieut.		
Signature of Officer making entry.		
VIII.—Second Trial.		
Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
28 Mar 44 In the Field	I have no recommendation to make in order to mitigate, remit, commute or suspend the sentence.	"JC Charlebois" [illegible] Major T/Comd R 22 Regt.

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
30 Mar 44	I recommend that the sentence be served in full.	"T.G. Gibson" Brig.

CHARGE SHEET

The accused E.57655 Private Leonard DESROSIERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service is charged with:-

1st Charge
AA Sec 12 (1) (a)

WHEN ON ACTIVE SERVICE
DESERTING HIS MAjesty8s service

in that he

In the Field, after having been warned by the CSM that the company was moving to the front line, absented himself at about 0600 hours on the 7th February 1944, until he was apprehended by Military Police at about 1330 hours on the 9th February 1944 in the San Vito area. Properly dressed and sober.

Total absence:- 2 days; 7 hours; 30 minutes.

2nd Charge
AA Sec 9 (2)

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND
GIVEN BY HIS SUPERIOR OFFICER

in that he

In the field, did refuse to obey an order given by Capt.P.E.Chasse to proceed on the front line and did not do so at about 0940 hours on the 17th March 1944.

"J.G. Charlebois" Major
(J.G. CHARLEBOIS) Major
T/Commanding Royal 22e Regiment.

In the Field
18th Mar 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"T.G. Gibson"
(T.G. Gibson), Brigadier,
Commanding 3 Cdn Inf Bde.

In the Field
19 Mar 44.

B.2

"A.M. Russell"
Major

"A.M. Russell" Major

MEDICAL OFFICERS CERTIFICATE

I certify that I have this morning examined No. E.57655
Pte. Name Desrosier, L of Royal 22e Regt
and in my opinion he is fit to undergo trial by Court Martial.

Station In the Field
Date 20 March 1944.

"John L.McGover" Major
Medical Officer

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field on the 20th day of March 19 44 by order of Brigadier T.G. Gibson Commanding 3 Cdn Inf Bde dated the 18th day of March 19 44

President.

Major A.M. Russell West N.S.R.

Members

Capt. R.G. Therton West N.S.R.

Capt. J.B. Jalbert R 22e R

(Waiting) Lieut. R. Fiche R 22e R

Judge-Advocate

Trial of* E.57655 Pte. Leonard DESROSIERS R 22e R

The order convening the Court, the charge-sheet and the summary of ~~abbreviated~~ evidence are laid before the Court.

The Court satisfy themselves that is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor.† Lieut. P.A. Tremblay

Counsel‡ or defending officer† Lieut. F.S.T. Nolan

At 1400 o'clock the Trial commences.

The order convening the Court is read, and is marked I signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer. No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).

† Here state Rank and Name, and Regiment (if any).

‡ Qualification to be stated.

B

The President, members and ~~judge-advocate~~ "A/R" are duly sworn

~~The following officers and witnesses are also present:~~ "A/R"

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read ? *Question to the accused.*

Not Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

N/A *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read ? *Question.*

N/A *Answer.*

The accused having pleaded Guilty to Second charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction.
If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No Sir

NO "AMR"

The prosecutor makes ~~xx~~ opening address [redacted]

[redacted] "AMR"

The prosecutor proceeds to call witnesses.

First witness for prosecution. See C.3.

being duly sworn, is examined by the prosecutor.

"AMR"

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been recorded with it.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused is found guilty of Pte. Leonard DESROSIERS B.57655 The Second Charge

"AMR"

†[The summary of evidence is read, marked A signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

"AMR"

No Sir.

"AMR"

Instructions.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

"AMR"

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

No Sir

Answer.

Evidence as to character.

"AMR"

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness ?

Answer. No Sir

Question. Do you intend to call any other witness in your defence ?

Answer. No Sir

Question. Is he a witness as to character only ? *Answer.* N/A

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence ?

Answer. The accused in his defence xxxxxx "AMR"

(hands in a written address which is read, marked D.3

signed by the President and attached to the proceedings.)

"AMR"

Instruction. * In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court above.)

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused E.57655 Pte. Leonard DESROSIERS, R.22eR

Not Guilty of the First Charge

and announced in open court.

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut. P.A. Tremblay is duly sworn

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

MFR 355 and MFR 6

The above statement with the schedule of convictions and of cases in which trial has been dispensed with is read, marked Z signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes

Cross-examined by the accused.

Defence declines to Cross-Examine

[Questions (if any) as to matters of the conduct of the service of the accused as a commissioned officer or otherwise, the finding of the Court thereon, and liable to any punishment prescribed in the Army Act, or liable to be awarded by the Court, the production of which the accused or the Court in his case, and the Court may receive and the matters and answers to the questions and answers.]

Question to the accused. Do you wish to address the Court? *Answer.* No Sir

The Court is closed for the consideration of the sentence.

F

Sentence.

Sentence.

The Court sentence the accused B.57655 Pte. Leonard DESROSIERS, R22eR

To be imprisoned with hard labour for two years.

"A.H. Russell"
Major

Field 20 Mar 1944.

C.3 "A.M. Russell" Major

First Witness D.51078 CSM Drapeau L.R. is sworn in.

Q.1 Csm Drapeau will you tell the Court in your own words what you know in the case of D.57655 Pte. Desrosiers, L.

A.1 I, formed up a parade and made a roll call and Pte. Desrosiers L answered his name when called.

Q.2. On what date and approximately what time did you make the roll call.

A.2. At 1100 hrs on 7 Feb 44.

Q.3. Are you sure of the hour?

A.3. Yes.

Q.4. Proceed please

A.4. And then on that parade I notified everybody that we were on three hours notice and those who would not be there when the parade was called would be deserters. I then dismissed the parade. The 8 Feb 44 I formed up the parade at 0600 hrs and Pte. Desrosiers L. was absent. I have not seen him since.

Q.5. Is there anything else to be added to your statement.

A.5. I am not very sure of the date as it is a long time since this happened.

Q.6. Could it be that owing to the fact that this happened a long time ago the dates are not clear in your mind.

A.6. Yes, the dates might be wrong but I am sure that I told the man myself and made a roll call and I am positive that Desrosiers knew we were on three hours notice.

Q.7 Will you state when and how you knew that the accused had deserted.

A.7. At 0600 hrs the 8 Feb 44 I made the reveille that morning myself at 0530 hrs and when I formed up the parade Pte. Desrosiers was absent.

No questions from the Defence. No further witness. Prosecution closed.

"AMR"

STATEMENT BY THE DEFENDING OFFICER

Under Sec 12 (1) (a) AA in the case of desertion it is necessary to prove the exact time the accused absented himself and when he returned.

Under oath CSM Drapeau stated that he is only sure of the hour that the accused left and is uncertain of the date. Furthermore the prosecution has failed to produce a witness or evidence giving the exact time of the accused, soldier's return. I request, Sir, that the case be dismissed on the grounds of insufficient evidence.

"F.S.J. Hogan" Lieut.

STATEMENT BY THE PROSECUTION

As to the accused's apprehension and return a certificate of apprehension by the Military police is embodied in the proceedings and I was merely trying to prove that the accused had deserted.

"P.A. Tremblay", Lieut.

STATEMENT BY THE DEFENCE

As the prosecution has failed to produce the evidence of the prisoner's apprehension until after the defence had taken the floor I ask the Court to please not accept the evidence of Pte. Desrosiers', apprehension as it had to be presented to the Court when the prosecution had stated he had no more witnesses or evidence.

"F.S.J. Hogan" Lieut

The court allows the submission of the Defence as the Prosecution has failed to prove the charge.

"A.M. Russell"
Major

A.M.R.

In view of loss of time and expenses the presence of Pte. Law B. in the taking of Summary of Evidence.

"J.A. Girolami" Lieut.

The accused does not request the presence of Pte. Law B.

"Desrosiers, L". Pte.

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two (2) pages was taken to me in the presence and hearing of the accused and that rules of procedure 4(c), (d), (e), (f) and (g) were duly complied with.

"J.A. Girolami" Lieut.
Officer taking Summary.

In the Field
18th Mar 44

A "A.M. Russell" Major

SUMMARY OF EVIDENCE

In the case of E.57655 Private DESROSIERS Leonard, a soldier of Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service

By direction of the Commanding Officer this summary of Evidence was taken under oath.

1st Witness for Prosecution — D.57078 A/CSM Drapeau L.R. DCM, Royal 22e Regiment having duly sworn states:-

"I am D.57078 A/CSM Drapeau, L.R. DCM, R.22eR. posted to "B" coy.

I noticed the absence of E.57655 Private Desrosiers L at about 0600 hrs on the 7th Feb 44, later he was reported to me as being closed arrest. Before absenting himself everybody had been warned that we were on 3 hrs notice. I made sure that everybody knew it as I made a parade and a roll call on the 6th Feb 1944 at 1100 hrs E.57655 Pte. Desrosiers L answered at his name so he knew we were on STAND-TO and awaiting to go on the Front line, and I did not see him since.

I was present when Capt P.E. Chasse gave an order to E.57655 Pte. Desrosiers L. to proceed to his coy on the front line and he refused to do so and did not go. On the 17th Mar 1944 at about 0940 hrs.

The witness declines to cross-examine the witness.

"L.R. Drapeau" CSM

2nd Witness for Prosecution — Capt. P.E. Chasse Royal 22e Regiment, having been duly sworn states:-

" I am Capt P.E. Chasse R.22eR. posted to "B" Coy

On the 17th Mar 44, at about 0940 hrs I gave the order to E.57655 Pte. Desrosiers L. to go on the Frontline and he refused to do so. I explained to him what he was doing by refusing to disobey an order, his answer was still "No" and he did not go on the front line.

The accused declines to cross-examine the witness.

"P.E. Chasse" Capt.

3rd Witness for Prosecution — Capt. J.B. Rousseau, Royal 22e Regiment, having been duly sworn states:-

" I, Capt. J.B. Rousseau, Adjutant R.22eR. hereby produce certificate of apprehension in the case of E.57655 Pte. Desrosiers L whom I now recognise. This certificate is marked exhibit "A" signed by Pte. B. Law.

"J.B. Rousseau" Capt.

In view of loss of time and expenses the presence of Pte. Law B. in the taking of Summary of Evidence.

"J.A. Girolami" Lieut.

The accused does not request the presence of Pte. Law B.

"Desrosiers, L". Pte.

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two (2) pages was taken to me in the presence and hearing of the accused and that rules of procedure 4(c), (d), (e), (f) and (g) were duly complied with.

"J.A. Girolami" Lieut.
Officer taking Summary.

In the Field
18th Mar 44

MMM-110

A.M. Russell
Major

Correspondence to be PINNED here.

Certified true Copy
Lieutenant Capt
(R. CORDEAU)

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighteenth day of March, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial by reference to a superior qualified officer.]~~

"TGG"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*~~[I am unable to appoint~~

*~~(1. Three Officers to form the Court;~~

*~~(2. A Field Officer as President;~~

"TGG"

~~for the following reasons, namely:]~~

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.M. Russell	West NSR

Members.

Rank.	Name.	Regiment.
Captain	R.G. Thexton	West NSR
Captain	J.B. Jalbert	R 22e R
(Waiting) Lieut	R. Fiche	R 22e R

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "T.G. Gibson" Brigadier

Commanding 3 Cdn Inf Bde

Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
E57655 Pte Leonard DESROSIERS, R 22e R	First Charge Sec 12(1)(a) AA	Not Guilty	Not Guilty	
	Second Charge Sec 9 (2) AA	Guilty	Guilty Two years imprisonment with hard labour	Confirmed "TGG"

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) "T.G. Gibson" Brigadier (Signed) A.M. Russell Major

Commanding 3 Cdn Inf Bde — President.
Convening Officer (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 20th day of March 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. The officers under instruction) [illegible] "A" [illegible]

*Omit if not applicable.

were duly sworn.

Signed this 20 day of March 19 44

"A.M. Russell" Lt-[illegible]
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote [illegible] on page 762 M.M.L., 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this "A[illegible]" day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*I direct that the soldier named in the margin be not sent "TGG" [illegible] to prison or detention barrack until further orders.

Signed this 21 day of Mar[illegible] 19 44.

"T.G. Gibson" Brig[illegible]
Confirming Officer.

Promulgated and extracts taken in the case of E57655 Pte. L. Desrosiers

(*a*) (Dated) 22 Mar 44 (Signed) "T.A. Tremblay" Lieut.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] W.[illegible] 20-000 2-43 A.& E.W.Ltd. Cp 678

CHARGE SHEET

The accused B.57655 Private Leonard DESROSIERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service is charged with:-

1st Charge
AA Sec 12 (1) (a)

WHEN ON ACTIVE SERVICE
DESERTING HIS MAjesty8s service

in that he

In the Field, after having been warned by the COM that the company was moving to the front line, absented himself at about 0600 hours on the 7th February 1944, until he was apprehended by Military Police at about 1330 hours on the 9th February 1944 in the San Vito area. Properly dressed and sober.

Total absence:- 2 days: 7 hours: 30 minutes.

2nd Charge
AA Sec 9 (2)

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND
GIVEN BY HIS SUPERIOR OFFICER

in that he

In the field, did refuse to obey an order given by Capt.F.E.Chasse to proceed on the front line and did not do so at about 0940 hours on the 17th March 1944.

"J.G. Charlebois"
(J.G. CHARLEBOIS) Major
T/Commanding 3 Royal 22e Regiment.

In the Field
18th Mar 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"T.G. Gibson"
(T.G. Gibson), Brigadier,
Commanding 3 Can Inf Bde.

In the Field
19 Mar 44.

B.2 "A.M. Russell"
Maj

"A.M. Russell" M[illegible] ICATE

MEDICAL OFFICERS CERTIFICATE

I certify that I have this morning examined No. B.57655
Pte. Name Desrosier, L of Royal 22e Regt
and in my opinion he is fit to undergo trial by Court Martial.

Station In the Field
Date 20 March 1944.

"John L.McGover" Major
Medical Officer

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

**Any printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

Proceedings of a Field General Court-Martial held at Field

on the 20th day of March 19 44 by order of

Brigadier T.G. Gibson

Commanding 3 Cdn Inf Bde

dated the 18th day of March 19 44

President.

Major A.W. Russell West N.S.R.

Members.

Capt. R.C. Thexton West N.S.R.

Capt. J.B. Jalbert R 22e R

(Waiting) Lieut. R. Fiche R 22e R

Judge Advocate.

Trial of* H.57655 Ite. Leonard DESROSIERS R 22e R

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

The Court satisfy themselves that is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor† Lieut. F.A. Tremblay

Counsel‡ or defending officer† Lieut. F.S.T. Nolan

At 1400 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

"AUB"

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~ "AUB"

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read? *Question to the accused.*

Not Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? N/A *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? N/A *Question.*

Answer.

The accused having pleaded Guilty to Second charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty" until after the finding on that other charge.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No Sir

The prosecutor makes his opening address [illegible] and hands in a written address which is read, marked "A1R" signed by the President, and attached to the proceedings.

The prosecutor proceeds to call witnesses.

First witness for prosecution. See C.3.

being duly sworn, is examined by the prosecutor.

A1R

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been previously recorded.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused Pte. Leonard DESROSIERS E.57655
is found guilty of The Second Charge

"A"

[The summary ~~or abstract~~ of evidence is read, marked A signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

~~He hands in a written statement, which is read, marked xxxxx, signed by x~~
~~xthe Presidentx and attached to the proceedings.~~ x "A"

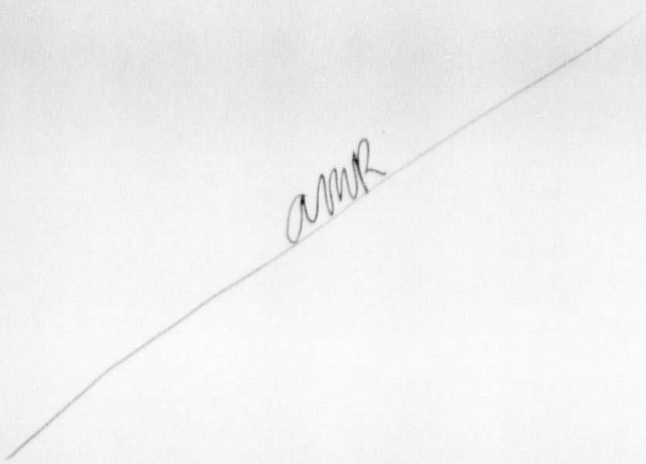
No Sir.

"AMR"

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

Instruction. If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD



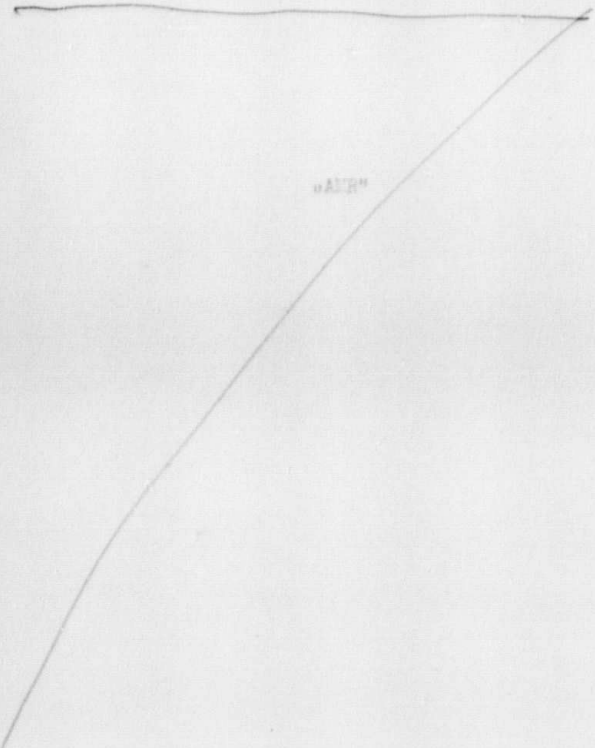
Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No Sir

Answer.

Evidence as to character.



"AMR"

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness ?

Answer. No Sir

Question. Do you intend to call any other witness in your defence ?

Answer. No Sir

Question. Is he a witness as to character only ? *Answer.* N/A

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence ?

Answer. The accused in his defence ~~read~~ ~~read~~ "AIR" THROUGH HIS DEFENDING OFFICER [hands in a written address which is read, marked D.3 signed by the President and attached to the proceedings.

"AIR"

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused E.57655 Pte. Leonard DESROSIERS, R.22eR

Not Guilty of the First Charge

and announced in open court.

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut. F.A. Tremblay is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

MFR 355 and LFE 6

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Z signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

[Instructions. If on cause of the nature of the proof of the Accused to a subsequent conviction or otherwise the finding of the Court renders such additional punishment as the Court has to be awarded by the Court the prisoner must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of such additional punishment.]

Cross-examined by the accused.

Defence declines to Cross-Examine

Question to the accused. Do you wish to address the Court? *Answer.* No Sir

The Court is closed for the consideration of the sentence.

F

Sentence.

Sentence.

The Court sentence the accused E.57655 Pte. Leonard DESROSIERS, R22eR

To be imprisoned with hard labour for two years.

"A.M. Russell"
Maj

Field 20 Mar 1944.

C.3 "A.M. Russell" Maj

First Witness D.51078 CSM Drapeau L.R. is sworn in.

Q.1 Csm Drapeau will you tell the Court in your own words what you know in the case of D.57655 Pte. Desrosiers, L.

A.1 I, formed up a parade and made a roll call and Pte. Desrosiers L answered his name when called.

Q.2. On what date and approximately what time did you make the roll call.

A.2. At 1100 hrs on 7 Feb 44.

Q.3. Are you sure of the hour?

A.3. Yes.

Q.4. Proceed please

A.4. And then on that parade I notified everybody that we were on three hours notice and those who would not be there when the parade was called would be deserters. I then dismissed the parade. The 8 Feb 44 I formed up the parade at 0600 hrs and Pte. Desrosiers L. was absent. I have not seen him since.

Q.5. Is there anything else to be added to your statement.

A.5. I am not very sure of the date as it is a long time since this happened.

Q.6. Could it be that owing to the fact that this happened a long time ago the dates are not clear in your mind.

A.6. Yes, the dates might be wrong but I am sure that I told the man myself and made a roll call and I am positive that Desrosiers knew we were on three hours notice.

Q.7 Will you state when and how you knew that the accused had deserted.

A.7. At 0600 hrs the 8 Feb 44 I made the reveille that morning myself at 0500 hrs and when I formed up the parade Pte. Desrosiers was absent.

No questions from the Defence. No further witness. Prosecution closed.

"AMR"

"D 7"

STATEMENT BY THE DEFENDING OFFICER

Under Sec 12 (1) (a) AA in the case of desertion it is necessary to prove the exact time the accused absented himself and when he returned.

Under oath CSM Dragneau stated that he is only sure of the hour that the accused left and is uncertain of the date. Furthermore the prosecution has failed to produce a witness or evidence giving the exact time of the accused, soldier's return. I request, Sir, that the case be dismissed on the grounds of insufficient evidence.

"F.S.J. Hogan" Lieut.

STATEMENT BY THE PROSECUTION

As to the accused's apprehension and return a certificate of apprehension by the Military police is embodied in the proceedings and I was merely trying to prove that the accused had deserted.

"P.A. Tremblay", Lieut.

STATEMENT BY THE DEFENCE

As the prosecution has failed to produce the evidence of the prisoner's apprehension until after the defence had taken the floor I ask the Court to please not accept the evidence of Pte. Desrosiers', apprehension as it had to be presented to the Court when the prosecution had stated he had no more witnesses or evidence.

"F.S.J. Hogan" Lieut

The court allows the submission of the Defence as the Prosecution has failed to prove the charge.

"A.M. Russell"
Maj

"AMR"

A "A.M. Russell" Unit

SUMMARY OF EVIDENCE

In the case of B.57655 Private DESROSIERS Leonard, a soldier of Royal 22e Regiment, Canadian Army Overseas, CWF, On Active Service

By direction of the Commanding Officer this summary of Evidence was taken under oath.

1st Witness
For Prosecution

D.57078 A/CSM Drapeau L.R. DCM, Royal 22e Regiment having duly sworn states:-

"I am D.57078 A/CSM Drapeau, L.R. DCM, R.22eR, posted to "B" coy.

I noticed the absence of B.57655 Private Desrosiers L at about 0600 hrs on the 7th Feb 44, later he was reported to me as being closed arrest. Before absenting himself everybody had been warned that we were on 3 hrs notice. I made sure that everybody knew it as I made a parade and a roll call on the 6th Feb 1944 at 1100 hrs B.57655 Pte. Desrosiers L answered at his name so he knew we were on STAND-TO and awaiting to go on the Front line, and I did not see him since.

I was present when Capt F.E. Chasse gave an order to B.57655 Pte. Desrosiers L. to proceed to his coy on the front line and he refused to do so and did not go. On the 17th Mar 1944 at about 0940 hrs.

The witness declines to cross-examine the witness.

"L.R. Drapeau" CSM

2nd Witness
For Prosecution

Capt. F.E. Chasse Royal 22e Regiment, having been duly sworn states:-

" I am Capt F.E. Chasse R.22eR. posted to "B" Coy
On the 17th Mar 44, at about 0940 hrs I gave the order to B.57655 Pte. Desrosiers L. to go on the Frontline and he refused to do so. I explained to him what he was doing by refusing to disobey an order, his answer was still "No" and he did not go on the front line.

The accused declines to cross-examine the witness.

"F.E. Chasse" Capt. Capt.

3rd Witness
For Prosecution

Capt. J.B. Rousseau, Royal 22e Regiment, having been duly sworn states:-

" I, Capt. J.B. Rousseau, Adjutant R.22eR. hereby produce certificate of apprehension in the case of B.57655 Pte. Desrosiers L whom I now recognise. This certificate is marked exhibit "A" signed by Pte. D. Law.

"J.B. Rousseau" Capt.

In view of loss of time and expenses the presence of Pte. Law E. in the taking of Summary of Evidence.

"J.A. Girolami" Lieut.

The accused does not request the presence of Pte. Law E.

"Desrosiers, L". Pte.

The accused having been duly cautioned in French in accordance with PO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two (2) pages was taken to me in the presence and hearing of the accused and that rules of procedure 4(c), (d), (e), (f) and (g) were duly complied with.

"J.A. Girolami" Lieut.
Officer taking Summary.

In the Field
18th Mar 44

RECEIVED 6 APR 1944 JAG BRANCH C.M.H.Q.

Correspondence to be PINNED here.

RECORDED AT CMHQ IN 15 [illegible] mm-110

CANADIAN SECTION DISCIPLINE & PAY SECTION 8 APR 1944 2nd ECHELON

Army Form A [illegible]

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. F114

Order convening the Court.

On Active Service, this Eighteenth day of March, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

[redacted]

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	A M Russell	Fost NSR

Members.

Rank.	Name.	Regiment.
Waiting		
Captain	H G Thexton	Fost NSR
Captain	J B Jalbert	R 22e R
Lieut	R Piche	R 22e R

*Signed [signature] Brigadier

Commanding 3 Cdn Inf Bde
Convening Officer.

F114

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E57655 Pte Leonard DESROSIERS, R 22e R	First Charge Sec 12(1)(a) AA	Not Guilty	Not Guilty	
	Second Charge Sec 9 (2) AA	Guilty	Guilty TWO YEARS IMPRISONMENT WITH HARD LABOUR	Confirmed Allen

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) —
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on general sheet if necessary*) :—

(Signed) N.Elliston Brigadier (Signed) Major
Commanding 3 Cdn Inf Bde Convening Officer (e) President.

(a) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings

I certify that the above Court assembled on the 20 day of March 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. The officers under instruction)

*Omit if not applicable

were duly sworn.

Signed this 20 day of March 1944

N.Elliston Brig
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 782 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this [illegible] day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barracks until further orders.)

*To be omitted unless penal servitude, imprisonment or detention (having been awarded), the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 21 day of Mar 1944

N.Elliston Brig
Confirming Officer.

Promulgated and extracts taken in the case of E 57655 Pte L. Desrosiers

(a) (Dated) 22 Mar 44 (Signed) [illegible]

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the *Officer* need only sign once.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a FIELD GENERAL Court-Martial held at FIELD

on the 20 day of MARCH 19 44 by order of

BRIGADIER T.G. GIBSON

Commanding 3 CDN INF BDE

dated the 18 day of MARCH 19 44

President.

MAJOR A.M. RUSSELL WEST N.S.R.

Members.

CAPT. R.A. THEXTON WEST N.S.R.

CAPT. J.B. JALBERT R. 22e R.

WAITING LIEUT. R. PICHE R. 22e R.

, ~~Judge Advocate.~~

Trial of* E. 37655 PTE LEONARD DESROSIERS R. 22e R.

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court.

The Court satisfy themselves that is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† LIEUT. P.A. TREMBLAY

Counsel‡ or defending officer† LIEUT. F.S.T. HOGAN

At 1400 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

NO

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

[illegible] (2,000 acc. 12/43) K. & E. (A) [illegible] Forms (1938)

B

The President, members and ~~judge-advocate~~ are duly sworn.

~~The following officers under~~ instruction ~~are duly sworn~~.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (B) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

NOT GUILTY *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

GUILTY *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

N/A *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read ? *Question.*

N/A *Answer.*

The accused having pleaded Guilty to SECOND charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CHARGE SHEET

The accused E.57655 Private Leonard DESROSIERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMP, On Active Service is charged with:-

1st Charge
AA Sec 12 (1) (a)

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, after having been warned by the CSM that the company was moving to the front line, absented himself at about 0600 hours on the 7th February 1944, until he was apprehended by Military Police at about 1330 hours on the 9th February 1944 in the San Vito area. Properly dressed and sober.

Total absence:- 2 days; 7 hours; 30 Minutes.

2nd Charge
AA Sec 9 (b)

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND
GIVEN BY HIS SUPERIOR OFFICER

in that he

In the Field, did refused to obey an order given by Capt.P.E.Chasse to proceed on the front line and did not do so at about 0940 hours on the 17th March 1944.

J.G.Charlebois
(J.G.CHARLEBOIS)Major
Commanding Royal 22e Regiment.

In the Field
18th Mar 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(J G Gibson), Brigadier,
Commanding 3 Can Inf Bde.

In the Field
19 Mar 44

B. v.

CHARGE SHEET

The accused E.57655 Private Leonard DESROSIERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service is charged with:-

1st Charge
AA Sec 12 (1) (a)

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, after having been warned by the CSM that the company was moving to the front line, absented himself at about 0600 hours on the 7th February 1944, until he was apprehended by Military Police at about 1330 hours on the 9th February 1944 in the San Vito area. Properly dressed and sober.

Total absence:- 2 days; 7 hours; 30 Minutes.

2nd Charge
AA Sec 9 (2)

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND
GIVEN BY HIS SUPERIOR OFFICER

in that he

In the Field, did refused to obey an order given by Capt.P.E.Chasse to proceed on the front line and did not do so at about 0940 hours on the 17th March 1944.

J.C. Charlebois
(J.C. CHARLEBOIS) Major
T/Commandin- Royal 22e Regiment.

In the Field
18th Mar 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
19 Mar 44

(T G Gibson), Brigadier,
Commanding 3 Cdn Inf Bde.

B. v. Confirmed

Wm Russell Inf

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. E 57455

Rank Pte Name Hargreaves of R. Regt 22nd Regt

and in my opinion he is fit to undergo Trial by Court Martial.

Station N. Le Fresh

Date 23 March 1915

John [illegible] Medical Officer.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. N/o S/R.

The prosecutor makes ~~an~~ N/o opening address ~~[hands in a written address which is read, marked to the proceedings.]~~, ~~signed by the President, and attached~~

The prosecutor proceeds to call witnesses.

First witness for prosecution. SEE C. 3.

being duly sworn, is examined by the prosecutor.

c. 3.

1st. Witness D.51078 CSM Drapeau L.R. is sworn in.

Q.1- CSM Drapeau will you tell the Court in your own words what you know in the case of D.57655 pte Desrosiers L.
A.1- I, formed up a parade and made a roll call and pte Desrosiers L. answered his name when called.

Q.2- On what date and approximately what time did you make the roll call.
A.2- At 1100 hrs on 7 Feb 1944.

Q.3- Are you sure of the hour ?
A.3- Yes.

Q.4- Proceed please.
A.4- And then on that parade I notified everybody that we were on three hours notice and those who would not be there when the parade was called would be deserters. I then dismissed the parade. The 8 Feb 44 I formed up the parade at 0600 hrs and pte Desrosiers L. was absent. I have not seen him since.

Q.5- Is there anything else to be added to your statement.
A.5- I am not very sure of the date as it is a long time since this happened.

Q.6-. Could it be that owing to the fact thatthis happened a long time ago the dates are not clear in your mind.
A.6- Yes, the dates might be wrong but I am sure that I told the men myself and made a roll call and I am positive that Desrosiers knew we were on three hours notice.

Q.7- Will you state when and how you knew that the accused had deserted.
A.7- At 0600 hrs. The 8 Feb 44 I made the reveille that moring myself at 0530 hrs and when I formed up the parade pte Desrosiers was absent.

No questions from the Defence. No further witness. Prosecution closed.

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. No SIR

Question. Do you intend to call any other witness in your defence?

Answer. No SIR

Question. Is he a witness as to character only? *Answer.* N/A

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence ~~says~~ [†]

[hands in a written address which is read, marked D 3 signed by the President and attached to the proceedings.]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court above.)

STATEMENT BY THE DEFENDING OFFICER

D 3.

Under Sec 12 (1) (a) AA in the case of desertion it is necessary to prove the exact time the accused absented himself and when he returned.

Under oath CSM Drapeau stated that he is only sure of the hour that the accused left and is uncertain of the date. Furthermore the prosecution has failed to produce a witness or evidence giving the exact time of the accused, soldierx's return. I request, Sir, that the case be dismissed on the grounds of insufficient evidence.

STATEMENT BY THE PROSECUTION

As to the accused's apprehension and return a certificate of apprehension by the Military Police is embodied in the proceedings and I was xxxxx merely trying to prove that the accused had deserted.

STATEMENT BY THE DEFENCE.

As the prosecution has failed to produce the evidence of the prisoner's apprehension until after the defence had taken the floor I ask the Court to please not accept the evidence of pte Desrosiers' L. apprehension as it had to be presented to the Court when the prosecution had stated he had no more witnesses or evidence.

THE COURT ALLOWS THE SUBMISSION OF THE DEFENCE AS THE PROSECUTION HAS FAILED TO PROVE THE CHARGE.

D. 3.

CERTIFIED TRUE COPY

Lieut

(D.M. Owen)
for Officer i/c
Cdn Section GHQ 2 Echelon -AAI.

STATEMENT BY THE DEFENDING OFFICER:

Under Sec 12(1)(a) AA in the case of desertion it is necessary to prove the exact time the accused absented himself and when he returned.

Under oath CSM Drapeau stated that he is only sure of the hour that the accused left and is uncertain of the date. Furthermore the prosecution has failed to produce a witness or evidence giving the exact time of the accused soldier's return. I request, Sir, that the case be dismissed on the grounds of insufficient evidence.

" F.S.J. Hogan " Lieut.

STATEMENT BY THE PROSECUTION

As to the accused's apprehension and return a certificate of apprehension by the Military police is embodied in the proceedings and I was merely trying to prove that the accused had deserted.

"P. A. Tremblay", Lieut.

STATEMENT BY THE DEFENCE: In Rebuttal

As the prosecution has failed to produce the evidence of the prisoner's apprehension until after the defence had taken the floor, I ask the Court to please not accept the evidence of Pte, Desrosiers' apprehension as it had to be presented to the Court when the prosecution had stated he had no more witnesses or evidence.

" F.S.J. Hogan " Lieut.

The court allows the submission of the Defence as the Prosecution has failed to prove the charge.

"A. M. Russell"
Maj.

CC

Proceedings on Plea of Guilty.

* To be struck out in case the plea of "Not Guilty" has been recorded without.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused PTE. LEONARD DESROSIERS E 57688
is found guilty of THE SECOND CHARGE

†The summary ~~or abstract~~ of evidence is read, marked A, signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

No SIR

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused E.37655 PTE LEONARD DESROSIERS. R.V.R

NOT GUILTY OF THE FIRST CHARGE AND ANNOUNCED IN OPEN COURT.

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before* Sentence.

*The Court being re-opened, the accused is again brought before it.

LIEUT. P.A. TREMBLAY is duly sworn.

Evidence of character, &c.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* YES.

MFB 3 YRS AND MFM 6 MTHS.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Z signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* YES.

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* YES.

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* YES.

[Instruction.—If in cases of the nature of the above of the Accused is a non-commissioned officer, the finding of the Court should here be recorded in addition, particularly in addition to that to be awarded by the Court, the prisoner's rank (at the discretion of the Court) in the list, and the Court must declare also the nature and amount of that additional punishment.]

Cross-examined by the accused.

DEFENCE DECLINES TO CROSS-EXAMINE

Question to the accused. Do you wish to address the Court? *Answer.* N/A SAR

The Court is closed for the consideration of the sentence.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been recorded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused PTE. LEONARD DESROSIERS E.57685
is found guilty of THE SECOND CHARGE.

†The summary ~~(or abstract)~~ (good) of evidence is read, marked A, signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~—

No SIR.

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

Answer.

No SIR.

Evidence as to character.

F

Sentence.

The Court sentence the accused E.57655 PTE LEONARD DESROSIERS. Sentence R. 22nd R.

TO BE IMPRISONED WITH HARD LABOUR FOR TWO YEARS.

[signature] 7th

FIELD 20 MAR. 1944

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused E.39655 PTE LEONARD DESROSIERS. R.V.R

NOT GUILTY OF THE FIRST CHARGE AND ANNOUNCED IN OPEN COURT.

Proceedings on Conviction *before* Sentence.

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

LIEUT. P.A. TREMBLAY is duly sworn.

Evidence of character, &c.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* YES.

MFB 355 AND MFM. 1E

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked Z, signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* YES.

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* YES.

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. YES.

Cross-examined by the accused.

DEFENCE DECLINES TO CROSS-EXAMINE.

[Instructions.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused. Do you wish to address the Court? *Answer.* NO SIR

The Court is closed for the consideration of the sentence.

LIST OF WITNESSES FOR THE PROSECUTION

in the case of

A.57855 private DESROSIERS Leonard, Royal 22e Regiment,

FOR THE PROSECUTION — D.57078 CSM Drapeau L.R. DCM
Capt P.E. Chasse

FOR THE DEFENCE — NIL

LIST OF EXHIBIT

EXHIBIT "A" — Charge Sheet "A" Copy(EMA) 4 TR 1 CSMD

I hereby acknowledge the receipt of a true copy of the Summary of of Avidence taken prior to my trial by FGCM. I furthermore acknowledge receipt of a true copy of the charge sheet upon which I am being being brought into Court-Martial.

I desire the services of an Officer to represent me at my trial.

I desire the services of Lieut. P. Leach.

if he is available.

In the Field
18th Mar 44

Desrosiers L. Pte

SUMMARY OF EVIDENCE

In the case of M.57655 Private DESROSIERS Leonard, a soldier of Royal 22e Regiment, Canadian Army Overseas, CMS, On Active Service.

By direction of the Commanding Officer this Summary of Evidence was taken under oath.

1st Witness for Prosecution

D.57078 A/CSM Drapeau L.R. DCM , Royal 22e Regiment having duly sworn states :-

" I am D.57078 A/CSM Drapeau L.R. DCM, R.22eR. posted to "E" coy.

I noticed the absence of M.57655 Private Desrosiers L. at about 0600 hrs on the 7th Feb 44, later he was reported to me as being closed arrest. Before absenting himself everybody had been warned that we were on 8 hrs notice. I made sure that everybody knew it as I made a parade and a roll call on the 6th Feb 1944 at 1100 hrs. M.57655 Pte Desrosiers L. answered at his name so he knew we were on STAND-TO and awaiting to go on the front line, and I did not see him since .

I was present when Capt P.E. Chasse gave an order to M.57655 Pte Desrosiers L. to proceed to his coy on the front line and he refused to do so and did not go. On the 17th Mar 1944 at about 0540 hrs.

The witness declines to cross-examine the witness.

L.R. Drapeau CSM

2nd Witness for Prosecution

Capt P.E. Chasse Royal 22e Regiment, having been duly sworn states:-

" I am Capt P.E. Chasse R.22eR. posted to "E" Coy.

On the 17th Mar 44, at about 0540 hrs I gave the order to M.57655 Pte Desrosiers L. to go on the frontline and he refused to do so. I explained to him what he was doing by refusing to disobey an order, his answer was still "No" and he did not go on the front line.

The accused declines to cross-examine the witness.

P.E. Chasse Capt

3rd Witness for Prosecution

Capt J.R. Rousseau, Royal 22e Regiment, having been duly sworn states:-

" I, Capt J.R. Rousseau, Adjutant R.22e R. hereby produce certificate of apprehension in the case of M.57655 Pte Desrosiers L. whom I now recognise. This certificate is marked exhibit "A" signed by Pte B. Law.

J.R. Rousseau Capt

In view of loss of time and expenses the presence of Pte Law B. in the taking of Summary of Evidence .

J. A. Girolami Lieut

The accused does not request the presence of Pte Law B.

Pte

The accused having been duly cautioned in French in accordance with AO 1484 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two (2) pages was taken to me in the presence and hearing of the accused and that rules of procedure 4 (a), (d), (e), (f) and (g) were duly complied with.

In the Field
16th Mar 44

J. A. Girolami Lieut
Officer taking Summary

M.F.M. 6
(A.F. B.122)
40/P & /8186 (20665)

No. 57655 Name DESROSIERS LEONARD | Sqn., Battery, or Company B | Corps INF. | Period not reckoning towards freedom from extra fine | Date of enlistment | Sheet No. | G.C. Badges | Signature O.C. Company, etc. | Service or Proficiency Pay | Character Very Good

Date of last entry in Company Conduct Sheet | No. and date of last drunk

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		TEMPORARY SHEET - NO RECORDS AVAILABLE -			15 DEC 43				
IN THE FIELD	13.12.43	PTE	(1)	7 A SEC 14 DRUNKENNESS	DEC	ADMONISHED 1ST OFFENCE	16.12.43	LT COL BRISTOW	

Certified true copy
[illegible] Capt

(P10)

2. Commissioned not

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-89-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E.214.55	PTE	LEONARD LEROUTERS	ROYAL 22ND REGT.

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or, NIL

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or

The accused at the present time is under sentence for ——— beginning on the ——— day of ———

4. The accused has been in confinement awaiting trial on the present charges, for ——— days in Air Force civil custody, and 38 days in military custody, making a total of 38 days in custody, of which ——— days were spent in hospital.

5. The present age of the accused according to his record of service is / attestation paper is

6. The date of his commission specified in his record of service is / attestation / attestation paper

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon ——— service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in / military ——— military possession of or entitled to). State any air force decoration or reward. / military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of ———

Certified true copy of order.

Lieutenant Capt.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force dated , unit , and in his regiment (or corps), the rank of dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused. Number Rank Unit

Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this day of

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "A" and signed by the president, and annexed to the proceedings.

35 E - 26

6pl. Desrosiers, L.

RECORDED AT CMHQ IN AB 160 as SE-28.

CPA96 (In lieu of AFAS)
40/P & B/1698 (6/44)

FIELD GENERAL COURT-MARTIAL

4/38B

RECEIVED 24 APR 1945 JAG BRANCH CMHQ

Convened by Officer Brigadier G.S.N. Gostling, ED Comd 2 CBRG dated 3 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-10236		Leonard	DESROSIERS	R de Chaud 10 CBR Bn

PROCEEDINGS REVIEWED 24 Apr 45 Wm Shaw Capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED 2 Army Gp. Jud. Sec. 2 Can. Corps

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 6 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns to RPs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1745 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to C/166553 Sgt CHANTLER A.A. as interpreter? Ans No

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer? Ans~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G.G. MacKENZIE, MBE	FGH, X-9 List att 3 Cdn MRTD
Member	Major	D. MacKENZIE	Essex Scots X-9 List Att 3 Cdn MRTD
Member	Captain	~~Lt/Lt. PEARCE~~ J.D. TOREL	~~11th~~ 14th CBR Bn RCE 9
Judge-Advocate			
Prosecutor	Lieut	A.T. MAIN	CIC 11 CBR Bn
Defending Offr	~~CAPT~~ Capt.	C. LAGASSE	CIC 10 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused E-10236 Cpl Leonard DESROSIERS before arraignment make(s) (not) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRB Vol 3 P. 69.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(C). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans Yes.(5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*E*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex *A*, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under* E5 *such parts only of the Summary of Evidence are read as relate to the charges dealt with under* C2. *If any plea is changed to Not Guilty, trial thereof proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

File here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No.(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)

NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (*d*). *RP* 43, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex *B* and Ex *C* respectively.(3)

(1. *MFB* 355 *or AFB* 296. 2. *Initial a.* 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No. Sir.(2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 162, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 343-346, *Overseas RO* 309, 2323, *MML p* 80, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused commits under sentence of imprisonment or detention see AA* 44(1)(*b*), (*d*)(1), *KR Can* 504. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORDED AT CMHQ IN AB 160 5E-28.

CFA86 (In lieu of AFA81) 40/P & S/1698 (6144)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Brigadier G.S.N. Gostling, ED Comd 2 CBRD dated 3 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-10236		Leonard	DESROSIERS	R de Chaud 10 CBR Bn

PROCEEDINGS REVIEWED 24 Apr 45 W.M. Shaw Capt. REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED 24 Apr 45 Capt. 2 Can Inf Div Sec 2 Can Hist Sec (Army) 22 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) BELGIUM on (*date(s)*) 6 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 27/14-

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A93, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1/2 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to C/1663 Sgt CANTIN H.A. as interpreter? Ans No

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer? Ans~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G.G. MacKENZIE, MBE	FGH, X-9 List att 3 Cdn NRTD	
Member	Major	D. MacKENZIE	Essex Scots X-9 List att 3 Cdn NRTD	
Member	Captain	~~Sgt/Offr, PEARCE~~ J.D. TOREN	~~RHQ~~ RCR	~~2~~ 3 CBR Bn 9
Judge-Advocate				
Prosecutor	Lieut	A.T. MANN		CIC 11 CBR Bn
Defending Offr	~~CAPT~~ Lieut.	C. LAGASSE		CIC 10 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See DI p 2.)

A8. The accused E-10236 Cpl Leonard DESROSIERS before arraignment make(s) (no) (a) plea (?)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(1) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 61; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is ~~closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRD Vol 3 P. 69.

CHARGE SHEET

The accused, E.10236 Cpl DESROSIERS, Leonard, (R de Chaud) on the stren th of 43 Coy, 10 C.B.R. Bn., a soldier of the Canadian Army Ove rseas.

is char ed with

FIRS T CHAR E
A.A. Sec. 11

WHEN ON ACTIVE SERVICE NE LECTING TO OBEY CAMP STANDI NG ORDERS

In that he

In t he Field, on the 12 Dec 44 was out of bounds after 2200 hrs without permission from his company commander contrary to Pt I Orders, 144 para 784 d/19 Nov 44, and repeated in Pt I Orders, 157 para 873 d/2 Dec 44.

SECOND CHAR E
A.A. Sec. 40

WHEN ON ACTIVE SE RVICE, AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

In the Field, on the 12 Dec 44 at approximately 2245 hrs broke a lar e mirror at the ate en trance of Leopold Barracks by strikin same with his fist. Cost to replace same bein estimated at ~~2000~~ 1800 francs (Bel ian)

(J. RUNCIE)Lt Col
CO 10 C.B.R. Bn.

In the Field
25 Jan 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(G.S.N. Gostling), Brigadier,
Commander
2 Canadian Base Reinforcement Group

In the Field
3 Feb 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-10236	Cpl		Leonard	DESROSIERS	R de Chaud 10 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 3 Feb 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	G.G. MacKENZIE, MBE	FGH X-9 List att 3 Cdn MBTD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	D. MacKENZIE	Essex Scots X-9 List att 3 MBTD
Captain	J.D. TORRELL	RCOS 9 CBR Bn

~~WAITING MEMBER.~~

(Rank.)	(Named or detailed. If any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM
(Country.)

Dat 3 Feb 45

(Signed personally. RP 105 fn 2.)
(G.S.N. Gostling)
Commanding 2 CDN BASE RPT GP
Convening Officer.

Brigadier
(Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers Certificate

I certify that I have this day examined E10221 Cpl Donovan L. 10 CRTBn and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station Field

Date 6 Feb 45

W W Mannillyat
Medical Officer

10 CRTBn
Unit

Cpl- LEONARD DESROSIERS

Character witness.

E 4032 C.S.M. - Sirois. G.
SIROIS

R de CHAUD.

I knew accused back in England and also had in action in my coy. He was a very good NCO until he was sent to the rear twice for nervousness.

Did he ever get into trouble in the unit?

No sir - never any trouble

Would you say his action in breaking the arrest normal?

No sir. It was not the type

RP83(b) complied with.

6-1-45

Plea of Mitigation in the case of:
E 10236 Cpl Desrosiers L

The a/m joined the army in Sept 1940 and came overseas July 1941 with the Regt de Chaudiere and in France with the same Unit on D Day. He served with his Unit until admitted to Hospital in August 1944. Result he is still weak and the night in question he had had a few drinks and it affected him more than it would have had he been Normal. He does not remember leaving the Cafe nor entering the Barracks nor breaking the Mirror.

Cpl Desrosiers is highly nervous His actions that night proved it. He did not offer any resistance to the guard, but as he was passing by the mirror he hit it with his fist. Surely the court will see that this action was not that of a normal man.

His mother died with T.B and he has two sisters suffering from it. He has a brother in this theatre of war and lost another brother in [redacted] Normandy.

I ask the court to be lenient in his case. He has proven himself in action and to a M. Desrosiers evidence corroborates that. The night in question he was only offered 3 or 4 beers. Of course his offence is not very serious. His memory is very short and it is conceivable that a change in his condition might do a thing of the kind.

I honour that in judging him the court will consider all the facts which are in his favour. He has been in detention since 12 Dec 44 which means almost two months.

C Reyes Capt
Defending Officer

SUMMARY OF EVIDENCE.

Ex "A"

In the case of K10236 Cpl DESROSIERS Leonard (R de Chaud) on the strength of 43 coy 10 C.B.R.Bn, a soldier of the Canadian Army Overseas

By direction of the commanding officer this evidence is taken on oath.

FIRST WITNESS
Prosecution

K67275 Pte McILRATH G K on the strength of 43 coy 10 C.B.R.Bn, having been duly sworn states:
I am K67275, Pte McILRATH G K, 43 coy 10 C.B.R.Bn. At approximately 2245 hrs 12 Dec 44 I was returning from records office, 10 Bn when I saw the accused, Cpl DESROSIERS L, whom I now recognize, going past the R P at the gate. I ordered the accused to enter the guard room. He would not go in. I called the assistance of the other R P. By this time the accused had reached the end of the gate entrance passageway. The other R P asked him to return, as he was wanted in the guard room. The accused returned with me. As he was passing the large mirror near the gateway, the accused deliberately struck it with his fist and broke it. He then came into the guard room and I secured his NDM Pt I from him, took his name, number and his coy. I then sent the accused to the MIR to have his hand dressed. He returned from the MIR with R P who had taken him there. The accused stated he realized what he had done and was sorry he had caused any trouble, and that he was willing to pay for the mirror. I placed the accused under open arrest and sent him to his coy. He had been drinking, because I could smell it, but he was not drunk. He admitted to me that he had been drinking when I asked him.

The accused declined to cross-examine the witness.

R P 83 (b) complied with.

W. McIlrath 9K.
(Pte McILRATH G K)

SECOND WITNESS
Prosecution

D71937, Pte SIMPSON W J, on the strength of 52 coy 11 C.B.R.Bn, having been duly sworn, states:
I am D71937, Pte SIMPSON W J 52 coy 11 C.B.R.Bn. On the 12 Dec 44, at approximately 2315 hrs, I was in the guard room on duty, when one of the other R P's asked me to come and give him a hand to bring in the accused, whom I now recognize. When the accused was returning with us to the guard room he struck the mirror with his fist and broke same. This mirror was at the entrance to the guard room at the first gate. After this he entered the guard room, gave his name and number, and was taken to the MIR to have his hand dressed.

The accused declined to cross-examine the witness.

R P 83 (b) complied with.

(Pte SIMPSON W J)

THIRD WITNESS
Prosecution

K613 Pte VANDERKEST J M on the strength of 52 coy 11 C.B.R.Bn, having been duly sworn, states:
I am K613, Pte VANDERKEST J M, 52 Coy 11 C.B.R.Bn,. On the 12 Dec 44, at approximately 2245 hrs the accused, whom I now recognize, came into Leopold barracks. I was on duty at the first gate as on of the Regt'l Police. I attempted to stop the accused by stating it was necessary for him to check in at the guard room. He walked right past and paid no attention. I asked Pte McILRATH for assistance

SUMMARY OF EVIDENCE

Who sent out two R Ps to apprehend the accused. They caught him and were bringing him back, when, passing the large mirror at the gate entrance, he struck it with his fist and broke it. The R Ps took the accused into the guard room.

J.M. van der Est
(Pte Vanderest, J M)

The accused declined to cross-examine the witness.

R P 83 (b) complied with.

FOURTH WITNESS
Prosecution

M WUSTEFELD of 30 Longue Rue Des Pierres, Gand, having been duly sworn, states:
I am M WUSTEFELD, of 30 Longue Rue Des Pierres, Gand. I certify that the cost of a new glass will be 2220 francs. The size of this mirror is 2 Metres x 99 centimetres.

M. Wustefeld
(M. Wustefeld)

The accused declined to cross-examine this witness.

R P 83 (b) complied with.

DOCUMENTARY EVIDENCE

The Pt I Orders 144 of 19 Nov 44 produced as documentary evidence were read over to the accused, marked exhibit "A", signed by me and attached hereto.

J.W. Wantt
(J.W. WANTT, Lieut.,
Officer Detailed to Take
Summary of Evidence.

The accused having been cautioned as follows:
Do you wish to make a statement or give any evidence on oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you say or any evidence you may give will be taken down in writing and may be used in evidence, declines to give any evidence and reserves his defence.

I certify that the foregoing summary of evidence, consisting of two (2) pages, was taken down by me in the presence and hearing of the accused.

I certify that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

J.W. Wantt
(J. W. WANTT) Lieut.,
Lorne Scots, 10 C.B.R.Bn,
Officer Detailed to Take
Summary of Evidence.

Exhibit "A"
Jan Watts 15

Part I Order 144, para 784 d/19 Nov 44:-

CURFEW

Pt 1 Order 137, para 742, d/12 Nov 44 is repeated for the information of all ranks:

1. Wef immediately Curfew in CAIRO will be 2300 hrs. The effect of this ruling is that Offrs, W.O.'s and Sgts may remain out of bks until that time. Other ranks will be required to be in at tattoo 2230 hrs, as hitherto, unless they have permission of Coy Comd, or in the case of HQ personnel, of Adjt to remain out until 2300 hrs. In this case a list will be submitted by 1800 hrs to the Guard room at the gate by Coy Comd or Adjt of the personnel with permission to stay out until 2300 hrs. All others returning after 2200 hrs, will be reported to Adjt as heretofore.

2. Only 20% daily of the rank and file on Coy or HQ strength may be given permission to stay out until 2300 hrs.

Part I Orders 157, para 873 4/2 Dec 44:-

Exhibit "A" attached to

CURFEW

Pt 1 Order 144, para 784, 4/19 Nov 44 is repeated for the information of all ranks:

1. Eff immediately Curfew in GREEN 3 will be 2300 hrs. The effect of this ruling is that Offrs, W.O.'s and Sgts may remain out of bks until that time. Other ranks will be required to be in at tattoo 2200 hrs, as hitherto, unless they have permission of Coy Comd, or in the case of HQ personnel, of Adjt to remain out until 2300 hrs. In this case a list will be submitted by 1800 hrs to the guard room at the gate by Coy Comd or Adjt of the personnel with permission to stay out until 2300 hrs. All others returning after 2200 hrs, will be reported to Adjt as heretofore.

2. Only 20% of the rank and file on Coy or HQ strength may be given permission to stay out until 2300 hrs.

I certify that this is a true copy of Part I Orders 157 para 873 4/2 Dec 44

Jan Wharty Lt
Ass Adjt
10 C & M Bn

SUPPLEMENTARY SUMMARY OF EVIDENCE

In the case of E.10236 Cpl Leonard DESROSIERS (Rde Chaud) on the stre n th of 43 Coy 10 C.B.R. Bn a soldier of the Canadian Army Overseas

By directio n of the Commanding Officer this evidence is taken on oath.

FIRST WITNESS
PROSECUTION

D.27156 CSM MacINTOSH, G.G. on the strength of 43 Coy, 10 C.B.R. Bn havin been duly sworn states:

I am D27156 CSM MacINTOSH, G.G. 43 Coy, 10 C.B.R. Bn. On the 26 Nov 44 E.10236 Cpl DESROSIERS, L. was TOS 43 Coy 10 CBR Bn and was on strength 43 Coy [redacted] Dec 44. Pt I order # 144 para 784 d/19 Nov 44 was posted on the 43 Coy notice board, on 19 Nov 44 and Pt I order # 157 para 873 d/2 Dec 44 was posted on 43 Coy notice board on 2 Dec 44. The latter Part I order was r ead out on 1330 hr parade of 43 Coy on 2 Dec 44. The accused was present on this parade.

R.P. 83 (b) complied with.

Geo D MacIntosh
(G.G. MacINTOSH)CSM D27156

The accused declined to cross examine the witness.

SECOND WITNESS
PROSECUTION

K.67275 Pte McILRATH, G.K. on the strength of 43 Coy 10 C.B.R.Bn having been duly sworn states:

I am K.67275 Pte McILRATH, G.K. 43 Coy, 10 C.B.R. Bn. On 12 Dec 44 at approx 2245 hrs after apprehending the accused whom I now recognize and taking him to the guard room at the gate entrance to secure his particulars, I checked the accused for a pass. He could not produce one.

R.P. 83 (b) complied with.

G.K. McIlrath
(G.K. McILRATH)Pte K.67275

The accused declined to cross examine the witness.

The accused havin been cautioned as follows: "Do you wish to make a statement or give any evidence on oath? You are not obliged to sa y anything nor to give any evidence unless you wish to do so, but whatever you sa y or any evidence you may give will be taken down in writing and may be used in evidence, declines to give evidence and reserves his defence.

I certify that the foregoing supplementary summary of evidence, consisting of one (1) page, was taken down by me in the presence and hearing of the accused.

I certify that rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

J.W. Wakey
(J.W. WAKEY)Lieut
Lorne Scots, 10 C.B.R. Bn.
Officer detailed to take
Summary of Evidence

Ef 13

ARMY FORM B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
N.10236	Cpl	DESROSIERS L	10 C.E.R. Bn.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 877, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given in the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	Original N.F.M. 6 not available times	times.
~~For~~	~~times~~	~~times.~~
~~For~~	~~times~~	~~times.~~
~~For~~	~~times~~	~~times.~~
~~For~~	~~times~~	~~times.~~

~~Number of instances of gallantry or distinguished conduct.~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

~~2. The accused has not been previously convicted, or~~

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

~~3. The accused is not under sentence at the present time, or The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 56 days days in military custody, making a total of 56 days days, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service attestation paper is 24 yrs 7 mths 13 days

6. The date of his ~~commencement~~ attestation specified in his record of service ~~attestation paper~~ is 4 Sep 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4yrs 4 mths

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 4 mths service.

9. The accused is entitled to reckon 4 yrs 4 mths service for the purpose of determining his pension, etc.

~~10. The accused is in possession of, or entitled to, the military decoration or military award (or is in possession of or entitled to (state any military decoration or reward).)~~

~~11. (If the accused is a warrant officer.) The accused where he was made a warrant officer last held the regimental rank of~~

~~12. (In the case of an officer.) The accused holds in the Army the rank of dated and in his regiment (or corps or department) the rank of dated~~

(A1246) W1.24000/1750 20,000 10/42 A.& E. W.Ltd. Gp.698
(2000) W1.24424/1499 12,000 5/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. E12036 Rank BPE Name [illegible] of [illegible] Regiment (or as the case may be).

INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this [illegible] day of January 1945

[illegible] Capt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

To the rank of ..... years, ...

To the rank of ..... years, ...

To the rank of ..... years, ...

Observations.—If any entries in any of the above particulars cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information must be obtained from such sources as are available and the particulars inserted accordingly.

MFM 6 Ex C
(AFB 122)
40/PAS/136 (34581)

No 210236 Name Desnoiers, L RAF Sqn, Battery or Company TOS 26 Nov 44 Corps CIC Date of enlistment 4-9-40 GC Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Temporary MFM 6 issued 22 Jan 45					

Certified True Copy.
Wynn Arthur Lunt
Flt Lt

(PTO)

LIST OF WITNESSES

For the Prosecution

D.27156 CSM MacINTOSH, C.C.	43 Coy, 10 C.B.R. Bn.
K.67275 Pte McILRATH, G.K.	43 Coy, 10 C.B.R. Bn.

For the Defence

N I L

LSIT OF ~~XXTXXXX~~ EXHIBITS

N I L

I CERTIFY THA T I HAVE RECEIVED FREE OF CHAR'E THE CHAR'E SHEET, THE ~~SUMM~~SUPPLEMENTARY SUMMARY OF EVIDENCE, THE LIST OF WITNESSES AND THE LIST OF EXHIBITS.

I DO DESIRE THE SERVICES OF AN OFFICER TO REPRESENT ME AT MY TRIAL BY COURT MARTIAL.

(B/10236 Cpl DESROSIERS, L)

SUMMARY OF EVIDENCE

LIST OF WITNESSES

FOR THE PROSECUTION

K67275	Pte	McILRATH G K	43 Coy 10 C.B.H.Bn.
D71937	Pte	SIMPSON W J	52 Coy 11 C.B.H.Bn.
K613	Pte	VANDERHORST J M	52 Coy 11 C.B.H.Bn.
M. WUSTENFELD			30 Longue Rue Des Pierres, Gand.

FOR THE DEFENCE

N I L

LIST OF EXHIBITS

Exhibit "A" - Documentary Evidence.

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE THE CHARGE SHEET, THE SUMMARY OF EVIDENCE, LIST OF WITNESSES, AND LIST OF EXHIBITS.

I DO DESIRE TO HAVE THE SERVICES OF AN OFFICER TO REPRESENT ME AT MY TRIAL BY COURT MARTIAL.

(NZ0236 Cpl DESMOSTHENES, L)

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

4 G- Pte. Desrosiers, L.A.

O. H. M. S.

M. F. B. 270

Correspondence to be PINNED here.

"G"

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. 24 G.

Order convening the Court.

On Active Service, this 17th day of March, 19 42

Whereas it appears to me, the undersigned, an officer in Command of 7 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~and that it is not practicable that a Court should be assembled consisting of officers of my own unit or of officers belonging to the same Command as myself;~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers ~~named in the margin~~ appointed or detailed hereunder.

* Omit if not applicable.

~~and that the Officer first detailed shall be President.~~

~~and that no Officer sitting on the Court is junior to the Officer who is to be tried.~~

~~and that the following Officer is to be Judge Advocate.~~

PROCEEDINGS REVIEWED.

Judge Advocate: Captain R.A. Ritchie H.Q. 3 Cdn Div.

President.

Rank.	Name.	Regiment.
Major	J.S. Marrett	R Wpg Rif

Members.

Rank.	Name.	Regiment.
Capt	H.K. Russell	Regina Rif
Lieut.	W.H. Oldaker	1 C Scot R
Lieut. (Waiting)Capt	C.W. Wightman	1 C Scot R

* Must be signed personally by the Officer actually in command at the time, and no alteration in the composition of the Court to be initialled by him.

*Signed (H.L.N. Young) Brigadier,
Commanding 7 Canadian Infantry Brigade.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
K 65042 Pte Desrosiers, L.A. 1 C Scot R	COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING, in that he at Leatherhead, on the 28th February, 1942, being concerned with A.22949 Pte. Gascoe E.A., 1st Bn., Q.O.R. of Canada, feloniously did steal one girl's Ridge Whitworth cycle of the value of £6-0-0, the property of one, Donald Graham Fraser, contrary to Section 2, Larceny Act, 1916.	NOT GUILTY	(d. GUILTY	
	COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING, in that he at Leatherhead, on 28th February, 1942, being concerned with A.22949 Pte Gascoe, E.A., 1st Bn., Q.O.R. of C., feloniously did steal one Gent's Raleigh Cycle, of the value of £5-0-0, the property of one James Burke, contrary to Section 2, Larceny Act, 1916.	NOT GUILTY	GUILTY	

75 DAYS DETENTION
DATED THIS 22
DAY OF MARCH 1942

Committed to 50 days detention

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded immediately after question): NO

(Signed) (H.L.N. GRIMSON) Brigadier,
Commanding 7 Canadian Infantry Brigade
Convening Officer (a)

(Signed) J. Bruneau Major
Judge Advocate
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21 day of MARCH, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

* Omit if not applicable.

were duly sworn. * THE JUDGE ADVOCATE.

Signed this 24 day of JANUARY 1942.

J. Bruneau Major
Judge Advocate.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 702 M.M.L. 1940.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~of three years' imprisonment with hard labour~~ 50 days detention

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 23rd day of March 1942

W.H. Salmon Brig
Confirming Officer.

Promulgated and extracts taken in the case of K65042 Pte. Desrosiers L.A.

(a) (Dated) 26th March 1942 (Signed) J.R. Kennedy Lt-Col
O.C. 1st Bn. C. Scot. R. A.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

G

A Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a FIELD GENERAL Court-Martial held IN THE FIELD.

on the 21st day of MARCH 1942 by order of

BRIGADIER H.L.N. SALMON

Commanding 7 CANADIAN INFANTRY BRIGADE

dated the 17 day of MARCH 1942

President.

MAJOR J.S. MERRETT
ROYAL WINNIPEG RIFLES.

Members.

CAPT. H.K. RUSSELL
REGINA RIFLES.

CAPT. C.M. WIGHTMAN.
1 CDN SCOT RIFLES.

CAPT. R.A. RITCHIE R.C.A., Judge Advocate.

Trial of* K. 65042 PTE L.A. DESROSIERS.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that LIEUT R.H. CLOAKE is not available to serve owing to ABSENCE ON DUTY. CAPT C.M. WIGHTMAN.

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† LIEUT. W.B. MATHEWS

Counsel‡ or defending officer† LIEUT. O.J. WELLER.

At 1600 o'clock the Trial commences.

The order convening the Court is read, and is marked "G" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer. NO

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Answer. Not Guilty

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer. Not Guilty

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to charge , the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

B2 Lieutenant Major Lieutenant

CHARGE SHEET.

HEADQUARTERS 17 1942 Scottish Regt

The accused, K65042 Pte. Desrosiers, L.A., 1st Battalion, The Canadian Scottish Regiment, a soldier of the Canadian Army, placed on Active Service in England, is charged with:--

See 41 Army Act

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING,

in that he

at Leatherhead, on the 28th February, 1942, being concerned with A.22949 Pte. Gascoe E.A., 1st Bn., Q.O.R. of Canada, feloniously did steal one ~~girls~~ Ridge Whitworth cycle of the value of £6-0-0, the property of one, Donald Graham Fraser, contrary to Section 2, Larceny Act, 1916.

See 41 Army Act

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING,

in that he

at Leatherhead, on 28th February, 1942, being concerned with A.22949 Pte. Gascoe, E.A., 1st Bn., Q.O.R. of C., feloniously did steal one Gent's Raleigh Cycle, of the value of £5-0-0, the property of one James Burke, contrary to Section 2, Larceny Act, 1916.

In the Field

17th March, 1942

(J.R.KINGHAM) Lt.-Colonel
Officer Commanding,
1st Bn., C.Scot.R. (AF)

To be tried by Field-General Court Martial

Date:

.....
(Convening Officer)

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? NO

Answer.

F.A.L. ~~The prosecutor makes an opening address (hands in a written address which is read, marked ____, signed by the President, and attached to the proceedings).~~

The prosecutor proceeds to call witnesses.

First witness for prosecution.

VIVIAN G.B. WEST having been duly sworn

being duly sworn, is examined by the prosecutor.

F.A.L. I am a constable in Heathenhead Police force. I recognise the accused. At Croydon Police Station at about 3.30 P.M. on 15th MARCH 1942 I saw the accused. I told him I was a police officer and that I was going to convey him to Heathenhead Police Station where he would be charged together with [illegible] Gascoigne with the larceny of two Gelo-proof ~~Cars~~ Coats of the Crescent Cinema Heathenhead. In reply he said "O.K Sir." At about 7.15 P.M. on the same day I was present at Heathenhead police station when P.C. Desrosiers and Gascoigne were formally charged with the [illegible] offence by Inspector Russell. At Heathenhead police court the following morning when the accused was remanded ~~over~~ to the Military authorities. On the [illegible] March I was present and took in writing a statement made by

he accused after he had been duly cautioned by me. ~~Harrison Richards~~ Hastard: "On Thursday 26 Feb 1942 Janet Kyleman Gascoe of 1st Batt R.O.R of C. and I spent our leave together. At about 4.30 PM on Saturday 28 February 1942 I came to Leatherhead where we had supper. We had no money and wanted to go ~~to Croydon~~ RAF to Croydon while we were going I had the remainder of our leave. Realising it was getting late and knowing we too should get to Croydon waiting, I suggested that I should get two bicycles from the Crescent Cinema Car Park. We went into the Car Park, Kyleman Gascoe stopped against the Cinema building whilst I went further down the yard to the cycle rack and got two cycles which I brought to where Gascoe was standing. We then rode one each to Dorking, Reigate & finished up in Croydon.

We slept in an air raid shelter for the night and the next morning (Sunday) we started bicycle in the direction of Purley when we saw a Police Officer and stopped to ask him the way to Wallington. The policeman asked where I had got the bicycle from and I, like a damned fool, spoke for both of us and told him that we had borrowed them.

When I stopped to speak the Police Officer Gascoe cycled down the road a few yards but after a couple of minutes returned to us. The Police Officer questioned Gascoe and then took us both to Croydon Police Station."

RULE OF PROCEDURE 73(B) COMPLIED WITH.

CROSS EXAMINED.

Q. In his summary of evidence you stated that he accused said "He found" when charged. What do you say about that now.

A. He said it was hire and his remark was made after he had been duly cautioned.

SECOND WITNESS FOR PROSECUTION HAROLD WARREN having been duly sworn states I am a special constable in the Metropolitan police Croydon. At 8.30 P.M. on March 1st 1942 I was on duty at Southend Croydon. I was approached by a Canadian Soldier who I now identify as the accused. He accused asked me to direct him to Wellington, owing to his untidy appearance I asked him where he got his bike, he replied "I borrowed them both from a friend of mine." Then Pfnr Gerson appeared after having cycled on and asked him where he got his bike and he replied. "It is my own" I told him that I was not satisfied and I took them to Croydon Police Station where they were detained. The cycle which Serjt Rossiter had was a Hedges Butterworth all black Genl upright. The number of that bicycle I cannot remember but it contained at least three 6's I think it was 81666. at any rate the last three numbers were 666. The other bicycle was a Raleigh Genl roadster model from which the number was missing.

CROSS-EXAMINED. BY DEFENDING OFFICER

Q. When you took both men away did they cause you any trouble?

A. No

Q. Did you take the number at that time.

A. No I took it at the Station

Q. Were there any other bicycles taken into the Station on to the Station at Croydon that morning?

A. Not on the morning of March 1st at 8.30 when ~~they~~ mine were brought in and they were identified within two hours. ~~and~~ My statement that there were no other bikes in the station that morning is made to the best of my knowledge but I was not round the Station that morning I was home.

RULE OF PROCEDURE 23 (B) COMPLIED WITH.

THIRD WITNESS FOR PROSECUTION.

D. G. FRASER having been duly Sworn States.

I reside at Rowanhill Cottage Effingham Common Effingham and am by profession a hawkers clerk At about 5. P.M. on 28th February I left my cycle in the car park at rear of the Crescent Cinema at Leatherhead when I came out I could not find it. I searched the car park & surrounding streets and then reported my loss to the Attendant who stated that it might have been taken by mistake so I went back the next day but found that all the cycles that had been left there had been taken away so there was no question of mistake. I reported the loss of the bike to the police who already had all particulars. ~~They~~ As a result of a conversation with Leatherhead Police I went to Croydon Police Station for Monday, March 1st at about 6.15 P.M and there I found my cycle which is a Rudge Whitworth. it had a Hercules pump on it. It is all black. The Cyclometer showed about 25 more miles than it had done when I left the pictures. I did not give anyone permission to use the bicycle on the morning of February 28th I had no difficulty in identifying my bicycle

CROSS EXAMINED BY DEFENDING OFFICER

Q. Did you lock your cycle when you went in to the Cinema?

A. No I put it in the rack. There is an attendant in the Car Park who was there when I went in and when I came out.

RULE OF PROCEDURE 23(18) COMPLIED WITH.

FOURTH WITNESS FOR PROSECUTION

JAMES BURKE having been duly SWORN States:

I reside at 2 Eden Cottages Edwards Lane Ashtead Surrey. At about 6.35 on 27 February 1982 I went to the pictures at the Crescent Cinema Leatherhead and left my cycle in the Cinema Car Park. After the pictures at about 9.45 I went to fetch my cycle and found it was not there. I then had a look around the Car park but failed to find it and then reported the matter to the police station at Leatherhead. As a result of a conversation with the [illegible] of Leatherhead police on Sunday morning 28 I went to Croydon at about 3 o'clock in the afternoon and at the police station there I identified my cycle the saddle bag was missing. I would say that my bicycle was worth approximately £60 pounds.

CROSS EXAMINED BY DEFENDING OFFICER

Q. Did you lock your bicycle when you left it in the park.

A. I did not but there was an attendant there when I entered & left the Cinema.

BY THE COURT:

Q. What kind of a bicycle is yours?

A. A Raleigh three speed gear bike and there is no number on it.

RULE OF PROCEDURE 23(18) COMPLIED WITH.

C6.

FIFTH WITNESS FOR THE PROSECUTION. A 22949. CANADA. ROH. E.A. GASCOE. 1ST BTN RL O. RIFLES OF having been duly sworn states

I went on leave on the 20th February for seven days. I recognise the accused. I met him in London on my leave on 20th February 1942 and we decided to spend their leave together. We went to Heaton Head on Friday 27 February & stayed for a couple of hours. We walked around the sheet for a while (the Pier. ~~accused~~) and had supper and after supper we went to a place behind a cinema where there was a bicycle rack. There was a guard on the gate and we asked him if we could get our bikes. He said "Very well" and we went in and got a bike each. There was a little lunch on the bike stand and we ate it. We started out for Corbridge and reached there that same night. We stayed in a Y.M.C.A.

Next morning we stopped a cop to ask the way to Hadrian Vallum. The policeman showed us the way & then asked us if they were our bikes and I said "Yes". He was persistent & stopped the policeman - I kept on going but came back and it was then that the policeman asked me where I had got the bike and I said "It's mine". The policeman then called his cops and put me in the jug. There was a leather case on the back of my bike but it was all torn and I threw it away. I knew the bicycle was not mine.

CROSS. EXAMINED BY DEFENDING OFFICER

Q. Did you give a statement to the police at Croydon?

A. Yes and that was a conversation just before we got to the post.

Q. Did you & the accused discuss the taking of that bicycle?

A. He decided whether light them and go for a ride.

Q. Did both persons go into the car park alone light them bikes?

A. Yes and stayed just outside.

Q. What time in the morning of March 1st did you start bicycle.

A. About 7 o'clock and we met the policeman about ½ an hour later.

BY THE COURT.

Q. Are you sure it was Friday night 27th February.

A. No on thinking it over I am sure it was Saturday 28 February.

Q. Are you sure you slept in the N.C.A that night.

A. No on considering it I now remember that we slept that night in an air raid shelter.

Q. Who first brought up the idea of taking that cycle?

A. Pte Rodgers.

Q. Had you considered what you were going to do with these bicycles.

A. Yes we are intended to keep them for a day and then bring them back to the car park.

Q. Did you discuss what you were going to do with these bikes?

A. Yes Rosemary and I both intended to return the bikes on ~~not~~ Sunday night.

RULE OF PROCEDURE 83 (B) COMPLIED WITH.

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness ?

Answer. YES

Question. Do you intend to call any other witness in your defence ?

Answer. NO

Question. Is he a witness as to character only? *Answer.* N/A.

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence ?

Answer. The accused in his defence says†

{hands in a written address which is read, marked

signed by the President and attached to the proceedings.}

Instructions.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court above.)

D 2

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

FIRST WITNESS FOR DEFENCE

K. 65042 Pte Leo Abbot DESROSIERS:-

Having been duly sworn States:

When I left my unit for my leave I went to London for a couple of nights and met Pte Tasker in the Salvation Army Vauxhall Bridge Road and from there we ~~[illegible]~~ following day at noon we started out for Leatherhead at between 2 and 2.30. We had our supper there and then we ~~[illegible]~~ came back to London it was on week-end pass. We went back into Leatherhead and remained round for a while and I brought up the idea of taking a couple of bikes as it was getting late and we wanted to get in to London to stay there that night. We got in to London at about 11.30 that night & left in an air raid shelter. We had first taken two bikes from ~~[illegible]~~ behind the crescent Cinema Leatherhead at approximately 7.15 PM the Sunday morning Pte Tasker and I started out for Malling Kent at my suggestion. We were going to Malling Kent as I had to meet a girl at Ightham who I did not mention to Tasker. We started out and got some ~~[illegible]~~ forwards Sevenoaks the end of London when I stopped to ask a policeman the way

Whalley then stopped Rfn Pascoe
called me & then returned after
a minute or two. Before his return
I was asked whose bike Ross and
I were riding & my reply was
that we borrowed them. Spoke for the
two of us. When Rfn Pascoe did
return he was asked whose bike
he had and he replied that it
was his own and the one he had
been brought in on.
Conversation was then had
about for a limited time & then
returned home around ~~but~~ 8.30 pm to
of the Cinema from which we had taken them
Shed where I left them in leatherhead, found
laundry and intended to return
there. Had no intention of selling
them bicycles or of converting them
to my own use. Intended to be
back in leatherhead on Sunday
night.

CROSS EXAMINED BY PROSECUTION:

Suggested everything connected with
the taking of the bicycles. ~~Pascoe~~ was
~~the~~ Business.
Later ~~I~~ learned about the bikes were returned
The matter of whether the bikes were stolen did not worry my mind at all.
NOT
Sec 83 (3) of the Act COMPLIED WITH

PROSECUTOR ADDRESSES THE COURT.
DEFENDING OFFICER ADDRESSES THE COURT.
JUDGE ADVOCATE ADDRESSES THE COURT.

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

Finding.*

The Court is closed for the consideration of the finding.

The Court find that the accused IS GUILTY OF THE CHARGES AS LAID.

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction before Sentence.

*The Court being re-opened, the accused is again brought before it.

LIEUT. W. H. MATHEWS is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* YES

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked I, signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* YES.

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* YES.

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* YES.

Cross-examined by the accused.

Question to the accused. Do you wish to address the Court? *Answer.* DEFENDING OFFICER ADDRESSES THE COURT.

The Court is closed for the consideration of the sentence.

March 11, 1942. Bremerton

S.A. Pfc. [illegible] 6504th

This man is in a good state of health & fit to undergo court-martial.

Dental Officer Capt. [illegible] M.C. U.S. Navy

Summary of evidence in the case of K65042 Pte. Desrosiers, L.A., 1st Battalion, The Canadian Scottish Regiment, AF.

HEADQUARTERS
MAR 17 1942
Can. Scottish Regt. A.F.

By direction of the Commanding Officer the Summary of evidence is taken on oath.

1st Witness for the Prosecution

A.22949 Rfmn Gascoe, E.A., 1st Bn., Queen's Own Rifles of Canada.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence.

.....
Officer taking Summary

The accused doesn not demand the attention of this witness for cross-examination.

2nd Witness for the Prosecution

Mr. D.G. Fraser, "Rowantree Cottage", Effingham Common, Effingham.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence.

.....
Officer taking Summary

The accused does not demand the attention of this witness for cross-examination.

3rd Witness for the Prosecution.

Mr. V.G. B. West, Police Station, Leatherhead.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence.

.....
Officer taking Summary

The accused doesn not demand the attention of this witness for cross-examination.

4th Witness for the Prosecution.

Mr. J. Burke, 2, Edes Cottages, Ottways Lane, Ashtead.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence.

.....
Officer taking Summary

The accused doesx not demand the attention of this witness for cross-examination.

5th Witness for the Prosecution. Mr. H. Warren, c/o Police Station, Croydon, Surrey.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence.

W.H.W. Smith Capt

The accused dows not demand the attention of this witness for cross-examination.

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E), elects to give evidence on oath.

The accused, K65042 Pte. Desrosiers, L.A., 1st Battalion, The Canadian Scottish Regiment, having been duly sworn, states:

"I am a private in the 1st Bn., The Canadian Scottish Regt, now stationed in Sussex. I went on leave on the morning of the 24th Feb 1942 for seven days and this expired on the 3rd March, 1942. On Thursday, the 26th February, 1942 I met Rifleman Gascoe, of 1st Bn., Queen's Own Rifles of Canada, who is also stationed in Sussex, and whom I have known for some time. At about 4.30 p.m. on Saturday, 28th February, 1942 Rfmn Gascoe and I came to Leatherhead where we has supper. We had no money and wanted to get to Croydon that night, where we were going to spend the remainder of our leave. Realizing it was getting late, and would be too dark to get to Croydon, walking, I suggested that I should get two bicycles from the Crescent Cinema Car Park. We went into the Car Park, Rfmn Gascoe stopped against the Cinema building whilst I went farther down the yard to the cycle rank, and got two cycles which I brought to where Gascoe was standing. We then rode one each to Dorking, Reigate and finished up in Croydon. We slept in an air raid shelter for the night and on the morning of Sunday, 1st March 1942 we started to cycle in the direction of Purley, when we xxx saw a policeman, and stopped to ask him the way to Wallington. The policeman asked me where I had got the bicycle from, and I like adamned fool spoke for both of us and told him that we had borrowed them. When I stopped to speak to the Police Officer, Gascoe cycled down the road a few yards, but after a couple of mimutes returned to us. The Police officer questioned Gascoe and then took us both to Croydon Police Station. Sir."

L. A. Desrosiers
K65042 Pte. Desrosiers L.A.

Certified that Rule of Procedure 4 (C) (D) (E) (F) (G) have been complied with.
Taken down by me in the presence and hearing of the accused, this 17th day of March, 1942 at In the Field.

W.H.W. Smith Capt
Officer taking Summary.

Earl Alphonese GASCOE. No. A.22949

1st Bn., Queen's Own Rifles of Canada

HEADQUARTERS
MAR 17 1942
Regt. A.F.

States: I have been cautioned and told that I need not make this statement unless I wish, but that anything I do say will be taken down in writing and may be used in evidence.

Sgd. Earl Gascoe.

"I am a Rifleman in the Queens Own Rifles of Canada, in the 1st Battalion, now stationed in Sussex. I went on leave on the 24th February, 1942 for seven days, which expires on 3rd March, 1942.

On Thursday, the 26th February, 1942, I met Pte. Desrosiers and we decided to spend our leave together.

At about 4.30 p.m. on Saturday, 28 Feb 1942, in company with Pte. Desrosiers, I came to Leatherhead. I had something to eat with friends of Desrosiers. We wanted to get to Wallington that night, but it was getting late and we had no money for train or 'Bus fares and we didn't feel much like walking, so he decided to get a couple of bicycles.

At about 7.15 p.m. on 28th February, 1942, we went to the Car Park of the Crescent Cinema, with this object in mind. I stood by the Cinema building while he (Desrosiers) got a bicycle for me and waited while he got one for himself. He got them both from the cycle rack in the Car Park. We then rode off together in the direction of Dorking. We went through Dorking and Reigate and got as far a Croydon, where we slept in an air raid shelter for the night.

On the morning of the 1st March, 1942, we decided to cycle on to Wallington. We started off in the direction of Purley, when we saw a Police Officer and Desrosiers stopped to ask him the way. I did not stop but cycled on. He seemed to be rather a long time, so I turned back. Upon my return the Police Officer asked me where I had got my bicycle from and I told him it was my own. The Police Officer did not seem satisfied and so he took us to Croydon Police Station.

This statement has been read over to me and is quite true."

"EARL GASCOE"

Certified a True Copy.

(J.R.KINGHAM) Lt.-Colonel
O.C., 1st Bn. C.Scot.R. (AF)

Donald Graham FRASER.

Rowan Tree Cottage, Effingham Common, Effingham.

States: "I am a Bankers Clerk and reside at the above address.

About 5 p.m. on Saturday, the 28th February, 1942, I left my Ridge Whitworth pedal cycle in the Cycle Rack situated in the Cresdent Cinema Car Park, Elm Road, Leatherhead, whilst I went to the Cinema.

I returned to the car park about 8 p.m. that night for my cycle but failed to find it. I searched the vicinity but without success.

I subsequently reported the theft to the Police at Leatherhead.

About 6.30 p.m. on the 2nd March, 1942, I attended Croydon Police Station and there identified a Rudge Whitworth bicycle as my property and the bicycle which was stolen from the Exr Crescent Cinema Car Park on the 28th February, 1942. I value the cycle at £6.0.0d.

I identify my cycle by the cyclometer on the front wheel, saddle cover, pump and the right handle grip which is cracked, and the black bell on the right handlebar.

I had not given any person authority to use my bicycle."

"D.G.FRASER"

Certified a True Copy.

(J.R.KINGHAM) Lt.-Colonel
O.C., 1 C.Scot.R. (AF)

Vivian Gordon Basil WEST.

Police Station, Leatherhead.

HEADQUARTERS
MAR 17 1942
Can. Scot. R. A.F.

States: "At about 3.30 p.m. on 1st March, 1942, I saw Pte. Leo Abbot Desrosiers, No. K.65042, 1st Bn., The Canadian Scottish Regiment, and Rifleman Earl Alphonse GASCOE, No. A.22949, 1st Bn., Queen's Own Rifles of Canada, at Croydon Police Station.

I told them I was a Police Officer and that I was going to take them to Leatherhead Police Station, where they would be charged with the larceny of 2 pedal cycles from the Car Park of the Crescent Cinema, Leatherhead, on the evening of 28th February, 1942. Desrosiers said "O.K. Sir," and GASCOE said "That's right, Sir."

I was present at 7.15 p.m. 28th February, 1942, at Leatherhead Police Station, when DesROSIERS and GASCOE were charged by Inspr. Russell. In reply to the charge they both said, "It's true."

On the morning of the 2nd March, 1942, I was present at Epsom Police Court, when it was ordered by the Magistrates that DESROSIERS and GASCOE be handed over to their respective units to be dealt with."

V.G.B. WEST"

Certified a True Copy.

(J.R.KINGHAM) Lt.-Colonel
O.C., 1st Bn. C.Scot.R. (AF)

James BURKE.

2, Edes Cottages, Ottways Lane, Ashtead.

HEADQUARTERS
MAR 17 1942

States: "At about 6.35 p.m. on 28th February, 1942, I left my cycle a Raleigh, in the cycle rack of the Crescent Cinema Car Park, situated at the Rear of the Cinema. I went to see the picture show and came out at about 9.45 p.m. At about 9.50 p.m. 28th February, 1942, I went for my cycle, but it was not where I had left it. I made a search of the surrounding area but was unable to find it.

At about 3.30 p.m. on 1st March, 1942, I attended Croydon Police Station, where I saw a pedal cycle which I identify as my property and the one which was stolen from the Crescent Cinema Car Park. I paid £5.0.0d for the cycle about 3 weeks ago, and that is what I value it at."

"JAMES BURKE"

Certified a True Copy.

(J.R.KINGHAM) Lt.-Colonel
O.C., 1st Bn. C.Scot.R. (AF)

HEADQUARTERS
MAR 17 1942
1st Bn. Can. Scottish Regt. A.F.

Harold WARREN,

c/o Police Station, Croydon, Surrey.

States:

"At 9.30 p.m. on 1st March, 1942, while on duty at South End, Croydon, two Canadian Soldiers riding pedal cycles stopped and one of them Desrosiers, asked me the way to Wallington.

Owing to their untidy appearance I asked Des Rosiers where he had got his bicycle from, and he replied, "I borrowed them from a friend of mine." I then asked Rifleman Gascoe where he got his from and he replied, "It is my own."

I then told them that I was not satisfied and took them to Croydon Police Station where they were detained.

"HAROLD WARREN"

Certified a True Copy.

(J.R.KINGHAM) Lt.-Colonel

O.C. 1 C.Scot. R. (AF)

"I"

Statement as to Character and Particulars of Service of Accused.

K65042 Pte. Desrosiers, L.A., 1st Bn., The Canadian Scottish Regt. (AF).

1. The following is a fair and true summary of the entries in the Regimental Conduct Sheets of the accused, exclusive of convictions by a Court Martial or a civil court, of summary awards under Sec. 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 months	Since Enlistment.
For neglecting to obey a Bn. Order A.A.11	twice	twice
For absence without leave. A.A. 15(2)	once	once
For conduct to the prejudice of good Order and Military Discipline A.A. 40	once	once

Number of instances of gallantry or distinguished conduct: NIL

2. The accused has not been previously convicted.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement, awaiting trial on the present charges, for NO days in civil custody, and seventeen (17) days in military custody, making a total of seventeen (17) days in custody, of which NO days were spent in hospital.

5. The present age of the accused according to his attestation paper is 20 years, one month.

6. The date of his attestation, specified in his attestation paper, is 19 Mar 41.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 year.

8. The accused is in possession of or entitled to NO military decoration or militaryreward.

SCHEDULE

of Convictions by a Court Martial or Civil court; of summary awards under Sec. 47 A.A. and of cases in which trail has been dispensed with of accused, K65042 Pte. Desrosiers, L.A., 1st Bn., The Canadian Scottish Regt. (AF).

NIL

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17th Day of March, 1942.

(J.B.KINGHAM) Lt.-Colonel
O.C., 1st Bn. C.Scot.R. (AF)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked, signed by the President, and annexed to the proceedings.

1st Sheet destroyed after 6 months - 19-9-41

No. K65042 Name DESROSIERS L.A. Sqn., Batty. or Company H. Corps 1 C.Scot.R.(A.F. Date of enlistment 19-3-41 G.C. Badge

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra line | Sheet No. 1 2 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of Drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom Awarded
Debert NS	23-7-41	Pte	Nil	Neglecting to obey Bn.Order (A.A.11) (Improperly dressed for walking out i.e. No anklets	Pte Tweedhope Pte Ronnie	7 days CB	26-7-41	Lieut.E.C.English
Tatamagouche N.S.	17-8-41	Pte		AWL (A.A.11(1) from 0700 hrs. 17 Aug 41 to 1030 hrs 17 Aug (Absent 3 hrs 30 mins)	41 CSM Walker A.F. Sgt.Olsen W.H. Cpl Colwell W.H.	2 days CB 2 days pay A.A.46(2)(d)	19 Aug 41	Major D.C.Stephenson
Aldershot	4-9-41	Pte		Failed to obey Bn.Standing Order. was found in bed 32 mins after Reveille (A.A.11)	Sgt.Olsen W.H.	3 days C.B.	4-9-41	D.C.Stephenson, Major
Aldershot	10-9-41	Pte		Conduct to the prejudice etc A.A.40 Dirty web equipment on Brigadier's parade	Sgt.Olsen W.H. L/Cpl Proverbs RS CSM WALKER AF	3 days C.B. all rushes forfeit for 10 days	10-9-41	D.C.Stephenson Mjr

CERTIFIED [signature] Lt. Cameron Scottish Regt.

A. F.

HEADQUARTERS 1st Bn. Can. Scottish Regt. A.F. 1942

Army Form B. 122.

4X-95.

Pte. Desrosiers. W.B.

4X-95

CPA/C/135 (Jan 45 of AF A31
40/P & P/1898 (40/01)

4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt R P Clark T/Comd 2 Cdn Inf Bde dated 20 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C120367	Pte		William George	DESROSIERS	LER

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ITALY on (*date*(*s*)) 25 Jan 45 EWC

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 123.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (✓ attached thereto.(1) EWC
The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and EWC
each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1330 hours trial commences. EWC

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) EWC
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2).~~ EWC

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ... as interpreter? Ans~~ EWC
~~The Interpreter is sworn (1). Do you object to ... as shorthand writer? Ans~~ EWC
~~The shorthand writer is sworn (1).~~ EWC

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E W Cuthill	PPCLI
Member	Capt	W D C Tuck	SEAF of C
Member	Lieut	C M Pyne	PPCLI
Judge-Advocate	~~----~~	~~----------~~	~~----------~~
Prosecutor	Lieut	T N Adamson	LER
Defending Offr	Lieut	G M Rogers	LER

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused before arraignment make(s) (no) (✓) plea. EWC
(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP stand. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~not~~ EWC
not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The pro- EWC
ceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C120367 Pte Willian George Desrosiers LER

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 12(1)(a)	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (EWC

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 89 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: Two years imprisonment with hard labour.

(Sgd) ..... Judge-Advocate, if any. 25 Jan 45 Date awarded. (Sgd) " E W Cutbill " Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the court

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) MFB

(1. AA 57A. Delete if not used.)

(Sgd) " M P Bogert " Brig

Date 1 Feb 45 Commanding 2 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
C120367 Pte William George Desrosiers	4 Feb 45	" E L Boyd " Capt & Adjt The Loyal Edmonton Regt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 105 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E. 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement.* Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 27(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form* D *on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 27(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 29(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 29(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not~~ establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), ~~and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(1. *RP 115.* 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF* ABS. *Evidence for accused as to his character should, if on his interest, be given before the finding. See RP* 41(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 102(*B*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part II of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, *117*(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(2) (*b*), *RP* 45, *120*(*A*). 2. *AA* 54(3), *RP* 45, *117. This alternative pronouncement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans .....

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents relate to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP* 46, *KR Con 558. If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and on mitigation of punishment ?(1) Ans .....(2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(*a*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and* 83 *proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 562-566. *Overseas AO* 309, 1313, *RP* 48. *As to sentences suspended see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 562-566. *Overseas AO* 309, 1313, *RP* 48. *As to sentences suspended see AA* 41 (3), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*B*), 68(*1*), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and dispersal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23.
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets RP 87(B).
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.) see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C120367	Pte		William George	DESROSIERS	LER

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 Jan 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial". RPC

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ RPC
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. RPC

4. ~~I am unable to appoint (a) three Offrs to form the Court, (by a Fd Offr as President, for the reasons I have stated hereto.~~ RPC
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I ~~also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ RPC
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	E W Cutbill (Must be named. RP 106.)	PPCLI (Unit.)

MEMBERS.

Capt (Rank.)	W D C Tuck (Named or detailed. RP 106.)	Seaf of C (Unit.)
Lieut (Rank.)	C M Pyne (Named or detailed. RP 106.)	PPCLI (Unit.)

WAITING MEMBER.

(Rank.)	N/A (Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

In ITALY (Country.)	" R P Clark " (Signed personally. RP 105 fn 2.)	Lt Col (Rank.)
Date 20 Jan 45	T/Commanding 2 Cdn Inf Bde (Convening Officer.)	

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (Page 1 to Secs of AFA) 40-7 & 8/1001 (4851)

CHARGE SHEET

The accused C120367 Pte William George DESROSIERS, The Loyal Edmonton Regiment, a soldier of the Canadian Army Overseas (CMF) on Active Service, is charged with:

FIRST CHARGE Sec 12(1) (a) Army Act — WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE in that he

In the Field, in Italy on 21 Oct 44 when serving with his platoon in a forward area with intent to avoid such service, absented himself without leave from approx 2130 hrs 21 Oct 44 until surrendering himself to 3 Cdn Provost Coy at approx 1900 hrs 28 Oct 44. (Absent 6 days, 21 hrs, 30 mins.)

" A F Macdonald "

In the Field
21 Jan 45

(A F Macdonald) Major
A/Officer Commanding
The Loyal Edmonton Regiment

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

" R P Clark "

In the Field
20 Jan 45

(R P Clark) Lt Col,
A/Comd 2 Cdn Inf Bde

C120367 Pte DESROSIERS W.G.

FIRST WITNESS - having been duly sworn states:

Q Identify yourself
A M3100 Sgt H.O.W. Powell "B" Coy L.E.R.
Q Tell the court what you know of the alleged desertion of Pte Desrosiers.
A On Oct 21st 1944 I was acting as Pl Commander of No 12 Pl "B" Coy LER at approximately 2130 hrs while I was checking my platoon before moving forward Pte Dalman reported to me that Pte Desrosiers was missing from t e section which he was commanding. I reported this to the CSM as soon as possible and I did not see Pte Desrosiers again, till he returned to my platoon on Oct 30th 1944 under regimental escort.
Q What was the tactical situation?
A We were under orders to move forward with the company and attack the enemy positions across the Saino River.
Q Were you subject to shelling or mortar fire at the time the accused went absent.
A There was light mortar and shell fire in the surrounding vicinity but none in the immediate vicinity.

Cross Examination

Q Did you yourself check to see if Pte Desrosiers was absent.
A No sir.
Q Had the platoon as a whole been informed they were to put in an attack on the Sano River.
A Yes sir.

R.P. 83(b) complied with.

By The Court

Q Had the accused been warned the platoon was going in on the attack?
A Yes sir.

R.P. 83 (b) complied with.

SECOND WITNESS - having been duly sworn states:

Q Will you identify yourself to the court?
A I am Pte Dalman A.H.- H17401 "B" Coy, of the L.E.R.
Q Tell the court in your own words what you know of the alleged desertion of Pte Desrosiers.
A On the night of Oct 21st 1944 while making the approach march to the River Saino I was acting Section Leader of Seven (7) section of number (12) platoon during a halt on the march, I check the section and found that Pte Desrosiers, the accused whom I now recognzie was absent from t e section I reported his absence to Sgt Powell.
Q Had you warned your section including the accused that you were going in on an attack that night.
A There had been an "O " Group about an hr before and I explained to the section what we were going to do.

R.P. 83 (b) complied with.

Certificate of surrender, procuied by Prosecutor, examined by Def Offr, accepted by the Court and marked exhibit "A".

DEFENCE - CLOSING ADDRESS

I would like to submit to the court the fact that the prosecution has only produced one witness to the fact that Pte Desrosiers was absent from his platoon on the night of 21st October 1944.

MEDICAL CERTIFICATE

(KR (CAN) 557)

THIS IS TO CERTIFY THAT C120367 PTE DESROSIERS W.G., L.E.R. WAS EXAMINED BY ME THIS DATE AND IN MY OPINION IS FIT TO UNDERGO TRIAL BY FIELD GENERAL COURT MARTIAL.

In the Field

25 Jan 45

" C F Egan "

(C F EGAN) Capt & MO
THE L EDMN R

PROSECUTION

OPENING ADDRESS

In the case of C120367 Pte Desrosiers W.G.

I propose to prove to the Courtthat the accused absented himself from his platoon in a forward area with intent to avoid a specific action for which he had been personally warned, and that he did, in fact, avoid it. This constitutes desertion.

" T N Adamson " Lieut.

PROSECUTION

CLOSING ADDRESS

In the case of C120367 Pte Desrosiers W.G.

I submit the Court that a prima facie case of desertion has been established inasmuch as the accused absented himself from his platoon in a forward area, intending to avoid an action which he did avoid. I would like to draw the attention of the Court to the fact that he did not surrender himself until six days later, and then to a Provost in a rear area.

" T N Adamson " Lieut.

PLEA IN MITIGIATION OF SENTENCE

IN THE CASE OF PTE William George Desrosiers

of the Loyal Edmonton Regiment.

Since joining the Regiment after the battle of Ortona, Pte Desrosiers has been through every action the Regt participated in. His clean crime sheet is one factor to prove he has done a good soldierly job. He was a corporal for some during the summer but lost his stripes as a result of being wounded in the chest at Fortonato Ridge.

The battle of the Hitler Line, The Gothic Line and more recent actions are the reason for this crime. The man has told me he tried hard to go on but his nerves got the best of him.

He has done so much more than so many. I ask the court for a light sentence in this mans case so he can rejoin his Regiment and continue to be a good soldier, which he has provei himself capable of being.

" G M Rogers " Lieut.

STATEMENT AS TO SERVICE AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Court-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
C120367	Pte	William George DESROSIERS	L ED MN R

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

* Strike out if not applicable

State the military decorations (if any) held by accused.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

For No entries on MFM 6 ..... times

For ..... times

For ..... times

For ..... times

2. ~~Set out particulars of the offence by a court martial or civil court which is the subject of the present charge.~~

3.* ~~The accused at the present time is serving a sentence for .....~~

~~imposed on the ..... day of .....~~

4. The accused has been awaiting trial on the present charges for .nil days in civil custody; and for 89.. days in military custody, making a total of .89.... days of which .nil. days were spent in hosp.

5. The present age of the accused is .21.years..

6. The date of his attestation is 11.Jan.43..

7. The service which the accused is allowed to reckon is 1 year 11 months

8. The accused is in possession of CVSM & Clasp

~~9. (If the accused is a warrant officer or NCO). The accused has served continuously, without reduction, to the present date.~~

STATEMENT AS TO SOLDIER'S CONDUCT AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Court-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
C120367	Pte	William George DESROSIERS	L EDMN R

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

* Strike out if not applicable

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

For .No entries on MFM 6..... ..... times

For .... times

For .... times

For .... times

2. ~~And I further state that the said [illegible] by a court martial or civil court, [illegible] should, accordingly.~~

3.* ~~The accused at the present time is under [illegible] for .....~~

~~[illegible] the ..... day of .....~~

4. The accused has been awaiting trial on the present charges for .nil days in civil custody; and for .89.. days in military custody, making a total of .89.... days of which ..nil. days were spent in hosp.

5. The present age of the accused is .21.years..

6. The date of his attestation is .11.Jan.43..

7. The service which the accused is allowed to reckon is .1 year 11 months.....

8. The accused is in possession of CVSM & Clasp

9. (If the accused is a warrant officer or NCO). The accused has served continuously, without reduction, to the present date -

	Date of Promotion
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Army Form B.296 (War)

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 25 day of Jan 45

" E L Boyd "

(E L Boyd) Capt & Adjt
THE LOYAL EDMN R.

EXHIBIT "A"

CERTIFICATE OF SURRENDER

Under Army Act Sec 163 (1) (i)

I, the undersigned certify that No. C120367 Pte DESROSIERS W.G. of Loyal Edmonton Regt, 1 Cdn Inf Div surrendered himself to No C11834 Cpl Sangster G.A. of No. 3 Cdn Provost Coy at Santarcangelo at 1900 hrs 28 Oct 44 as a soldier absent without leave/as a deserter.

" R P Earrinon " Capt

No 3 Cdn Provost Coy.

Signature of Officer into whose custody the soldier was taken upon surrender.

Orderly Room Stamp.

No.3 Provost COY
ORDERLY ROOM
FILE NO
C.A.A.F.

MFM 6
(AFB 122)
40/PAM/126 (2438)

No C120367 Name DESROSIERS William George | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 11-1-43 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				PREVIOUS SHEET DESTROYED AFTER SIX MONTHS SERVIE			11-7-43	nil cases of drunkenness " J S Woods " Lieut.	

CERTIFIED TRUE COPY
" E L Boyd "
(E L BOYD) Capt & Adjt
The L Edmn R

25 Jan 45.

(FTO)

SUMMARY OF EVIDENCE in the case of C120367 Pte William George DESROSIERS of the Loyal Edmonton Regiment, a soldier of the Canadian Army Overseas CMF

By Order of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS M31000 Sgt Powell H.O.W. of the Loyal Edmonton Regiment, having been duly sworn states:

I am M31000 Sgt Powell H.O.W. of The Loyal Edmonton Regiment. On 21st October 1944, I was acting Platoon Commander of 12 Pl 'B' Company. My platoon was under orders to proceed with the company to the banks of the SAVIO RIVER and to attack across it. At approx 2130 hrs it was reported to me by H17401 Pte Dalman A.E. who was acting my section leader of No 7 Section, that C120367 Pte Desrosiers W.G. whom I now recognize was absent from that section. Pte Desrosiers was absent from that platoon until he was returned under regimental police escort on 30 Oct 1944.

Questioned by officer taking Summary

Q Did you take the customary steps to see that all your men knew where they were going and why?

A Yes sir

Q Where were the platoon going and why?

A We were proceeding forward to cross the Savio River to attack the enemy positions there and secure a bridgehead.

Q At the time it was reported to you that Pte Desrosiers was absent was there any enemy fire?

A There was light enemy mortar fire and shell fire from approximately 2030 hrs until after the pl crossed the river.

The accused declines to cross examine this witness.

Signed (M31000 Sgt Powell) H.O.W.)

SECOND WITNESS H17401 Pte Dalman A.E. having been duly sworn states:

I am H17401 Pte Dalman A.E. of the Loyal Edmonton Regiment. On the 21st October 1944, I was acting Section Leader of No 7 Section 12 Platoon B Company The Loyal Edmonton Regiment. At approximately 2130 hours during the approach march to the Savio River I noted that C120367 Pte Desrosiers W.G. whom I now recognize was absent from my section. I reported the matter to M31000 Sgt Powell H.O.W., my platoon Sgt.

Questioned by the Officer taking Summary

Q Had you informed your section including Pte Desrosers of where the section was going and why?

A Yes sir

Q At the time you noted that Pte Desrosers was absent was there any enemy fire in the vicinity?

A Yes sir. We were under light shell fire and mortar fire.

The accused declines to cross examine this witness.

Signed (H17401 Pte Dalman A.E.)

THIRD WITNESS Lieut O. R. Browne, of the Loyal Edmonton Regiment having been duly sworn states:

I am Lieut O R Browne, acting Adjt of the Loyal Edmonton Regiment. I produce a document known as a certificate of Surrender purporting to be related to the case of C120367 Pte Desrossiers W.G. whom I now recognize. The certificate was read to the accused and marked as exhibit 'A'.

The accused declines to cross examine this witness.

Signed (O R Browne) Lieut.

The accused was cautioned as follows:

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement.

I certify that the foregoing Summary of Evidence consisting of four pages was taken down by me in the presence of the accused on 20th Nov 44 and that Rules of Procedure 4 (C)(D)(E)& (F)(G) have been complied with.

" J R Washburn " Capt
Officer taking Summary

In the Field
Date 20 Nov 44.

COUNTER NUMBER 548 434

HOUR 11.55

OPERATOR'S INITIALS MRJ

RELIEVING OPERATOR JR

NNW 44
GNR DEBRUISSEAUX L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-11541 Gnr DESRUISSEAUX, Leopold - 1 CARU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 40	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 133, and in lieu of kit see RP 44 fn b.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To forfeit all ordinary pay for a period of Thirty (30) days.

22 May/44 (Sgd) [illegible] President. (RP 45, 50.)

(Sgd) ..... Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I hereby direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 24 May 1944 (Sgd) [signature] A/Commanding "C" Group, Can Reinforcement Units. Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

D 11541 Gnr Desruisseaux, Leopold. 25 May 44 [signature] MAJOR, ADM OFFR 1 CARU

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 5 JUN 1944 C.M.R.O.

RECORD AT CMRO IN AB 160 NW-44

FIELD GENERAL COURT-MARTIAL (PAM (In lieu of AFA) 40 & 41 & 1950 (28864))

Convened by Order of Colonel B.R. Ker, E.D. A/Comd "C" Gp, CRU dated 22 May 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-11541	Gnr	Leopold	DESRUISSEAUX	1 CARU

PROCEEDINGS REVIEWED

[signature] Major
REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 22 May 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, ~~RP 13370~~ M.C.O. No 1)

A3. The Court is opened. The accused is ~~not~~, brought before the Court. ~~RP 13370~~ hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans.~~

~~The Interpreter is sworn.~~(1) Do you object to 20126 Sgt Lamb G.H. as shorthand writer? Ans. No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans. No, Sir

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JAs, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.L.	REDMAN	1 CARU
Member	Capt	F.H.	SELBY	1 VAD., 1 CCOD
Member	Lt	C.L.	ALDRIDGE	2 VAD., 1 CCOD
~~Judge-Advocate~~				
Prosecutor	Capt	H.A.	FARTHING	1 CARU
Defending Offr	Capt	J.D.	WISMER	1 CARU

Questions by President: Is the Prosecutor a lawyer? Ans. No. Is the Defending Offr a lawyer? Ans. No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Forms.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 27(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 27(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereupon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No, Sir.(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*) NOTE-ATT

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Yes, SIR. Do you intend to call witnesses on your behalf ? Ans NO SIR. Are they witnesses as to character only ? Ans .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AB5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(H).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)~~
~~Or, The President announces that the accused is found Not Guilty on all charges and so he is released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans NO SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are aware. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *AFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the statement(s) and Conduct Sheet, and in mitigation of punishment ?(1) Ans Pay Adj Offr - Nota Cdr.(2)
(1. *RP 27(C), 46(2).* 2. *Address, if unrecorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and also JA, if any~~.(2)
(1. *When several accused tried separately see RP 96(f). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 336, 563-566, Overseas AO 109, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(7), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused D-11541 Gunner Leopold DESRUISSEAUX, on the strength of "A" Wing, No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

First Charge
A.A. Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field, on or about 10Jan 44, was improperly in possession of a Ronson combination cigarette case and lighter, the property of Major R.D. Ramsay, RMRA, Second Canadian Infantry Division.

Bordon, Hants
13 May 44

(W.E. FLEURY) Lt.-Colonel,
Commanding Officer,
No. 1 Canadian Artillery Reinforcement Unit.
Canadian Army Overseas.

To be Tried by Field General Court Martial,

Colonel,
A/Commander "C" Group, Cdn Reinforcement Units.
(Convening Officer)

Bordon, Hants.
22 May 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA5) 40) PAM/1697 (2m68)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-11541	Gnr		Leopold	DESRUISSEAUX	1 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 22 May 44 endorsed by me, (~~that he be tried~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; ~~[illegible]~~
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~[illegible]~~
(*RP 104(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lieut-Colonel	D.L. Redman, V.D.		HQ CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	detailed by CO		1 CCOD
Lieutenant	detailed by CO		1 CCOD

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (*Country.*)

Date 22 May 44

(*Signed personally. RP 105 fn 2.*)

Colonel (*Rank.*)

Commanding "C" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

Medical Officers' Certificate
K.R. (Can) Para 557

I certify that I have this morning examined No. Gnr DESRUISSEAUX (Rank) (name)
of 1 C.A.R.D. and in my opinion he is fit to undergo
~~under~~ trial by Court Martial.

Station

Date

Sgd. ..... (Medical Officer)
R.C.A.M.C. Med. Off. 1 C.A.R.D.

CASE OF

D.11541 Gnr DESBRUISSEAUX L 1 CARU

D.3 -PROSECUTION-

FIRST WITNESS

I.41302 Gnr LAROSE O.G., HQ 2 Cdn Div RCA, having been duly sworn, states:

/which I bought from the accused

The cigarette lighter was a Ronson, cigarette case and lighter combined, with the thumb piece missing. The lighter also had the initials RDR engraved on it. This is the lighter.

RONSON COMBINATION CIGARETTE CASE AND LIGHTER OFFERED AND RECEIVED IN EVIDENCE AND MARKED EXHIBIT 1.

(Witness continues)

I traded a small storm lighter and gave $1 to boot for this lighter to the accused. This all happened around 20 Feb of this year, 1944.

Q. Where did you meet the accused?

A. I was taken on strength t the School of Arty at Seaford. I did not know him before that. The conversation between and surrounding the sale, I seen the lighter and proposed buying it as he wanted to sell it. He told me he had got it from a friend who had gone overseas.

Q. When was the first time you thought there might be something wrong with this lighter, that it might not have been the accused's in the first place?

A. Not until about 6-7 weeks ago, when I was told to report to Maj Ramsay at his office. He described the lighter to me and as a result of the conversation I left the lighter with him. Maj Ramsay convinced me it was his lighter.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(2).

SECOND WITNESS

Maj R.D. RAMSAY, RMRA, 2 Cdn Inf Div, having been duly sworn, states:

I recognize the accused. I first saw him at 1 CARU about the end of Sep 43 when he was detailed to perform batman duties for me. At that time I had just returned from a Staff Course and was on a week's leave and considerable kit had accumulated over a period of 3 years and I started to repack it, throwing some of it away and keeping other parts. My kit was not always locked and I was away for a couple of periods of 2-3 days at a time. An order came through to return to 2nd Div on the 9th and I had to do some hurried packing. I asked the accused to do my packing, as he was my batman at the time. I then went to 2 Div and about 2-3 weeks later my kit that I had left behind to be packed was picked up by an officer and brought to 2nd Div. About the 1 Jan 44 I was going through my kit again and noticed my cigarette case with lighter on it, was missing. It is a white metal case, chromium plated with my initials RDR on one side of it, and on the other side it was dented a bit, but had been fixed by a jeweller. On the top of the case the lighter was defective at the time. Exhibit 1 is my case, the one I am referring to. I asked various people around the Mess and the batman if they had seen it. The accused at that time was not at 2 Div, so I finally assumed that I had lost it or it had been taken from me and so I forgot about it entirely. About 10 Apr 44 I was going through my kit again with my batman and mentioned to him about this case I had lost, describing it, and a few days later he came to me and as a result

of what he told me I had Gnr Larose brought in and I talked with him, and Larose produced Exhibit 1, which I recognized as my own. I made arrangements with Larose that I would keep the case until the matter was investigated. Ithen reported to the 2nd Div Cdn Pro Coy and told them the facts, and it was left entirely in their hands. WHatever has happened since, the Provost have done. This case was given to me as a Christmas gift, Christmas 1942. I had not used it since approx Jan 1943, because it was defective. It is quite possible that I would not miss it at an early date from my kit.

Q. Were there any times when your kit was left lying around your room?
A. Yes, several, when I was away 2-3 days at a time.

Q. At that time when this kit was left around it could be possible for this cigarette lighter to be taken?
A. Yes.

CROSS-EXAMINED

Q. Did you get to know the accused during your short time at CARU?
A. He did help me with some packing, besides doing my laundry.

Q. You were 7 days in CARU?
A. Yes.

Q. You were in and out of CARU a lot?
A. Yes.

Q. Owing to the circumstances of your posting to 2nd Div and you had not enough time to pack your kit, and had left some of it behind, where was that kit?
A. In 2 suitcases.

Q. Would you have any reason to believe that the accused would know your first name?
A. No, I have no reason to believe that.

Q. Then he would hardly know your second name?
A. No, I should not think so.

Q. There isn't anything else you have discovered missing out of your kit?
A. There is a watch that is missing.

Q. What sort of a watch?
A. A G.S. watch with a luminous dial.

Q. Have you found that yet?
A. No.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THIRD WITNESS

R.85185 Cpl ABSCOTT, J.F., Cdn Provost Corps, AFM's Office, having been duly sworn, states:

I belong on the strength of the SIS Branch, AFM's Office, C.M.H. I recognize the accused. Due to a phone call from the CARU 2nd Div an investigator was sent from our office to interview the accused. On the 29 Apr I interviewed the accused at the Officer's Mess 1 CARU. I stated my reasons for interviewing him, gave him the usual warning which is the warning typed at the top of the statement form, used by us. Before anything I warned him verbally and from what knowledge I had of the affair I questioned him regarding this cigarette case and lighter combined, and after he had given me verbally a story of the affair I asked him if he would be willing to make a written statement which he agreed to do and which I took down. This statement was obtained from the accused voluntarily and without promise. This is the statement.

THE PRESIDENT INFORMED THE DEFENDING OFFICER THAT HE INTENDED TO ADMIT

THE STATEMENT IN EVIDENCE UNLESS THE DEFENDING OFFICER OBJECTED.

THE DEFENDING OFFICER STATED THAT HE HAD NO OBJECTION TO THE ADMISSION IN EVIDENCE OF THIS STATEMENT.

(Witness continues)

I saw the accused sign the warning and sign again at the end of his statement. THESE are his signatures and this is my ~~statement~~ SIGNATURE at the end of the statement.

THE PROSECUTOR STATED THAT THE EIGHT LINES STRUCK OUT ON THE SECOND PAGE OF THE STATEMENT WERE CROSSED OUT AND INITIALLED BY THE ACCUSED AS IT WAS CONSIDERED THAT THE SUBJECT MATTER WAS NOT RELEVANT TO THE ISSUE.

STATEMENT OFFERED AND RECEIVED IN EVIDENCE AND MARKED EXHIBIT 3.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

FOURTH WITNESS

Capt W.M. Mackay, No 1 CANU, having been duly sworn, states:

I recognize the accused. I was rooming in the same room with Maj Ramsay. The accused was acting as batman to to Maj Ramsay and myself. He never said anything to me about finding a cigarette lighter and case in the room of Maj Ramsay.

Q. Did the accused ever say anything to you about finding this cigarette case and lighter?
A. No, not a thing.

CROSS-EXAMINED

Q. How long have you know the accused?
A. 15 months or so. He was my batmen for 6-7 months. He was my batmen for several months before Maj Ramsay arrived. All the time he was working for me he had a key to all my personal belongings.

Q. Did you miss anything during that 7 months?
A. No, I never missed a thing, he looked after my personal effects very well. He did a first class job.

Q. Your memory could fail you about this mentioning a cigarette lighter and case?
A. Well hardly.

Q. While it could not be, still there is that off chance is there not.
A. Yes, there is.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE PROSECUTION IS CLOSED

D-5 -DEFENCE-

The accused, D.11541 Gnr DESBRUSSEAUX, 1 CANU, having been duly sworn, states:

Q. Will you tell the Court where you found the lighter and case, which is marked Exhibit 1.
A. I found it in a drawer in the bedroom where Maj Ramsay had lived.

Q. When did you find it?
A. After Maj Ramsay had gone.

Q. About the circumstances of your packing Maj Ramsay's gear, would you tell the Court about it.

A. Yes, Sir. There was a little bit of stuff left lying around the room, and an extra pair of shoes to be put in a pack. After all the stuff had been packed I put it down stairs at the front door. Shortly after that I was called by the Bdr there was an officer asking for Maj Ramsay's equipment. This officer said that Maj Ramsay had sent him to get his kit for him. He asked me to help him and I said certainly. Then I helped him put the stuff in the car he shook hands with me and gave me a 5 bob tip. Shortly after that I was warned by the Bdr to go up to Block 10, St Lucia barracks. A few days after I was there I was warned to go to some other place as a batman, that turned out to be the Seaford. Shortly after I was at the School of Arty I was talking to Gnr Larose and he asked me to trade a lighter with him. I asked him what kind of a lighter he had and he showed me the lighter. I told him the lighter I had was not much good as it was as the top piece was broken. He said he might possibly get it fixed and so he told me he would trade with me. I did not receive any money from him whatever.

Q. Where were youborn?

A. I was born in the province of Quebec. I got to Grade 9 in school, which is the first year in High School. I joined the Army in 1939 and I am 24 years of age at the present time. I have served with the 2nd Field Unit in the field as a driver and I drove the Defending Officer. I have been at 1 CARU since last July on account of the injury to my foot. I am not married.

CROSS-EXAMINED

Q. When you found this lighter in this drawer did you examine it?

A. Yes, Sir, I pressed on the button and the lighter did not work.

Q. Did you look at the lighter - did you see these initials on it at the time?

A. At the time, no, Sir, I just put it in my pocket at the time.

Q. Was it your lighter that you pulled out of the drawer and put in your pocket?

A. No, Sir

Q. Did you not realize it might belong to an officer who lived in that room?

A. I thought it might have been somebody's, somebody who had been in the room but had left it there because the spring was broken.

Q. Did that make the lighter yours?

A. No, Sir, but it was broken.

Q. Did you make any attempt to tell anyone?

A. I forget the shop's name I asked, I also asked a few officers. This was only a few hours before I was warned to go to Block 10.

Q. At the time you got the lighter did you make any attempt to talk to anyone about it?

A. No, Sir.

Q. Did you see anyone here today who you talked to about this lighter?

A. I am quite sure Sir, Capt McKay knew about the lighter.

Q. Did you talk to anyone about it at the time?

A. No, Sir.

Don't you know that anything you find in a bedroom that has been occupied by an officer, particularly your being that officer's batman, is not yours when you find it? Are there no NCOs in the Mess who you could take it to? Was there a Sjt in charge of the Mess at the time?

A. No.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE DEFENCE IS CLOSED

D-5 STATEMENT BY THE PROSECUTOR ON THE FINDING

We have traced the ownership of the lighter and case to Maj Ramsay of the Second Division. The accused admits having possession of this case and at the time he found the case, having made no attempt to try and find out to whom the case belonged. He simply put it in his pocket and on his own evidence traded the lighter for another lighter to his friend. The accused admits having illegal possession of this lighter and case. Under RP 13 therefore this particular case rests with the accused and the Defence has not brought forth any evidence to show that the accused gained this lighter and case legally. As a matter of fact the accused in his statement before the Court has quite apparently lied about his evidence in connection with Capt McKay. We have heard sworn evidence from Gnr Larose to the effect that he gave a lighter and $1 to the accused for this lighter and case.

THE DEFENDING OFFICER AT THIS POINT OBJECTED ON THE GROUNDS THAT THERE IS NO PROOF OF THIS AND THAT THE PROSECUTOR HAS NO RIGHT TO SAY THIS.

(PROSECUTOR CONTINUES)

In view of the accused vacillation we might also assume that the accused vacillated with this $1 which he received for the cigarette lighter and case. The Prosecution has proved their case that the accused was in illegal possession of this lighter and case and there has been no evidence to show that he had this lighter either with the knowledge or consent of its original owner.

STATEMENT BY THE DEFENDING OFFICER ON THE FINDING

The accused is charged with improper possession of Exhibit 1. We understand clearly the word possession but the word improper is a ma6 in this whole business. I am not so sure in my own mind even whether the proper man is in the dock today. I am inclined to think that the original owner of this case was somewhat neglectful. The accused was a batman for one of the witnesses here today for some 7 months. He had complete access to all that officer's kit, and nothing was ever missing and he had the opportunity to do with it what he wanted to do, yet he has been given a clean bill of health by that witness for a period of 7 months. Another officer comes into the room under whom the accused served a week. The officer in question is in about 6 places at once, and admits himself that he considered disposing of some of his kit. He finally leaves and packs some of the kit himself and leaves the balance of it to be turned in by the accused. Among other articles which are left in the room after Maj Ramsay leaves CANU is Exhibit 1, a broken dilapidated piece of salvage which in my own mind at looking at it, I would think that Maj Ramsay had left it there and did not want it, and admits in his evidence that he gave up using it in Jan 1943. The accused finds this in the drawer, it is initialled and the accused says he did not know who it belonged to. Supposing he did nknow whom it belonged to, which is a logical assumption - it was broken, left behind and he took it in the nature of salvage, and something that was unwanted and something which he might himself repair. Supposing he had turned it in to the Mess Sjt or to the Mess Secretary, then all I can say gentelemen is that this officer never would have received his lighter. One more point, and that is on the evidence which is here today, I feel that a court martial is sort of gilding the lily sort of business, and this is the sort of a matter which could have been handled in the Orderly Room. I don't think this is of such a serious nature that it calls for a court-martial. That is all.

PLEA IN MITIGATION E-3

In considering sentence I would ask the Court to take into consideration the past of the accused, as witnessed by his MFM 6, and the statement given in evidence by Capt Mckay whom he had served for 7 months, and for myself, the accused was my driver for a period of 6 months in the 2nd Field Rest RCA and I found him at all times reliable and willing. I would also draw the attention of the Court to the fact that he has already spent 13 days in close arrest. The action of Maj Ramsay in leaving this lighter and other parts of his kit not locked up after he had left the unit can only be described as being very careless. In addition, the lighter is defective and a person seeing it might be entitled to consider it had been abandoned.

Ex 2 MM

CANADIAN PROVOST CORPS

DATE April 27, 1944

SUBJECT:-

STATEMENT of Regt. No. D11541 Gnr. Desruisseau. L.
of 1 C.A.R.U. Taken at:- 1 C.A.R.U. Officers' Mess.
Employed at Quebec House

"I have been warned that I am not obliged to say anything unless I wish to do so, but anything I now say will be taken down in writing and may be given in evidence."

"To show that I understand the above warning, I make this statement voluntarily and sign my name herewith."

SIGNED:- L. Desruisseau

STATES:-

During the month of February I was employed as a batman to Capt McKay & Major Ramsay in the main building, room 11 Lanisburg officers mess. About this time Major Ramsay left & I was lead to believe he would be back in a couple of days. A few days after this Capt McKay came to me and stated he had received a message from major Ramsay requesting I pack up his kit ready to be shipped on to him. The same day I had received an order to move to 10 block which is an annex to Lanisburg officers mess. This I did. After doing this I returned again to Major Ramsays quarters packed his kit, tagged it with his name and then returned to block 10. The following day I again came back to instruct the new batman in his duties. It was during this I had occassion to open a drawer on a table in Major Ramsays room and there I found a Ronson combination case & lighter. I examined this article and found it to be my property. Later the same night I contacted Capt McKay, showed

Ex 2 MM

him the broken case & lighter, told him where I had found it and asked him what I should do with it. He stated "It no bloody good to me" so I kept it.

About a week or two later I was informed by the Sgt in charge of the batman that I was going to the School of Artillery course at Seaford, as a batman. I left the same day for Seaford where I took over the duties of a batman to an officer whose name I do not remember I was at Seaford 4 weeks. On the completion of the battle course after all the officers had left I remained behind in a work party to clean up the buildings.

[redacted]

The returned lighter & cigarette case I am same previously mentioned in my statement I have traded with a Dr Carmichael for a Japanese lighter which I still have in my possession. He was no money involved in this transaction.

I Carmichael

LIST OF WITNESSES

PROSECUTION

Major R.D. Ramsay	BMRA, Second Canadian Infantry Division
L-41382 Gnr. LaRose, C.G.	HQ, Second Canadian Division
Capt. W.M. Mackay	No. 1 Canadian Artillery Reinforcement Unit
Lieut. F.A. Reid	No. 1 Canadian Artillery Reinforcement Unit

DEFENCE

NIL

LIST OF EXHIBITS

"A" A Ronson combination cigarette case and lighter.
"B" Statement of Evidence by B-25125 Pte Arscott, J.F., Canadian Provost Corps, A.P.M.'s Office, C.M.H.Q.

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P. 14(B)

I, D-11541, Gnr. Desruisseaux, L., of No. 1 C.A.R.U., desire to have Capt. J.D. Wismer, of No. 1 C.A.R.U., to represent me at my trial by Court-Martial.

L. Desruisseaux

D-11541 Gnr Desruisseaux, L.

SUMMARY OF EVIDENCE in the case of D-11941 Gunner Leopold DESRUISSEAUX, Royal Canadian Artillery, on the strength of "A" Wing, No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the evidence is taken on Oath.

First Witness — Major R.D. Ramsay, M.C.A., Second Canadian Infantry Division, an Officer of the Canadian Army Overseas, having been duly sworn, states:

I am Major R.D. Ramsay, M.C.A., Second Canadian Infantry Division. About 1 Jan 44, while checking over my kit I found that a combination cigarette case and lighter made by Ronson was missing. I inquired from every one in my mess at the time if they had seen it, but on not getting any information about it and being unable to find it, I decided that I had lost it in the several moves I had made in the past, and gave no more thought to it. About 10 Apr 44 I was discussing with my batman the combination lighter and case which I had lost some time in the last six months, and I described it to him in detail; the fact that it had a lighter on top of the case, my initials on one side of the case, and had been dented and pushed out again on the other side. On the 13 Apr 44 my batman reported to me that Gnr. LaRose, a batman on strength HQ, MCA, Second Canadian Division, and in the possession a lighter which corresponded exactly to the one I had described. I immediately sent for LaRose and asked to see the cigarette case and lighter which he had. He showed it to me, and I identified it as being the case which had disappeared from my possession. I asked Gnr. LaRose where he got this case and he said that he got the case from Gnr. Desruisseaux when they were both batmen at the School of Artillery in January, 1944, and that he had given Desruisseaux another kind of lighter and $1.00 in exchange. On 23 Sep 43 I left Staff College at Camberley and proceeded to No. 1 C.A.R.U., Bordon, where I was put up in a room with Captain MacKay, and Gnr. Desruisseaux performed batman duties for me. Between 23 Sep and 1 Oct 43 I spent most of the time away from No. 1 C.A.R.U., with my kit left in Louisberg Mess. On 1 Oct 43 I proceeded to Larkhill to attend a course and returned to No. 1 C.A.R.U. on 8 Oct 43. During this time most of my kit was left in Louisberg Mess in the room assigned to me. On 1 Oct 43 I left No. 1 C.A.R.U. and proceeded to Second Canadian Infantry Division. Since Gnr. LaRose did not join this HQ until 6 Feb 44, and since I had noticed the loss of the lighter before he joined this HQ, and since on being challenged as to the possession of the lighter Gnr. LaRose immediately stated he had got it from Gnr. Desruisseaux, and since Desruisseaux had been my batman at No. 1 C.A.R.U. in October, I immediately assumed there was some truth in LaRose's statement and communicated the information to Second Canadian Infantry Division Provost Company. During the time I was at No. 1 C.A.R.U. my trunk and bags, which contained a considerable amount of my kit, were not always locked. The cigarette case was not used or carried by me during the time I was at No. 1 C.A.R.U., and if it was removed from the room assigned to me it was done by someone other than myself and without my knowledge or consent. When I called Gnr. LaRose in and asked to see his lighter and after he had shown it to me I told LaRose that I was going to keep the lighter until the matter had been investigated, and that he would hear from me about it later.

Question 1. Do you also ye keep your cigarette lighter in your trunk case, sir?

Answer 1. I do not know where it was kept, in one of the suitcases or in one of the trunks. For a period of two months before I went to Larkhill I did a lot of re-packing of my kit, and a very great deal of it was not on. He had no shelves in the room for part of that time and at times when I was not there the light also have been in a drawer or drawer.

[illegible] accused against to cross-examine this witness.

R. D. Ramsay Maj
Major R.D. Ramsay, M.C.A.

Second Witness

L-41392, Gnr. LaRose, O.G., Royal Canadian Artillery, on the strength of Second Canadian Division, R.C.A. H.Q., a soldier of the Canadian Army Overseas, having been duly sworn, states:

I am L-41392 Gnr LaRose, O.G., of Second Canadian Division, RCA HQ. On or about 14 Jan 44, I was on strength of the RCA School of Artillery, when at the a/m date I was approached by D-11141 Gnr. Desruisseaux, L., who offered to sell me a Ronson cigarette lighter and case. I offered to pay him $1.00 plus my stores cigarette lighter which he accepted. He gave me the cigarette lighter and case saying he had bought it from one of his friends. This transaction was witnessed by another Gunner who was also on strength of the RCA School of Artillery. At the time I bought the cigarette lighter and case from Gnr Desruisseaux he was a complete stranger to me and I have not seen him since, nor did I have any suspicion that I was buying stolen property.

Some few days ago I loaned my lighter to Gnr. Stuchbury, Major Ramsay's batman. About an hour after I had loaned him this lighter I was ordered to report to Major Ramsay, 2nd Can Div, RCA. Major Ramsay identified the lighter before I handed it to him, and I handed it to him because he had identified it correctly. When I gave Major Ramsay the lighter he informed me that he was going to keep it in safe keeping for me until it could be turned in to the military police.

The Accused declined to cross-examine this witness.

O.G. LaRose
L-41392 Gnr LaRose, O.G.

Third Witness

Captain William MacIntosh Mackay, on the strength of "C" Bty, No. 1 Canadian Artillery Reinforcement Unit, an Officer of the Canadian Army Overseas, having been duly sworn, states:

I have no knowledge of any lighter, apart from my own personal lighter, in the room formerly occupied by myself and Major Ramsay in East Louisberg Officers Mess.

Question 1. Did you ever see a lighter in the drawer of the table beside Major Ramsay's bed?

Answer 1. No. I have no recollection of seeing any lighter there.

Question 2. Do you remember that shortly after Major Ramsay left, I was transferred to Block 10, St. Lucia Barracks?

Answer 2. Yes.

W.M. Mackay Capt. RCA

Capt. W.M. Mackay

Fourth Witness

B-25125 Pte Arscott, J.F., Canadian Provost Corps, A.P.M.'s Office, C.R.U. A written statement of this witness's evidence, purporting to be signed by him has been read to the Accused and is included in this Summary of Evidence. Having regard to the exigiencies of the service attendance of this witness cannot in my opinion be readily procured. (Certificate marked Exhibit "B")

The Accused does not require the attendance of this witness for cross-examination.

.....
(F.A. Reid) Lieut., R.C.A.

The Accused was cautioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything, or to give evidence unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing, and may be given in evidence.

The Accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of 3 pages, and 2 Exhibits, was taken down by me in the presence and hearing of the Accused and that Rules of Procedure 4(c)(d)(e)(f) & (g) have been complied with.

Bordon, Hants,
21 May 44

.....
(H.A. Farthing) Capt., R.C.A.,
Officer detailed to take the
Summary of Evidence

M.F.M. 6
(A.F. H.122)
40/P & /5136 (2965)

No. D-11541 Name DESRUISSEAUX, L. Sqn., Battery, or Company — Corps R.C.A. — Date of enlistment 8 Sep 39 — G.C. Badges 1 — Service or Proficiency Pay n/a

Date of last entry in Company Conduct Sheet: Nil — No. and date of last drunk: Nil — Period not reckoning towards freedom from extra fine: n/a — Sheet No. 1 — Signature O.C. Company, etc.: ? — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Awarded one Good Conduct Badge eff 8 Sep 41 D.O. 236 1 CARU d/7 Oct 43					
Field	28 Dec 43	Gnr	1	(1) AA Sec 19 WOAS is charged with drunkenness. (First charge of drunkenness) (2) AA Sec 40 WOAS Conduct to the prejudice etc, causing a disturbance.	Capt Hoover Lt Chappelle G-7104 Gnr. L. P. Pelletier	(1) Admonished (2) 7 days C.B.	30 Dec 43	Major J. Vereker	

CERTIFIED TRUE COPY as of 21 May 44

(C.R. Ostrom) Major, R.C.A.
Administrative Officer,
No. 1 Canadian Artillery Reinforcement Unit.
(Officer having custody of Regimental Books)

(PTO)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-11541	Gunner	DESRUISSEAUX, Leopold	No. 1 C.A.R.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be answered to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Drunkenness 1 times.

For Conduct to the prejudice, etc. 1 times.

For ____ times.

For ____ times.

Date of first entry in Field Conduct Sheet 26 Dec 43

Date of last entry in Field Conduct Sheet 28 Dec 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*[illegible] Nil Nil

[illegible] Nil Nil

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 13 days in military custody, *i.e.*, Nil days in open arrest, 13 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 23 yrs, 11 mos

6. The date of his attestation is 8 Sep 39

7. The service which the accused is allowed to reckon is 4 yrs, 8 mos

Obtain the military decorations (if any) held by accused.

8. The accused is in possession of: C.V.S.M. & Clasp

[illegible] Nil

[illegible] Nil

[illegible] Nil

[illegible] Nil

[illegible] Nil

Ex B

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21714) W1.3672-666 100,000 4/42 S.& S.W.Ltd. Gp.A/8
(21459) R.1.25/20.1673 60,000 8/42 Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
N/A	N/A	N/A	N/A	N/A

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 22 day of May 44

G.W. Pritchard

(G.W. Pritchard) Capt. & Adj.,
Administrative Wing,
No. 1 Canadian Artillery Reinforcement Unit.

41-27

Cpl. Detachment - ME.

RECORDED AT CMHQ IN AB 102, 45271

RECEIVED

FIELD GENERAL COURT-MARTIAL

CFAB6 (In lieu of AF53)
40-P.M.S.1608 (2864)

Convened by Order of Brigadier T. S. Gibson Comd I.G.B.R.D. CMF dated 28 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F 28316	Corporal.	Marcel Eugene	Detcheverry	Gds Sec LHQ 2 Con Sec AAI

PROCEEDINGS REVIEWED 15 Dec 44

REVIEWING OFFICER, JAG CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 1 december 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2E-80

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AF5, for spells and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO(2).~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to an interpreter? Ans~~

~~The interpreter is sworn(1). Do you object to a shorthand writer? Ans~~

~~The shorthand writer is sworn(1)?~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	E. M. GILLOTT	RCOC 2 CDN INF BDE
Member	LIEUT	M. P. MENARD	R 22e R. 1 CDN I CORPS
Member	LIEUT	J. W. MALTBY	C. I. C. 2 CDN I CORPS
~~Judge Advocate~~			
Prosecutor	CAPT	C. O. MacINNIS	Can Inf Corps HQ 1 Cdn Corps
Defending Offr	LIEUT	W. K. Biggs	C-in-C's Gde 1 Cdn Corps

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See (2) p 3.)

A8. The accused before arraignment make(s) (no) (~~a~~) plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (G)), or as to the jurisdiction of the Court (RP 24, 25(A), 112), or to bar of trial (RP 26), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 496 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

M30

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F. 28316 Cpl. Detcheverry M.E. Edm Sec LHQ 2 Esch.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A II 15 (1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ (1) beginning on (date)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be reduced to the ranks

(Sgd) Judge-Advocate, if any. Date awarded. 1st December 44 (Sgd) President. E M Gillott Major RP 45, 50.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(1). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 52, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 1 Dec 44 (Sgd) A McUbrey Brig COMMANDER Commanding 1 CDN BASE RFT GROUP Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
F28316 Cpl DETCHEVERRY, ME	2 Dec 44	J. M. Johnston Capt

Camp Commandant
Canadian Section G.H.Q. 2nd Echelon

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (ii); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans N O (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 75(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes/do not change his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex 1, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (ii).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by completing with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and allowed on the charge(s), and disallowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character, or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans .....
Are they witnesses as to character only ? Ans .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf AP5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Notes the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 44, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(2), (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans no, but will call one witness as to my character.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 2 and Ex 3 respectively.(3)
(1. MFE 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or deal with anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566. Overseas RO 309, 2123, MML p 90, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 98(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

1 Dec 44
E.W. Gilbert

CHARGE SHEET

The accused, P-28316 Cpl Marcel Eugene DETCHEVERRY - Canadian Infantry Corps on strength of Canadian Section G.H.Q. 2nd Echelon, A.A.I., Cdn Army, C.M.P., is charged with:-

FIRST CHARGE
ARMY ACT
SEC 15(1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he

in the Field, Italy, did absent himself without leave from 1330 hrs 14 Nov 44 until 1900 hrs 23 Nov 44.

(Total absence 9 days, 5 hours, 30 minutes).

(V.E. Mills) Lt-Col
Acting offr i/c
Cdn Sec GHQ 2nd Echelon-AAI

IN THE FIELD
25 Nov 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(T.G. Gibson) Brig
Comd 1 Cdn Base Rft Gp
Cdn Army - CMF

In the Fd
In Italy
25 Nov 44

1 Dec 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.C6316	Cpl		Marcel Eugene	DETCHEVERRY	Cdn Sec GHQ 2 Sch AAI

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has ~~have~~ committed the offence~~s~~ set forth in the Charge Sheet~~s~~ attached and on (date) 28 Nov 44 endorsed by me, ~~(as by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~s~~ should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr;)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~s~~, and to consist of the Offrs appointed or detailed hereunder.

~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~I also appoint as Judge Advocate thereof the Offr mentioned hereunder~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.M. Gillett (RCOC)	2 Cdn HRTD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lieut to be detailed by the OC 1 Bn 1 CHRD		
Capt or Lieut to be detailed by the OC 2 Bn 1 CHRD		

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lieut to be detailed by the OC 5 Bn 2 CHRD		

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 28 Nov 44

(Signed personally. RP 105 fn 2.)
(E.G. Gibson)
Commanding 1 Cdn Base Rft Gp, Cdn Army - CMF
Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (Para 1(b) Secs 97 AFA1; 60, 71 A & S (CW) 1940)

1 Dec 44.

1 Dec 44

I hereby certify that F.28316 Marcel Eugene DETCHEVERRY is fit to undergo trial by ~~unfit~~ Field General Court Martial.

W.A. Robb Capt

(W.A. Robb) Capt
Medical Officer
Cdn Sec GHQ 2nd Echelon - AAI

E.1. Rehabilitation Centre C.R.

Capt O J Price. CIC having been duly sworn states.

When I joined CBH. three years ago. Cpl Dechesney was then a clerk in the B.O.R. He was always a hard and conscientious worker. I never at any time, heard him grumble about working at nights. On many occasions, I have asked him to type out summaries of Evidence for me. This he always did exceptionally well.

During the 3 years in which he was employed in the B.O.R. he became orderly room Sgt. Leave was always very hard to get with the battalion and particularly for the orderly room staff after we went in action. When leave was being granted to home. The orderly room staff were busy catching up on the work which had accumulated during our stay in the line. Such as Court. martial and documents. Consequently Sgt. Dechesney along with the other clerks in the B.O.R. did not get leave to home while he was with the unit.

AP 73 (6) has been complied with.

1 Dec 44

O J Price

PLEA FOR MITIGATION OF SENTENCE IN THE CASE OF
F28316 Cpl. DETCHEVERRY, ME

1 Dec 44

The accused is a Canadian citizen, married and has one child.

Previous to enlistment he has had 13 years of continous employment with the Dominion Coal Co, Glace Bay, N.S. For 10 years he was a company paymaster.

The accused enlisted in the Canadian Army on 4 Sep 39 previous to Canada's Official declaration of war. This is doubly important because at that time the accused was 29 years old and handicapped by the loss of two fingers--two facts which in the normal course of events would have precluded his being called up or conscripted into the Armd forces. This shows the accused to have been an exemplary citizen with a high sense of duty.

In the early days of the war the accused served with HQ, R.C.A. (Coastal Defence) as an orderly room NCO. He was not satisfied and volunteered to transfer to the CBH Regt for service overseas. This he accomplished in June 41 reverting from L/Bdr to Pte. In Oct 41 he left Canada with his unit, remained with it in England and came to Italy in Nov 43. His regiment saw acti n in the period from Jan to June 44 at which time the accused came to 2nd Echelon in a normal exchange of NCO personnel.

He had thus completed 3 continious years of service with his regiment accompanied by promotion to the rank of Sgt. In the face of such facts his regimental service must have been of a high standard which in turn suggests the individual as possessing better than average ability.

On ~~15 Aug~~ 4 Aug 44 the accused received news of the sudden death of his mother. The unexpected shock of his mother's death followed by difficulties of estate settlement at home caused him considerable worry and led unfortunately to excessive drinking. On 25 Sept 44 he was reduced to Corporal due to an offence under AA Sec 40. He was given encouragement to work to regain his third stripe which he hopefully did as evidenced by the fact that he did not reduce his assigned pay.

Marital relations of the accused are most happy. His wife & he exchange letters regularly and he receives parcels from her. He has from time to time sent varying amounts to her out of his restricted pay, the last remittance being for ten dollars on 7 Oct 44. He has no VD history. Can not the accused be justly proud of this record of loyalty to his family?

The accused does not seek to excuse his actions or minimize the seriousness of his offence. However due consideration should be given to the fact that the accused was present at 1100 hrs, 14 Nov 44 at the appointed place. It is only reasonable and fair to assume that at that time the accused had every intention of making the return trip to Avellino and, had not the party been unavoidably delayed, would have done so. For a soldier who is not fortified against the evils of strong drink the downfall of the accused appears almost to be a natural sequence of events. Subsequent to the 1100 hour parade he fell in with old friends on leave from his regiment. What is more natural than to sit down with them for a few drinks--and later in a mellowed mental condition succumb to their invitation to do the sights of Rome. Accused was then in possession of an unusually large amount of pocket money due to debts paid him while visiting his regiment . At 1900 hrs 23 Nov 44 accused returned from A.W.L., surrendering himself to his present unit.

As an NCO the accused realizes his offence takes on added seriousness but it is also noted that he was a clerical NCO only and never has had experience as a disciplinarian of men. He has been employed in an exacting an highly responsible job and one easily leading to nervous strain and fatigue

particularly during periods when his unit is in action. Furthermore there is nothing in the accused record to show depravity. There is no hint or trace of maliciousness, in effect the very opposite is true. 1 Dec 44 Def.

In passing sentence on the accused may the court give due and careful consideration to the following:

(1) His excellent record as a Canadian Citzen prior to enlistment.
(2) His early voluntary enlistment and subsequent reversion in rank to go overseas.
(3) His 3 years of satisfactory service with his regiment as a soldier and NCO.
(4) His fine family record saddened by his mother's death in ~~June~~ 44.

Will it not be a travesty of justice to return this soldier to civilian life, to his family and friends at the end of the war--now so nearly over--with a record of Imprisonment behind him--a record which time will not erase and which will doubtless deny him a return to his previous civilian job. The accused is a soldier fit to fight and a soldier willing to fight. Today more than ever before Canada needs such men. May this court give him the opportunity.

W K Biggs Lieut
Defence Counsel.

SUMMARY OF EVIDENCE 1 Dec 44

Ex 1

In the case of FR8316 Cpl DETCHEVERRY, M.E., CIC, of Cdn Sec GHQ 2nd Echelon, AAI, a soldier of the Canadian Army Overseas.

By direction of the Acting Officer i/c Cdn Sec GHQ 2nd Echelon, AAI, the evidence is taken on oath.

FIRST WITNESS

Lieut E.J. SHIMEK, Gen List, of Cdn Sec GHQ 2nd Echelon, AAI, having been duly sworn states:

"I am Lieut E.J. SHIMEK, Gen List, of Cdn Sec GHQ 2nd Echelon, AAI. I know FR8316 Cpl DETCHEVERRY, M.E. That is he." (Witness points to accused).

"I was in charge of a party of 2nd Echelon clerks proceeding to the forward areas to visit field units from 7 Nov 44 till 14 Nov 44. On the return journey on 13 Nov 44 I stopped the convoy just outside Rome. I made an announcement to the party. Cpl DETCHEVERRY was present at that time. I told the members of the party that they were all to meet at the Canada Club in Rome at 1100 hrs on 14 Nov 44. The following day, that is 14 Nov 44, I was unavoidably detained and arrived at the Canada Club at approximately 1130 hrs. At this time I notified QMS BRITTON and QMS GILL that the party would move off to continue the journey to Avellino, at 1330 hrs the same day. When I arrived at the Canada Club shortly before 1330 hrs I was informed by QMS GILL that Cpl DETCHEVERRY was absent. I instructed that the remainder of the party board the trucks and at approximately 1400 hrs I instructed QMS BRITTON and QMS GILL to make a search for Cpl DETCHEVERRY who had not put in an appearance. Approximately ten minutes later these two WOs reported to me that Cpl DETCHEVERRY could not be found. I then instructed that the roll be called. This was done and all personnel were accounted for with the exception of the accused. I personally visited the Provost station at the Canada Club but learned that the Provost personnel had no knowledge of Cpl DETCHEVERRY. I made a very short inspection of the Canada Club myself. I asked a Canadian soldier to enquire in the lavatories, etc, if there were any 2nd Echelon personnel there. He reported back that there were no 2nd Echelon personnel in the places he looked. I do not know who this soldier was. The convoy then moved off at approximately 1430 hrs. There were several stops between Rome and Avellino and each time the roll was called Cpl DETCHEVERRY was not present."

R.P. 83 (b) complied with.

Accused declines to cross-examine the witness.

E.J. Shimek

(E.J. SHIMEK) Lieut.

SECOND WITNESS

D81883 QMS GILL, W.B. CAC, of Cdn Sec GHQ 2nd Echelon, AAI, having been duly sworn states:

"I am D81883, QMS GILL, W.B., of Cdn Sec GHQ 2nd Echelon, AAI. I know F26316 Cpl DETCHEVERRI, M.E. That is he." (Witness points to accused).

"I was the W.O. i/c of a party of 56 Cdn Armd Div unit clerks of 2nd Echelon when they visited their field units 7 Nov 44 till 14 Nov 44. At approximately 1200 hrs, 14 Nov 44, at the Canada Club in Rome I was instructed by Lieut SHIMEK the officer i/c Party that the party would be moving off to continue the journey to Avellino at 1330 hrs that day. I informed all members of the party of this order. When I called the roll at approximately 1330 hrs Cpl DeTCHeVERRI was not present. I reported this to Lieut SHIMEK and he and I made enquiries of the other members of the party. No one reported any knowledge of the whereabouts of Cpl DeTCHeVERRI. I was then instructed by Lieut SHIMEK to start on the journey with the first trucks. This vehicle moved off at approximately 1400 hrs. I am sub-section supervisor of Records Sub-Section "D" in which Cpl DETCHEVERRI is employed. Cpl DeTCHeVERRI has not reported for work nor have I seen him since approximately 1200 hrs 14 Nov 44, until today."

R.P. 83 (b) complied with.

Accused declines to cross-examine the witness.

(W.B. GILL) QMS.

THIRD WITNESS

L48228, Sgt WELSHeRReR, F.V., CMSC, of Cdn Sec GHQ 2nd Echelon, AAI, having been duly sworn states:

"I am L48228 Sgt WELSHeRReR, F.V., of Cdn Sec GHQ 2nd Echelon, AAI. I know F26316 Cpl DETCHEVERRI, M.E. That is he." (Witness points to accused.).

"On the night of 23 Nov 44 I was Orderly Sergeant at Cdn Sec GHQ 2nd Echelon, AAI. At approximately 1900 hrs, Cpl DeTCHeVERRI reported to me in the Orderly Room stating that he was returning from absence without leave. I placed Cpl DeTCHeVERRI under open arrest. I took down his particulars and noted the time of his return as 1900 hrs on a slip of paper, which I gave to the Orderly Officer, Lieut LAUGHLIN. I was instructed by Lieut LAUGHLIN to locate Cpl DeTCHeVERRI and place him under close arrest. This I did. I turned Cpl DeTCHeVERRI over to the Guard Commander.

R.P. 83 (b) complied with.

Accused declines to cross-examine this witness.

(F.V. WELSHeRReR) Sgt.

E.M.9

The accused was then cautioned as follows:
"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The accused declines to make any statement.

I hereby certify that R.P. 4 (c), (d) (e) and (f) and R.P. 83 (b) have been complied with.

The above three pages of summary of evidence were taken down by me in the presence of the accused in writing this 24th day of November, 1948.

[redacted] Capt.,
General List
Officer Taking Summary.

Ex 2. EWR 1 Dec 44

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F.28316	Cpl	DETCHEVERRY, M.E.	Cdn Sec GHQ 2nd Echelon AAI

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers hereon stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15 (1) 2 times.

For A.A. Sec 40 1 times.

For ____ ____ times.

For ____ ____ times.

Date of first entry in Field Conduct Sheet 15 November 42

Date of last entry in Field Conduct Sheet 25 September 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for Nil

beginning on the ____ day of ____

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 7 days in military custody, *i.e.*, Nil days in open arrest, 7 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is thirty four years, 120 days

6. The date of his attestation is 4 September 39

7. The service which the accused is allowed to reckon is N/A

8. The accused is in possession of† CVSM&Clasp

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date— Reduced to the rank of Cpl 26 September 44 from A/Sgt.

Date of Promotion.

In the substantive rank of ____ ____

In the war substantive rank of Cpl 25 Oct 42

In the acting rank of Cpl 22 Jul 42

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

W1 56960/1502 20,000 3/44 51-4751. Forms/B.296/War/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 27th day of November 44

Camp Commandant
Canadian Section G.H.Q. 2nd Echelon

Ex 3 MFM 6 (AFD 122) 40/PAM/186 (3428)

NP. 28316 Name DETCHEVERRY, M. Sqn, Battery, or Company — Corps INF — Date of enlistment 4.9.39 — GC Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY (SGD) J.H. Flandeary Capt					
Field	15.11 42			AA Sec 15(1) A.W.L. from 2300 hrs 15 Nov until 1331 hrs 16 Nov 42 Absent 14 hrs, 31 mins	Cpl Collins Cpl Kebguk		17 Nov 42		Forf 1 days pay FRAI 149 (1)(a)
Field, Italy 25 Sep 44		Sgt		AA SEC 40 CONDUCT TO THE PREJ.	RSM Hinchsliff	Reduced to . Sgt Redmond Cpl	26 Sep 44	Major VW Wills	
Field, Italy 25 Sep 44		Sgt		AA SEC 15(1) AWL from 0330 hrs 25 Sep 44 till 1100 hrs 25 Sep 44 (Time absent 2 hrs, 30 mins)	RSM Hinchsliff CSM Gill WB				
				CERTIFIED TRUE COPY OF ORIGINAL MFM 6					
				G. M. G. Johnstone, Major (GMG Johnstone) Major Camp Commandant Cdn Sec GHQ 2nd Echelon - A A I					

(PTO)

1 Dec 44

25 Nov 44

I wish to have an officer defend me at my trial by Field General Court Martial.

If available I wish the services of Captain A K Gale, of 1 Bn, 1 Cdn Base Rft Depot.

M. E. Ditchevarry

P.28316 Cpl DETCHEVERRY, M.E.

1832 D. F. DeKlerk, L. D.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 15th day of October, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 1st Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[illegible]

*[illegible]

*[illegible]

*[illegible]

[illegible]

President.

Rank.	Name.	Regiment.
Major	F.B. Bowman,	5 Fd Amb., RCAMC

Members.

Rank.	Name.	Regiment.
Capt.	H.L. Handford,	9 Fd Amb., RCAMC
Lieut.	A.E.N. Prichard,	3 Fd Coy., RCE
Lieut.	E.F. Hersey,	1 Cdn Div Sigs.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (G.R.Pearkes) Major-General
Commanding 1st Canadian Division.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C.5261 Tpr. DETLOR, L.D. 4 Recce Bn(PLDG)	1st Charge A.A. Sec 15(1)	Guilty	Guilty	I confirm the
	2nd Charge A.A. Sec 19	Not Guilty	Not Guilty	finding of the
	3rd Charge A.A. Sec 15(1)	Guilty	Guilty	Court but mitigate
	4th Charge A.A. Sec 40	Guilty	Guilty	the sentence to
	5th Charge A.A. Sec 40	Guilty	Guilty	six months detention
	6th Charge A.A. Sec 40		Stoppage £1-14-6½	& stoppage of £1-14-6½
	7th Charge A.A. Sec 40		365 days Detention	G.R.P. Maj Gen 1 Cdn Div. 27 Oct 41
			22 Oct 41 D.B.B. Maj	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) G.R. Pearkes (G.R. Pearkes, Major-General) *Commanding* 1 Cdn Div. *Confirming Officer (e)*

(Signed) D.B. Bowman, Maj 5 Field Ambulance RCAMC *President.*

(a) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings

I certify that the above Court assembled on the 22 day of October 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~3. The interpreter~~
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 22 day of October 1941

F.B. Bowman, Maj
President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (b) on page 764 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~

Signed this 27 day of October 1941.

G.R. Pearkes, Maj Gen
Confirming Officer.

Promulgated and extracts taken in the case of C.5261 Tpr. Detlor L.D.

(a) (Dated) 31 Oct 41 (Signed) [illegible] Capt Adjt 4 CDN. RECCE. BN. (4.P.L.D.G.)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused No. C5261 Tpr Detlor, L. D., 4 Cdn Recce Bn (4 P.L.D.G.), a soldier of the Canadian Army, is charged with whilst on active service:-

1st Charge
A.A.Sec.15(1) ABSENTING HIMSELF WITHOUT LEAVE (WHILE CONFINED TO BARRACKS)

in that he in the field did absent himself without leave from defaulters' parade at 2000 hrs 7 Sep 41

2nd Charge
A.A.Sec.19 DRUNKENNESS

in that he in the field on 7 Sep 41, when confined to barracks, was drunk

3rd Charge
A.A.Sec.15(1) ABSENTING HIMSELF WITHOUT LEAVE (WHILE UNDER CLOSE ARREST)

in that he in the field did absent himself without leave from 0900 hrs 8 Sep 41 to 0015 hrs 16 Sep 41 thereby incurring escort's expenses for apprehension and return from Liverpool in the sum of £1-14-6½

4th Charge
A.A.Sec.40 CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he at Liverpool on 16 Sep 41 was in possession of a document purporting to be a genuine leave pass knowing it not to be genuine

5th Charge
A.A.Sec.40 CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he in the field on or about 16 Sep 41 made false entries in a pay book , M.B. M.1.

(L. D. Adams) Major,
(Comd., 4 Cdn Recce Bn (4 P.L.D.G.)

A

Trial of No. C5621 Tpr Detlor, L.D. 4 Cdn Recce Bn (4 P.L.D.G)

Prosecutor - Lieut. W. F. Johnston
4 Cdn Recce Bn (4 P.L.D.G.)

Defending Officer - Lieut. H.C. Phillips
4 Cdn Recce Bn (4 P.L.D.G.)

The Court satisfy themselves that Capt. Handford H.L. 9 Cdn Fd Amb. is not available to serve owing to his being returned to his unit.

Lieut. E.F.Hersey, 1 Cdn Div Sigs. waiting member takes his place as a member of the Court.

1st Witness for the Prosecution

No. B67866 L/Cpl Boston, T.A. (sworn) states:-
4 Cdn Recce Bn (4 P.L.D.G.)

I am L/Cpl Boston T.A. B67866. I was on duty on the 7th of Sep 41, when I saw Tpr Detlor at approx. 9000 hrs and in my opinion he had been drinking.
Q. On what facts do you base this opinion?
A. I smelt his breath when he was in the Orderly Room leaning over my shoulder. When he came in he was with Tpr Wright and was walking and talking in a normal manner.

Witness questioned by defence-
Q. Had you given him a duty would he have been able to carry it out?
A. Yes.

2nd Witness for the Prosecution

No. A4054 Sgt Mahar, G.L. (sworn) states:-
4 Cdn Recce Bn (4 P.L.D.G.)

I am Sgt Mahar, G.L. A4054 I was on duty the night of Sep 7 1941. at A Sqn. I saw the accused at approx 2130 hrs In my opinion he was drunk. The reason for this opinion is that I smelt liquor on his breath and he was staggering. He was talking in a normal way and was not not acting in a violent manner.
Q. If you had given him a duty to perform could he have done it?
A. No

3rd Witness for the Prosecution

Lieut. K.E. Richardson, 4 Cdn Recce Bn (4 P.L.D.G.) (sworn) states:-
I Lieut. Richardson, was Duty Officer on the night of Sep 7 1941. and during my tour of duty was called to the Guard Room where I saw Tpr Detlor. By his manner and speech I considered him to be drunk.
Q. Were you called over by Tpr Detlor?
A. No.I was called to witness his condition.

Q. What made you think he was drunk by his manner?
A. He broke down and cried.

Q. Did you see him walking?
A. No.

Q. Did you smell his breath?
A. Yes, while I was talking to him.

Q. Did he admit drunkenness?
A. No.

Q. You base your decision on how he talked and acted?
A. Yes.

Witness questioned by defence-

CROSS EXAMINATION FOR THE PROSECUTION

Q. Had you received any call during the night?
A. No.

Q. In your opinion when you were talking to Tpr Detlor, had you given him a duty to perform could he have done it?
A. That depends on the type of duty, for his mind was not functioning properly.

Q. Were you talking to the Guard Commander?
A. No, I was talking to the Sn O Sgt.

Q. Did you mention the prisoner's condition?
A. No. I saw no necessity to at the time.

4th Witness for the Prosecution

C17582 Sgt Monzillo, V.E., 4 Cdn Recce Bn (4 P.L.D.G.)
(sworn) states:- I am Sgt Monzillo, V.E. I was on duty as the Guard Commander the night of Sep 7 1941. The accused was brought in as a prisoner. I smelt his breath and he had been drinking but was not drunk as he was walking in a normal manner and also talking in a normal manner. He asked to see the Orderly Officer in order to prove that he was not drunk.

Q. At what time did you see Tpr Detlor that evening?
A. Between 2200 and 2300 hrs.

Q. Did he act in an orderly manner?
A. Yes.

Q. Did the Orderly Officer come to see Tpr Detlor?
A. Yes.

Q. Did he make any statement as to his condition?
A. Yes. He said that he was not drunk.

Q. Where did you speak to Lieut. Richardson?
A. Outside the Guard Room.

Q. Was Tpr Detlor there?
A. Yes.

Q. Did Tpr Detlor break down and cry?
A. Yes.

Q. In your opinion does a man break down and cry while in a normal condition?
A. He was upset and mad and men in this condition often break down.

9th Witness for the Prosecution

5th Witness for the Prosecution

C30709 L/Cpl Leonard, D., 4 Cdn Recce Bn (4 P.L.D.G.)
(sworn) states:- I L/Cpl Leonard, was on duty as Guard Cpl the night of Sep 7 1941, when between 2100 and 2300 hrs Tpr. Detlor was brought in. In my opinion he was not drunk but had been drinking as he was in a joyful mood XX for he was singing. He was talking normally but I did not see him walking.

Q. Did you see the accused crying?
A. No.

Q. Did you see the Orderly Officer at the Guard Room?
A. Yes

Q. Did Tpr Detlor ask for him?
A. Yes.

Q. Did he give any reason for wanting to see the Orderly Officer?
A. No.

Q. Was Tpr Detlor in a fit condition to carry out any duty you might have given him that evening?
A. Yes.

Accused makes no statement.

Accused calls no witnesses.

Defending Officer makes folloing statement:

On the charge of drunkiness all N.C.Os. who had been in contact with the accused agree that he was in a fit condition to carry out any duties which they might have given him, with the exception of Sgt Mahar.

The Orderly Officer admits that he might have been able to preform duty.

Sgt Mahar's opinion was based on strict discipline and as he himself is a light drinker I believe this must have influenced his evidence.

Prosecuting Officer makes statement as follows:

Of the evidence of five witnesses each are certain accused had been drinking alcoholic liquor. Two of the witnesses were ofthe opinion that the accused was drunk when seen by them and gave reasons for their opinion. They were Lieut. Richardson and Sgt Mahar. In the case of Lieut. Richardson he was of the opinion accused could not have preformed duties given him.

The 1st 4th and 5th witnesses were of the opinion that the accused was not drunk. Their evidence introducing considerable amount of doubt as to his guilt. Sgt Monzillo and L/Cpl Leonard both heard accused ask for the Orderly Officer after he was placed in their custody

I have presented all the evidence I intend to present and leave it in the hands of the Court.

No evidence of character submitted.

The accused declines to make statement.

Defending Officer makes following statement:

Sir, with reference to the charges read Tpr Detlor has been in my troop as a carrier driver and took a great interest in his carrier. He was always up to that time ready for duty and any duty given him was performed willingly. In my opinion Tpr Detlor would be easily led and the trouble he is now in is the result of more of an escapade than a wilful attempt to do a deliberate wrong. In finding sentence I also wish the court to take into consideration the fact that Tpr Detlor has done 36 days under close arrest. During this time he has performed any duties given him, in a willing manner. The Provost Staff and the Guard Room Staff have not been given any trouble by the prisoner. He was also on the BUMPER scheme performing any duties given him while under ~~MINOR~~ escort. When taken into custody he may possibly have been given some duties which were not legally authorized but all of these duties have been carried out in a satisfactory manner.

Prosecuting Officer questions Defending Officer:

In your statement as to the accused being easily led, was he led into this escapade by someone else?

A. No. I based my opinion on my observations, such as fights when he did not force his opinion such as is the usual case, with other fellows.

APPLICATION FOR F.G.C.M. - 4 CDN RECCE BN (4 P.L.D.G.)

C 5621 Tpr Detlor, L. D.

A 3840 Tpr Wright, B. C.

EXHIBITS

A - Leave Pass made out to 4070 Pte Hamilton and bearing the name of W.G.Darling
B - Leave Pass made out to A4070 Pte Hamilton and bearing the name of W.W.G.Darling
C - Leave Pass made out to C7204 Pte Brown and bearing the name of W. G. Darling
D - Leave Pass made out to C5621 Tpr Detlor, L. D. and bearing the name of W. W. G. Darling.

E - M.B. M.1 Pt II made out in the name of C5621 Tpr Detlor, L. D.

EXHIBIT P

...n calling-out of the whole Army Reserve is ordered every soldier on pass ...must return immediately to his unit without waiting for instructions.

No. 1/81 Regiment 4th Recce Bn. 4. P.L.D.G.

Army Form B295
(In pads of 100)

PASS

No. C5621 (Rank) Tpr. (Name) Dettor L.D.

has permission to be absent from his †quarters/duty, from

8/9/41 to 15/9/41

for the purpose of proceeding to* Bradford.

(Station) Ficket

W.W.G. Darley.
Commanding
O.C. A Sqn.

(Date) 8/9/41

[P.T.O.

* Destination not required unless allowance is to exceed 24 hours, unless authorization is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.
† Delete whichever is not applicable.

CROWN COPYRIGHT RESERVED

EXHIBIT C

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. 1160 Regiment RPE

Army Form 1250
(In pads of 100)

PASS

No. C/1204 (Rank) PTE. (Name) Brown

has permission to be absent from his †quarters/duty, from

8/9/41 to 15/9/41

for the purpose of proceeding to* Bradford

(Station) Field W J Darlow

Commanding

(Date) 8/9/41

(P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless notification to desirable owing to local conditions or is necessary to enable purchase of a full ticket at reduced rate.

† Delete whichever is not applicable.

CROWN COPYRIGHT RESERVED

EXHIBIT B

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. 1179 Regiment R. C. R.

Army Form B2265
(In pads of 100)

PASS

No. 44070 (Rank) Pte. (Name) Hamilton

has permission to be absent from his †quarters/duty, from

8/9/41 to 16/9/41

for the purpose of proceeding to* Edinburgh

(Station) Field

W. W. H. Darling.
Commanding

(Date) 8/9/41

[illegible]

* Destination, not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.
† Delete whichever is not applicable.

CROWN COPYRIGHT RESERVED

EXHIBIT A

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. 1159 Regiment R.C.R.

Army Form B235
(In pads of 100)

PASS

No. 4970 (Rank) Pte. (Name) Hamilton

has permission to be absent from his †quarters/duty, from

8/9/41 to 15/7/41

for the purpose of proceeding to* Bradford

(Station) Field W. G. Darling
Commanding

(Date) 7/7/41 [illegible] P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless permission is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced rate.

† Delete whichever is not applicable.

CROWN COPYRIGHT RESERVED

MILITIA BOOK M. 1

Part II

70M—9-39 (2072)
(H.Q. 1772-39-1671)

Ex Lieut C

CANADIAN MILITIA

Soldier's Pay Book

(For use on Active Service)

Number C562

Surname (Capitals) [illegible]

Christian Names in full [illegible]

Unit [illegible]

1. If a soldier desires any information, in connection with his pay or particulars of any entry shown in his Pay Book he should make reference in all cases to his Paymaster.

2. If the address of next-of-kin, i.e., wife, father, mother, etc., has been changed, since he enlisted, the soldier should immediately notify such change to his Paymaster, and have the new particulars noted by that Officer on page 4 of this Book. In the same way any change of assignment should be noted thereon.

Lansdowne Walk.
Kla. Row. Y/A
Worcester
9na Lwr.

"If this book is found NOT in possession of the soldier and it cannot be returned immediately to the Paymaster of his unit, it is to be forwarded at once as indicated below:—

IN CANADA: To the
Chief Paymaster,
Department of National Defence,
Ottawa.

ABROAD: To the
Chief Paymaster,
Canadian Overseas Intermediate Base.

(Location)

IN THE FIELD: To the
Paymaster,
Canadian Overseas Base."

Date	Particulars	Credits	Cash Payments and Other Charges		Assigned Pay
			Local Currency	Canad'n Currency	
	Totals Br't Forward				
	Totals Carr'd Forward				

7. Dependents allowance, payable to:

(Relationship)

Original unit in which enlisted:
HASTINGS AND PRINCE EDWARD

Regimental Depot:
PICTON ONTARIO

Unit in field:

Regimental Number:
C 5221

Name in full (surname first):
DETLOR
LLOYD DENNIS

Date of Attestation:
15/3/40

CASUALTIES AFFECTING DAILY RATE OF PAY AND ALLOWANCES

Date of Order	Particulars	Part II Order	Unit	Signature of Officer

Deferred Pay	BALANCE		Signature of Paymaster or Officer Issuing Award
	Debit	Credit	

Date	Particulars	Credits	Cash Payments and Other Charges		Assigned Pay
			Local Currency	Canad'n Currency	
	Totals Br't Forward				

Soldier's Signature Lloyd D. Dalton

Book opens on ..... Balance Cr. or Dr. $ SAME

Paymaster B.F.O.A.

Date	Particulars	Credits	Cash Payments and Other Charges		Assigned Pay	Deferred Pay	BALANCE		Signature of Paymaster or Officer making Awards
			Local Currency	Canad'n Currency			Debit	Credit	
10-6-41	Bal	27							
July	Pay	40 50			20 00				
15-7-41	AR 22	53		13 71					
27-7-41	AR 21	44		6 71					
Aug	Pay	40 50			20 00				
14-8-41	AR 33	4 50		15 65					
17-8-41	AR 37	4 50		2 24					
	Totals Carried Forward								

32

Date	Particulars	Credits	Cash Payments and Other Charges		Assigned Pay	Deferred Pay	BALANCE		Signature of Paymaster or Officer making Award
			Local Currency	Canad'n Currency			Debit	Credit	
	Totals Br't Forward								
	Totals Carr'd Forward								

9

Deferred Pay	BALANCE		Signature of Paymaster or Officer making Award
	Debit	Credit	
			Blackie
		17 93	B Blackie
		6 52	
	19		
		30 11	
		7 76	
		2 22	

Date	Particulars	Credits	Cash Payments and Other Charges		Assigned Pay	Deferred Pay	BALANCE		Signature of Paymaster or Officer making Award
			Local Currency	Canad'n Currency			Debit	Credit	
	Totals Br't Forward								
	Totals Carr'd Forward								

APPLICATION FOR F.G.C.M. - 4 CDN RECCE BN (4 P.L.D.G.)

C5621 Tpr Detlor, L. D.

A3840 Tpr Wright, G. C.

To the President 22 Oct 41

MEDICAL OFFICER'S CERTIFICATE

I CERTIFY that No. C5621 Tpr Detlor, L.D.(4 P.L.D.G.) 4 Cdn Recce Bn Regiment

is* fit to undergo trial by Court-Martial.

Signature of the Medical Officer W.W. MacKinnon Capt R.C.A.M.C.

* Insert "fit" or "unfit."

(a) Here insert name of :—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence (R.P. 19 (B) (iii)).

(b) To be filled in if there has been a Court of Inquiry respecting any matters connected with the charges ; otherwise to be struck out (R.P. 19 (B) (iii)).

(c) To be filled in by the Commanding Officer.

(d) Any items not applicable to be struck out.

(e) One copy to be sent to the President ; one copy to be filed with the application for trial.

(f) Original summary of evidence to be sent to the President.

(g) 3, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.

(h) 5 and 8 to be sent to the President.

If the accused has elected to be tried under A.A. 40 (8) the fact should be recorded at the top of this form.

(1) (68) W.L.2205/316 20,000 8/41 A.& E.W.Ltd. Gp.A/98
(1) (58) W.L.42720/751 125,000 1/40 " " Forms/3119/16

F.G.C.M. - 4 Cdn Recce Bn (4 P.L.D.G.) - Service of Accused

C5621 Tpr Detlor, L. D.

Date of Attestation - 18 Mar 40

Age - 24

Period spent in military custody under close arrest - from 2130 hrs 7 Sep 41 to 0900 hrs 8 Sep 41 (11 hrs, 30 min) and from 0015 hrs 16 Sep 41 to 0900 hrs 22 Oct 41 (36 days, 8 hrs, 45 min)

Military Rewards and Military Decorations to which accused is entitled - Nil

(Certified Correct according to unit records:

(J. B. Lawson) Capt.,
Adjt., 4 Cdn Recce Bn (4 P.L.D.G.)

APPLICATION FOR F.G.C.M. - 4 CDN RECCE BN (4 P.L.D.G.)

A3840 Tpr Wright, G. C.
C 5621 Tpr Detlor, L. D.

I desire to have Lieut. H. C. Phillips, 4 Cdn Recce Bn (4 P.L.D.G.) assigned to represent me at my trial

L.D. Detlor
G.C. Wright.

Original sheet lost

No. 05621 Name DEVLIN L.D. Sqn. Battery or Company A Sqn Corps 4 Cdn Recce Bn (4 F.L.D.C.) Date of enlistment T.O.S. 6 Feb 41 Badges Service or Proficiency Pay Character

Signature O.C. Company, etc. W.W.G. Darling Major

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25 Jun 41	Tpr		W.O.A.S. Being in possession of a V.V. Vehicle without proper authority.	Cpl Vincent L/Cpl McKaig	18 days F.P. 18 days pay	27 Jan 41	W.W.G.Darling Major	
London	16 Jul 41	Tpr		(1) Drunk and disorderly (2) Assault-by striking Wm. Bingham (3) Wilful damage to private property.	Civil Offence	Fined £2.16.00	16 Jul 41	certified by W.W.G. Darling Major	
Field	22 Aug 41	Tpr	1	W.O.A.S. A.W.L. from 2300hrs 22 Aug 41 until 2230hrs 24 Aug 41	Cpl Mintz	2 days pay 14 days C.B.	25 Aug 41	W.W.G. Darling Major	

Certified a true and exact copy from unit records

(W. B. Lawson) Capt., Adjt., 4 Cdn Recce Bn (4 F.L.D.C.

(P.T.O.)

SUMMARY OF EVIDENCE in the case of

No. A3840 Tpr Wright, G. C.
No. C5621 Tpr Detlor, L. D.
of the 4 Cdn Recce Bn (4 P.L.D.G.)

By direction of the C.O. the evidence is taken on oath.

1st Witness for the Prosecution

No. B87866 L/Cpl Boston, T. A. (sworn) states:-
4 Cdn Recce Bn (4 P.L.D.G.)

At 1900 hrs the two accused answered defaulters parade and went back to their job of fatigues. A phone call came from the Bn Orderly Room about three quarters of an hour later, stating that Detlor and Wright were in Edenbridge and that they were drunk. I reported to Sgt Maharand then went back to the Orderly Room. Later on in the same evening Sgt Mahar and the two prisoners came in to the Orderly Room to report. It was apparent to me that Tpr Detlor and Tpw Wright had been drinking. Sgt Mahar then took the prisoners out.

The accused No A3840 Tpr Wright, G. C. declines to cross-examine the witness.

The accused No. C5621 Tpr Detlor, L. D. declines to cross-examine the witness.

L/Cpl T Boston

2nd Witness for the Prosecution

A4054 Sgt Mahar, G. L., 4 Cdn Recce Bn (4 P.L.D.G.) (sworn) states:- On 7 Sep 41 I was told to keep my eye on the defaulters and to see that they were kept busy. On checking up, L/Cpl Boston, Acting Orderly Sgt, reported to me that he had received a message from Bn Orderly Room saying that two defaulters, Tpr Detlor and Tpr Wright were down in Edenbridge and were coming right up. This message was received at 1945 hrs from the Orderly Officer. I waited until the defaulters reported at 2130 hrs. In reporting to me, they were drunk, so I placed them under close arrest and took them to the Guard Room. They should have reported at 2000 hrs because they were defaulters; it is a Sqn Order that defaulters will report to the Orderly Sgt every hour until 2200 hrs.

Cross-examined by the accused A3840 Tpr Wright, G.C.:

Q. At what stage is a man drunk?
A. When a man comes to me, staggering all over the place, with a smell of liquor on his breath, and talking a great deal, I would say he was drunk.

The accused C5621 Tpr Detlor, L.D., declines to cross-exam the witness.

A. L. Mahar Sgt

rd Witness for he Prosecution

Lieut. K. E. Richardson, 4 Cdn Recce Bn (4 P.L.D.G.) (sworn) states: I saw Wright and Detlor in the Guard House between 2030 and 2100 hrs on 7 Sep 41 and was speaking to them outside of the Guard House. In my opinion they were in a drunken condition.

The accused C5621 Tpr Detlor declines to cross-examine the witness.

The accused No. A3840 Tpr Wright, M. G. C., cross-examines the witness:

Q. At what stage do you consider a man drunk?
A. When a man is not acting normally I consider that he is drunk.

K E Richardson Lieut

4th Witness for the prosecution

G17522 Sgt Monzillo, V. E., 4 Cdn Recce Bn (4 P.L.D.G.) (sworn) states: On the night of 7 Sep 41 I was guard commander and between 2200 hrs and 2300 hrs Sgt Mahar from A Sqn brought Tpr Wright and Tpr Detlor to the Guard Room and placed them in my charge. I, in turn, turned them over to L/Cpl Alford of the Regimental Police at 0800 hrs on 8 Sep 41. These two men were not drunk but had been drinking when they reported to me between 2200 and 2300 hrs 7 Sep 41.

Q. by Offr taking Summary: Did you inform L/Cpl Alford that these two men were prisoners?
A. Yes. He signed the guard report and I told him taht there were five prisoners and told him who they were and what Sqns they came from.

The accused, A3840 Tpr Wright, G. C. and C5621 Tpr Detlor L.D., decline to cross-examine the witness.

Sgt V E Monzillo

5th Witness for the prosecution

C30705 L/Cpl Leonard, D., 4 Cdn Recce Bn (4 P.L.D.G.) (sworn) states:-On the night of 7 Sep 41 I was guard Cpl, staying at the Guard Room. Between the hours of 2130 and 2230 Tpr Wright and Tpr Detlor were brought in to the guard room. The next morning at 0800 hrs these two men were handed by Sgt Monzillo to L/Cpl Alford.

The accused, A3840 Tpr Wright, G.C., and C5621 Tpr Detlor, L.D., decline to cross-examine the witness.

D Leonard

6th Witness for the Prosecution

K52707 L/Cpl Alford, S. D. 4 Cdn Recce Bn (4 P.L.D.G.) (sworn) states: On 8 Sep 41 I took over the Guard Room at 0800 hrs from Sgt Monzillo. After I had taken over I ordered Tps Chute and Sims to sweep the floor. I then opened the back door of the guard room with a stick of wood as there

CERTIFIED that this allonge shows a true and exact copy of the evidence taken in proper sequence from the ~~six~~ 7th Witness for the Prosecution in the Summary of Evidence in the case of No.A3840 Tpr Wright, G. C. and No.C5621 Tpr Detlor, L. D., forms part of said Summary, and was taken down by me in the presence and hearing of the accused this 24th day of September 1941, in the field.

(J. B. Lawson) Capt.,
4 Cdn Recce Bn (4 P.L.D.G.)

7th Witness for the Prosecution

K52819 Sgt Janes, J. S. G. 4 Cdn Recce Bn (4 P.L.D.G.)

(sworn) states: At about 0805 hrs on 8 Sep 41 I entered the Bn Guard Room and saw Tpr Detlor and Tpr Wright. I asked them what they were there for and they answered: "For breaking open arrest". I left the Guard Room at 0815 hrs leaving in charge L/Cpl Alford. I had to attend a clothing parade. I returned at 0900 hrs and was informed by L/Cpl Alford that Tpr Detlor and Tpr Wright had escaped a few minutes previously through the back door and had gone through the bush. I then reported the escape to the Orderly Room and instituted a search of the bush and highways surrounding the camp but could find no trace of Tprs Detlor and Wright. I next saw the prisoners on Thursday, 18 Sep 41 when they were escorted to the Guard Room from the Redhill Reception Camp.

Question by Officer taking the Summary: How was it possible for Tpr Wright and Tpr Detlor to escape from the Guard Room?

A. The back door being unlocked it was possible for the prisoners to step out of the door and into the bush.

The accused, A3840 Tpr Wright, G. C. and C5621 Tpr Detlor, L.D., decline to cross-examine the witness.

J. S. Janes

was no door knob on the back door. I did this to let the dust out of the guard room while they were sweeping the floor. Tprs Detlor and Wright were standing near the back door. I went up to the front door and sat down on the bench. At approximately 0857 hrs I looked around and saw Tprs Detlor and Wright down at the far end of the Guard Room near the back door. I looked up again at approximately 0900 hrs and found that they had gone. I immediately reported the matter to L/Cpl Reid and a search was started but we failed to find the prisoners.

The accused, A3840 Tpr Wright, G. C. and C5621 Tpr Detlor, L. D., decline to cross-examine the witness.

Capt Adjt 4 Cdn Recce Bn

8th Witness for the Prosecution

L/Cpl Wood, W. T., C.M.Police West Lancs Area
A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in the Summary of Evidence.

Having regard to the loss of time involved the attendance of this witness cannot in my opinion be readily procured.

(J. B. Lawson) Capt and Adjt.,
4 Cdn Recce Bn (4 P.L.D.G.)

The accused, A3840 Tpr Wright, G. C., does not demand the attendance of this witness for cross-examination.

The accused C5621 Tpr Detlor, L. D., does not demand the attendance of this witness for cross-examination.

Capt Adjt 4 Cdn Recce Bn

9th Witness for the Prosecution

L/Cpl Feather, G., C.M.Police West Lancs Area
A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in the Summary of Evidence.

Having regard to the loss of time involved the attendance of this witness cannot in my opinion be readily procured.

(J. B. Lawson) Capt. and Adjt.
4 Cdn Recce Bn (4 P.L.D.G.)

10th Witness for the Prosecution

Maj. W.W.G.Darling, 4 Cdn Recce Bn (4 P.L.D.G.) (sworn)
I have examined exhibits A, B, C, and D, being passes made out in the names of Tprs Detlor, Brown and Hamilton. I notice that the signature is "W.W.G.Darling" and "W.G.Darling". These are not my signatures and I do not recognize the writing.

The accused, Tprs Wright and Detlor decline to cross-examine the witness.

W.W.G.Darling Major

The accused, T C5621 Tpr Detlor, L. D., having been duly cautioned in accordance with R.P.4(E) reserves his defence.

The accused, A3840 Tpr Wright, G. C., having been duly cautioned in accordance with R.P.4(E) reserves his defence.

Certified that R.P.4(C)(D)(E)(F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 24th day of September 1941, in the field.

(J. B. Lawson) Capt.,
4 Cdn Recce Bn (4 P.L.D.G.)

The Summary of Evidence is continued on 7th Day of October 1941 and the further evidence is entered on Page 5 of this Summary.

(J. B. Wood) Capt.,
4 Cdn Recce Bn (4 P.L.D.G.)

11th Witness for the Prosecution

Lt-Col. H. T. Goodeve, Paymaster Canadian Troops

A written statement of this witness's evidence purporting to be dictated by him and signed for him has been read to the accused and is included in the summary of evidence.

Having regard to the loss of time involved the attendance of this witness cannot in my opinion be readily procured.

J.N.Wood

(J. N. Wood) Capt. and Adjt.,
4 Cdn Recce Bn (4 P.L.D.G.)

12th Witness for the Prosecution

Lieut. A. Hawthorne, R.C.A.P.C., Unit Paymaster 4 Cdn Recce Bn (4 P.L.D.G.), (sworn) states:-
The Pay Book M.B. M.1 (Part II) shown to me purported to be the accused's was not issued by me and none of the entries therein were made by me and I have no knowledge as to how it came into his possession.

A. Hawthorne Lt

The accused having been duly cautioned in accordance with R.P. 4(E) elects to make a statement:

The accused No. C5621 Tpr Detlor, L. D., 4 Cdn Recce Bn (4 P.L.D.G.) states:
I falsified the paybook for purposes of identification. I had no intention of using it to obtain money.

L D Detlor

Certified that Rs.P. 4(C)(D)(E)(F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused [redacted] this 7th Day of October 1941, in the Field.

J.N.Wood

(J. N. Wood) Capt. and Adjt.,
4 Cdn Recce Bn (4 P.L.D.G.)

211 A Pte. Dexter L. D.
" Reece Bn. (P.P.C.L.)

10/D/348

32 [illegible]

5

Correspondence to be PINNED here.

a.d.j.a.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 18th day of February, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 1st Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

~~*(a Commanding Officer)~~
~~*(Officers to form the Court)~~
~~*(A Field Officer as President)~~
~~*(Three Officers having more than one year's service)~~

~~*(The following names substituted)~~

President.

Rank.	Name.	Regiment.
Major	A. Bentley	1 Cdn Div Amn Coy

Members.

Rank.	Name.	Regiment.
Capt.	D.M. Legate	9 Cdn Fd Amb
Lieut.	J.A. Quinn	Sask L.I. (MG)
Lieut.	H.P. Marshall	R.C.A.P.C.

* Must be signed Waiting by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed G.R. Pearkes
(G.R. Pearkes) Major-General
Commanding 1st Canadian Division
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C.5621 Pte. Detlor, L.D. 1 Cdn Div Recce Bn	Army Act Sec. 19 GDF	Guilty	Guilty	I confirm the finding of the Court but mitigate the sentence to 32 days F.P. and 56 days forfeiture of pay. G.R. Pearkes Maj Gen GOC 1 Cdn Div
	Army Act Sec. 40 GDF	Not Guilty	Guilty	
	(see charge sheet attached)		56 Days Field Punishment with Forfeiture of Pay	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) G.R. Pearkes (Signed) A.B. Bentley Major
(G.R. Pearkes) Major General 1 Cdn Div Recce Regt RCAC
Commanding 1st Cdn Div *Officer* (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be FINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 5th day of March 1941 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

* Omit if not applicable.

were duly sworn.

Signed this 5th day of March 1941.

A.B. Bentley Major
President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (*i*) on page 702 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

(I direct that the soldier named in the margin be not committed to prison until further orders.)

Signed this 8th day of March 1941.

G.R. Pearkes Maj Gen
Confirming Officer. GOC 1 Cdn Div

Promulgated and extracts taken in the case of accused

(*a*) (Dated) 14 Mar 41 (Signed) H. Pte GSI

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

44733 W. 4019—8/41 30M 1/41 J.B. G. 540

CHARGE against No C 5621 Rank Private. Name Detlor, L.D.

Place Field Date 14 Feb 41

CHARGE

A.A. Sec 19.

While on Active Service Drunkenness.

Witnesses

Cpl. Jack, R.B.
Pte. Lalonde, W.G.
Sgt. Dixon, H.

Punishment Awarded

Remanded for Field General Court Martial.

By whom Awarded

Date of Award 17 Feb 41

CHARGE against No. C 5621 Rank Pte Name Detlor, L.D.

Place Field Date of Offence 14 Feb 41.

CHARGE

A.A. Sec 40

While on Active Service Conduct to the prejudice of good order and military discipline, in that he did, without permission, use a W.D. vehicle for other than military purposes.

Witnesses

Sgt. Dixon, H.
Spl. Jack, R.B.
Pte. Lalonde, W.G.

Punishment Awarded Remanded for Field General Court Martial.

By whom Awarded

Date of Award 17 Feb 41

PROCEEDINGS OF A F.G.C.M.

In The Case Of

C.5621 Pte. DETLOR, L.D.
1 Cdn Recce Bn

The accused is questioned by the President of the Court:-

Q. Have you any objection to being tried by any of the officers of this Court?
A. No sir.

The Charges are read to the accused:-

1st Charge A.A.19. While On Active Service on 14 Feb 41 drunkenness.

The accused pleads guilty to the first charge.

2nd Charge A.A.40. While On Active Service on 14 Feb 41 conduct to the prejudice of good order and military discipline in that he, without permission, did use a W.D. vehicle for other than military purposes.

The accused pleads not guilty to the second charge.

THE CASE FOR THE PROSECUTION

1st WITNESS For The Prosecution B.75751 Corporal Jack, R.B., 1 Cdn. Recce. Bn., having been duly sworn, states:

Questioned by the Prosecuting Officer:-

Q. Will you tell the Court what happened on the afternoon of 14 Feb 41?
A. At approximately 1545 hrs. on 14 Feb 41, I was in charge of the billet guard. I was looking out the orderly room window and I noticed Pte. Detlor sitting on a machine. Pte. Lalonde was on guard at that time. We went to the yard to see what was the trouble. I told Pte. Lalonde to put Pte. Detlor off the machine, and returned to the orderly room in order to report the matter to Sgt. Dixon and obtain help. Before I could get to see Sgt. Dixon or anyone Pte. Lalonde came in to the orderly room and told me that Pte. Detlor had made off with the machine. I found Sgt. Dixon, reported the matter to him and we set out after Pte. Detlor. He was sitting in the middle of a road. As we came up to him we stopped the truck. I got out of the truck and ordered Detlor off the machine.

Q. When you went out into the yard did you speak to the accused?
A. No sir.

Q. You saw him with the machine?
A. Yes sir.

Q. Can you point out the accused?
A. Yes sir. (Accused is pointed out by the witness)

Questioned by the Defending Officer:-

Q. You came out of the Orderly Room. How far is the Orderly Room from the machine?
A. About 35 feet.

1st WITNESS For The Prosecution (Continued)

Q. You state you told a private to tell a private to get off the machine?
A. Yes sir.

Q. How long was it afterwards that you were told that Detlor had taken the machine?
A. Less than a minute sir.

Q. When you went out into the yard was the motor bike running?
A. No sir.

Q. How many men were there by the motor bike including yourself?
A. All the men that I could see were Pte. Lalonde and Pte. Detlor sir.

Q. Did you give any order to have this man placed under arrest?
A. No sir.

Q. What was the man doing when you saw him on the motor bike?
A. He was arguing with Pte. Lalonde sir.

Q. Had he attempted to take the motor bike?
A. I don't know sir.

2nd WITNESS For The Prosecution

C.40761 Sergeant DIXON, Troop Sergeant of the 1 Cdn. Recce. Sqn., having been duly sworn, states:-

Questioned by the Prosecuting Officer:-

Q. Do you recognize the accused?
A. I recognize the accused as Pte. Detlor.

Q. Will you tell us what happened on the afternoon of 14 Feb?
A. I got a report about 1745 hrs. from the guard corporal that a machine had been stolen. The owner of the machine reported it at the same time. I got the Corporal of the guard to go with me in one of the trucks and we caught up with the accused about three-quarters of a mile or a mile from Redhill. His machine was stalled and he was trying to get it going.

Questioned by the Defending Officer:-

Q. What time were you informed that this motor bike was stolen?
A. About 1735 or 1745 hrs.

Q. How far away from the motor bike were you?
A. In the orderly room about 25 yards away sir.

Q. Were there any other of the guard in that house at that time?
A. There were other members of the guard there sir.

Q. Did you hear a direct order being given to this man not to take this motor bike?
A. No sir.

3rd WITNESS For The PROSECUTION

C.40821 Pte. LALONDE, W.G., 1 Cdn. Recce Bn., having been duly sworn, states:-

Questioned by the Prosecuting Officer:-

Q. What were you doing on the afternoon of 14 Feb 41 and do you recognize the accused?
A. I was on picquet duty guarding our machines. I recognize the accused, Pte. Detlor.

3rd WITNESS For The Prosecution (Continued)

Q. You state you were on guard on 14 Feb 41?
A. Yes sir.

Q. Did you see the accused on or near a vehicle during your tour of duty?
A. He was on a motorcycle sir, between 1715 and 1745 hrs.

Q. Did you see the accused drive away with that vehicle?
A. Yes sir.

Q. Did you leave your post to go to Redhill and search for the vehicle?
A. No sir.

Questioned by the Defending Officer:-

Q. Did you order the accused off the motor bike?
A. I asked him for the machine. I said, "You can't go out with that machine".

Q. You went in to the guard house to report to the guard corporal that he wouldn't get off the motor bike?
A. Yes sir.

Q. While you were in the guard house Detlor took the motor bike?
A. No sir.

Q. Where were you when he took the motor bike?
A. About ten feet from him sir.

Q. Was there anyone else around within call?
A. Not outside those who were in the house sir.

Q. Did the corporal give you a definite order to stop Pte. Detlor from taking the motor bike?
A. He did. He said, "Stop him".

Questioned by the Court:-

Q. Is it customary to have work orders to leave the vehicle park?
A. This machine was not ours sir, but had just come in in charge of the corporal and was going out again. All vehicles leaving our park should have a work order.

Q. When you say you tried to stop Pte. Detlor at the time, did he say anything to you?
A. He told me to get away.

Q. Did Pte. Detlor take the machine by force?
A. It wasn't exactly fighting sir.

Q. What is your equipment on picquet?
A. Carrying arms without bayonets.

Q. Are you a roving picquet?
A. Yes sir.

Q. Did you threaten force to get the accused off the machine?
A. I thought my best threat was to get the corporal.

Q. Was the accused violent at all?
A. He was angered but not to a fighting state.

WITNESS The Prosecution RECALLED

C.40761 Sergeant DIXON, having been recalled, states:

Questioned by the Prosecuting Officer:-

Q. Is Pte. Detlor a member of your Troop?
A. He was then sir.

Q. Was he on duty that afternoon?
A. No sir.

Q. In other words he was not detailed for duty with his own machine?
A. No sir.

The Case For The Prosecution is closed.

THE CASE FOR THE DEFENCE

1st WITNESS For The Defence

C.4463 L/Corporal Candler, R.C.H., 1 Cdn. Recce. Bn., having been duly sworn, states:-

Questioned by the Defending Officer:-

Q. Would you state where you were on 14 Feb 41 at approximately 1545 hrs.?
A. I was just pulling into the yard of our billet in a truck.

Q. The motorcycles are parked there?
A. There was one there.

Q. Did you see and were you at the place where this one motor bike was when Pte. Detlor took this motor bike out?
A. Yes sir. [illegible] the guard?

Q. Did the guard ask you to arrest him?
A. There was no conversation between the guard and myself whatsoever.

Q. Did you see the guard corporal or the guard sergeant?
A. No sir.

Q. Did you hear Pte. Detlor given any order not to take the motor bike out?
A. No sir.

Questioned by the Prosecuting Officer:-

Q. Do you recognize the accused?
A. Yes sir.

Q. Did you see him take the motor bike that day?
A. No sir, I only saw him on it.

Q. You had left the place where you saw him on the motor bike prior to his alleged having taken it?
A. Yes I had.

2nd WITNESS For The Defence

R.75751 Corporal JACK, R.B., having been recalled, states:

Questioned by the Defending Officer:-

2nd WITNESS For The Prosecution RECALLED

C.40761 Sergeant DIXON, having been recalled, states:

Questioned by the Prosecuting Officer:-

Q. Is Pte. Detlor a member of your Troop?
A. He was then sir.

Q. Was he on duty that afternoon?
A. No sir.

Q. In other words he was not detailed for duty with his own machine?
A. No sir.

The Case For The Prosecution is closed.

THE CASE FOR THE DEFENCE

1st WITNESS For The Defence

C.4463 L/Corporal Candler, R.S.H., 1 Cdn. Recce. Bn., having been duly sworn, states:-

Questioned by the Defending Officer:-

Q. Would you state where you were on 14 Feb 41 at approximately 1545 hrs.?
A. I was just pulling into the yard of our billet in a truck.

Q. The motorcycles are parked there?
A. There was one there.

Q. Did you see and were you at the place where this one motor bike was when Pte. Detlor took this motor bike out?
A. Yes sir.

Q. Did you see the guard?
A. Yes sir.

Q. Did the guard ask you to arrest him?
A. There was no conversation between the guard and myself whatsoever.

Q. Did you see the guard corporal or the guard sergeant?
A. No sir.

Q. Did you hear Pte. Detlor given any order not to take the motor bike out?
A. No sir.

Questioned by the Prosecuting Officer:-

Q. Do you recognize the accused?
A. Yes sir.

Q. Did you see him take the motor bike that day?
A. No sir, I only saw him on it.

Q. You had left the place where you saw him on the motor bike prior to his alleged having taken it?
A. Yes I had.

2nd WITNESS For The Defence

B.75751 Corporal JACK, R.B., having been recalled, states:

Questioned by the Defending Officer:-

2nd WITNESS For The Defence (Continued)

Q. What time did you see Pte. Detlor talking to Pte. Lalonde?
A. I had no watch sir but I would judge the time to be about a quarter to five. I was working in the M.T. Shed and I had just come back into the orderly room.

The Case for the Defence is closed.

The Prosecuting Officer makes his closing address:-

Gentlemen:

The accused pleaded guilty to the first charge and in considering the evidence of the second charge, I would draw your attention to A.A. Chapter III Section 19(48) which states that drunkenness often has to be considered in relation to greater offences which it accompanies. It is a principle of English Law that, "Drunkenness is no excuse for crime". I would further draw your attention to Chapter VII(6) which states, "The general rule is that a person is responsible for the natural consequences of his acts, etc," and to Chapter VII(9) which states that, "Temporary intoxication which alcoholism may bring on is not in itself any excuse for crime".

In view, therefore, of the evidence brought forward on the second charge, the Prosecution leaves it to you, gentlemen, to decide the gravity of this second offence.

The Defending Officer makes his closing address:-

The accused has pleaded guilty to the first charge, a charge of simple drunkenness. In regards to the second charge there were within calling distance, a corporal and a sergeant and also a lance-corporal that had got out of the truck. The accused, being drunk, received no help from his comrades, no help from the guard, no help from anyone in any way. He was not placed under close arrest for being drunk and didn't even get their support in any fashion. Admittedly, under Army Law or any law, drunkenness is no excuse for any offence, but I believe it goes on to state that it should be used and at the discretion of any Court, to use that to reduce the punishment when the charge of drunkenness is proven. This man, as I believe his record will prove, had just come out of serving 18 days for a first offence. He received ten shillings and went into town, had a few too many drinks, and came back to his Unit where he is in the habit of riding a motor bike. Any person in a habit, when they lose their senses, generally do the thing that they are in the habit of doing. Therefore, this man went and did the one thing that is his everyday job -- a motor bike. A motor bike that was supposed to be guarded to stop anyone from taking it out. It was guarded by the guard whom we have already questioned. The guard left to ask for and call for help.

The accused elects to make a statement not under oath:-

I was in 18 days and never had anything to drink so I went down and I met an officer and he bought me three double scotches and we had quite a bit of wine and beer to drink. Somebody gave me a drink of surgical spirits and it made me lose my head.

The Court is cleared and the Court deliberates.

The Court is re-assembled.

The Defence has no character evidence to offer but a certified true copy of Pte. Detlor's Conduct Sheet (MFM6) is produced.

The Court is closed.

SUMMARY OF EVIDENCE in the case of

C 5621 Pte. Detlor, L.D.

a soldier of 1 CANADIAN DIVISION RECONNAISSANCE BATTALION.

1st Witness. B 75751 Cpl. Jack, R.B.

On the afternoon of 14 Feb 41, standing in billets looking out of the Orderly Room window I noticed Pte. Detlor sitting on a machine arguing with Pte. Lalonde who was on Guard Duty at the time. I walked outside the billets and asked Pte. Lalonde what was the matter and Pte. Lalonde told me that Pte. Detlor was trying to steal the machine. I told Pte. Lalonde to put Pte. Detlor off of the machine and stop him from taking it. I went back into the Orderly Room to report the matter to the Sergeant.

Shortly after I went into the Orderly Room Pte. Lalonde rushed into the room and said that Pte. Detlor had stolen the machine, and that he had been unable to stop him.

Sgt. Dixon and I traced Pte. Detlor to one mile this side of Redhill where we found him stalled in the middle of the road.

Sgt. Dixon stopped the truck. I got out and walked over to the machine and told Pte. Detlor to get off. Pte. Detlor got off the machine and fell on the road, and threatened to strike me if I took the machine. After I got the machine away from Pte. Detlor I rode it about 100 yards down the road where it ran out of gas. Sgt. Dixon took him and tried to put him on the truck. He was unable to do so and called four men to his assistance. They lifted Pte. Detlor onto the truck where he lost consiousness.

I reported the matter to Sqn HQ and Lieut. Hepburn and myself returned to billets to pick Pte. Detlor up and take him to Sqn HQ under Major Darling's orders.

I looked for Pte. Detlor in the billets and found him in his room. He was drunk and unable to get up. I reported the matter to Lieut. Hepburn, and he gave me permission to leave Pte. Detlor at the billets, with orders to put a pair of handcuffs on him if he started to fight again.

Cpl. R.B. Jack.

There were no questions.

2nd Witness.

C 40761 Sgt. Dixon, H.

The first that I knew about it was when the Guard Commander reported to me at about 1745 hours that a machine had been taken by Pte. Detlor. The Driver of the motorcycle came in and reported it himself at that time. I then took the Guard Cpl with myself in a truck and went looking for him.

We caught up with him stalled on the road about a mile or three-quarters of a mile from Redhill. When I pulled up behind him he was trying to start the machine. I got Cpl. Jack out with myselfand told him to get off the machine. Cpl. Jack took the machine and started back to billets, I then noticed that Pte. Detlor was really drunk. I asked him to get on the truck but he would not. There were some soldiers passing by so I detailed a couple of them and loaded him on the back of the truck, and took him back to the billets. By that time he had passed out on the back of the truck.

I then detailed a Cpl and two men to carry him in and told the Cpl to put him under close arrest as soon as he woke up.

Sgt H. Dixon

There were no questions.

3rd Witness. C 40821 Pte. Lalonde, W.G.

On that night Pte. Detlor was on the motorcycle I came over to stop him from going out on the machine. Cpl. Jack had seen me talking to him and came out and made signs to me to stop the machine. I did that three times and then decided it was no use and went in to report to the Cpl and get more help to take him off of the machine, because Pte. Detlor was intoxicated and I would not have been able to handle him.

After I had reported that I returned outside. When I got within about 10 or 12 feet he got started and went down the road. I reported that to Cpl. Jack, he and Sgt. Dixon started out with a truck to catch up.

Pte. Detlor was dead drunk, lying on the bottom of the truck, when brought back.

I was helping take him upstairs, after taking him out of the truck, and he collapsed and we had to carry him into the room.

W. G. Lalonde

Question:

How many men were there when I was supposed to be on the machine?

Pte. Lalonde:

I was the only one at the machine and did not notice anyone but Cpl. Jack when he came out of the Orderly Room door.

C 5621 Pte. Detlor, L.D. (The accused)

Do you wish to make any statement, or give evidence upon oath? You are not obliged to say anything, or give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

Accused.

The only thing that I have to say is that I do not remember taking the machine.

I just got out of the Glass-house for practically the same offence and if I had known what I was doing I would not have done it.

L. D. Detlor

Certified that the Rules of Procedure 4 (C)(D)(E) and (F) have been complied with.

Taken down in the presence and hearing of the accused, this 17 day of February, 1941.

W. Hawley Capt.
Officer Taking Summary.

1 DA/5-4

6 MAR 41

Court Martial Officer,
1 Cdn. Div.

CUSTODY
C.6621 Pte. DETLOR, L.D.

Pte. Detlor has been in custody since his arrest on 14 FEB 41, approximately 1800 hours.

(A. BENTLEY) Major,
Officer Commanding,
1 Cdn.Div.Amn.Coy. RCASC.

h

Army Form B.122

6. C 6621 Name HETLOR, L H Sqn., Battv., or Company Corps 2nd A & P.E.R. Date of enlistment Sheet No.

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Riders | Long Service and G.C. Pay | Signature (C.O. Company, etc.)

Place	Date of offence	Rank	Cause of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	25/1/41	Pte		X O.A.S. Conduct to prejudice to good order of military discipline in that he used a military vehicle for his own purposes.	Sgt. Dixon	18 days F.P. + 18 days forfeited K.R.& I. 1149(1)(a)	27/1/41	CO	~~Awaiting trial~~

[P.T.O.

22 Feb 41.

Courts Martial Officer,
1 Cdn Div.

I, Pte. Detlor, L.D., wish to have Capt. Nethery, (Hast & PER) represent me at the trial.

signed L.D. Detlor Pte.

Certified true copy.

W.N. Hovey

W.N. Hovey, Capt.

4Y-10.

Pte. Datlen, L.D.

RECORDED AT CMHQ IN AB 160 4/4-10

FIELD GENERAL COURT-MARTIAL

CFA96 (To issue of AFA211 40/P & S/1898 1/45)

4/3681

Convened by Order of Lt Col J J Flynn DSO Comd 4 Cdn Fd Wksp RCEME Dated 12 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit
C 5621	Pte	Lloyd Dennis	Dutton	4 Cdn Fd Wksp RCEME

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Italy on (*date*) 14 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~Pl. Officer~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns KOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~and~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accessed is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 0915 hours trial commences.(1)

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by a court-martial instead of being dealt with summarily by the CO.~~

(1. KR Con 557. 2. AA 46(E), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~the interpreter or shorthand~~ Do you object to C 22030 Cpl Livoy PA as shorthand writer ? Ans No Sir

writer is sworn.(1) The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~Pl. Officer~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J J Poulin	4 Cdn Fd Wksp RCEME
Member	Capt	A. Arnold.	4 Cdn Fd Wksp RCEME
Member	Lieut	C. F. Talon.	4 Cdn Fd Wksp RCEME
Judge-Advocate			
Prosecutor	Capt	R R Brown	4 Cdn Fd Wksp RCEME
Defending Offr	Lieut	W. Shulman	4 Cdn Fd Wksp RCEME

Questions by President: Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See List p 2.)

A8. The accused C 5621 Pte Dutton L D before arraignment make(s) (no) ~~the following~~ (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to Rule cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~adjourns~~ reconsiders the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

179

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C 5621 Private Lloyd Douglas Dutton

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(2)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 463 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~hospitalized on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 3 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for THree (3) months.

14 Feb 45 (Sgd) J J Poulin Major President. (RP 45, 50.)

(Sgd) Judge-Advocate, if any. Date awarded.

(See back of Convening Order re disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I vary the sentence so that it shall be as follows, "To undergo detention for 90 days" and confirm the finding and sentence as so varied.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1. AA 57A. Delete if not used.)

Date FEB 19 1945 (Sgd) Commanding COMMANDER 1 CDN [illegible] GROUP

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
C5621 Pte Dutton L D PLDG #4 Cdn Reallocation Centre	20 Feb 45	E E Bennett #2 Cdn Reallocation Centre CMHQ

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on~~ charge(s). ~~The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) as to~~ charge(s). ~~Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex P1, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above (as are read as relate to the charges dealt with under C2. *If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114. KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will be given by you with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans .....
Are they witnesses as to character only ? Ans .....
(1. *RP 115.* 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 80(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(*2*) (*ii*), *RP* 45, 120(*A*). 2. *AA* 54(*2*), *RP* 45, *117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(*3*) (*g*) (*h*), and (*ii*) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ~~P~~ C and Ex ~~P~~ D respectively.(2)
(1. *MFB* 255 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 158. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s) and in mitigation of punishment ?(1) Ans ~~I say nothing~~ No Sir (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*3*), *RP* 122(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and then, if an alien,~~ (2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its penalties, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 98, 118, 119(*4*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 737-738. *As to sentences assigned for civil offences by the law of England see AA* 41(*5*), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*1*) (*b*), 68(*1*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

THE ACCUSED, NUMBER C5621 PRIVATE LLOYD DENNIS DETLOR OF 4 CDN FWD RFT BN, 1 CDN BASE RFT GROUP A SOLDIER OF THE CANADIAN ARMY OVERSEAS, ALLIED ARMIES IN ITALY, IS CHARGED WITH:

1ST CHARGE
A A Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from 0800 hrs 10 Jan 45 until surrendering himself at approx 2130 hrs 11 Feb 45 (32 days 13 hrs 30 mins).

L J Flynn

(L J Flynn) Lt-col
Commanding

In the Field
13 Feb 45 4 Cdn Fwd Rft Bn - 1 Cdn Base Rft Group - CMF

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

L J Flynn

(L J Flynn) Lt-col
Commanding

In the Field
13 Feb 45 4 Cdn Fwd Rft Bn - 1 Cdn Base Rft Group - CMF

FIELD GENERAL COURT-MARTIAL

CFA35 (In lieu of AFA8)
40/FA35/007 (2002)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C5621	Private		Lloyd Dennis	DETLOR	4 Cdn Fwd Rft Bn.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 Feb 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~Being unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have annexed hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate to them at the Offr mentioned hereunder~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	WJJ Roulin	4 Cdn Fwd Rft Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	A Arnoldi	4 Cdn Fwd Rft Bn
Lieut	CF Lalonde	4 Cdn Fwd Rft Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	D MacDonald	4 Cdn Fwd Rft Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(L J Flynn) (Signed personally. RP 105 fn 2.) Lt-col (Rank.)

Date 13 Feb 45

Commanding 4 Cdn Fwd Rft Bn-1 Cdn Base Rft Gp, CMF
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

FEB 14th 1945

K.R. (CAN) Para 557

I hereby certify that I have this morning examined No C5621

TPR DEILOR L D on strength 4 Cdn

Rft Bn, 1 C B R dp, and in my opinion he is FIT/~~UNFIT~~ to undergo

trial by Court Martial

Capt

Medical Officer 4 Cdn Rft Bn.

PLEA IN MITIGATION IN THE CASE OF C5621 PTE DETLOR L D

May it please the court to consider the following things before passing sentence on the accused.

Pte Detlor is 27 years old, married and has one child. He enlisted in Canada in March 1940 and arrived in England in Aug 40. He landed in Sicily in July 43 and has been in this theatre of action ever since. He is a driver mechanic and has been in action with his unit for many months. He is a good soldier, well liked by his companions and trusted by his officers.

As for the reason of his going AWL; he had received several disturbing bits of information, first; he heard that a brother of his who had been injured in England and sent back to Canada, had died there in the hospital. Second; He has not heard from home for many weeks and is worried about his family. Third; He heard that another brother in the Seaforths in Italy had been killed in action.

This last bit of news made him determine to find the Seaforths and learn the truth of the matter. In all, this man has had more than his share of emotional stress and he must not be judged by ordinary standards.

In his favour it may be said that he surrendered himself rather than be apprehended and is willing to pay for his moment of weakness. Now he is anxious only to pay for it and again serve his country.

In summarizing Sir, I would like to point out, this man has been a valuable member of our fighting forces, and will be so again, when he has paid for his lapse. I therefore beg that you give him every possible consideration in passing sentence.

Exhibit "B"

Summary of Evidence in the case of C5621 Private Detlor LD of 4 Cdn Fwd Rft Bn, 1 C B R G who is charged with WOAS absenting himself without leave A A 15 (1).

By direction of the Commanding Officer the evidence is taken upon oath.

1st Witness: D71493 Sgt McIlroy A, 4 Bn 1 C B R G having been duly sworn states:

I am D71493 Sgt McIlroy A, PE Sgt with "B" Coy 4 Bn 1 CBRG

I recognize the accused as Private Detlor LD.

At approx 0800 hrs 10 Jan 45 as Orderly Sgt of B Coy I called the Roll of X 4 List PLDG which contained the name and number of Private Detlor. He failed to answer his name nor was he present on parade. I then searched the billets and Coy lines but could not locate him. I marked him as an absentee from 0800 hrs 10 Jan 45. I have not seen him in the camp area since this date.

(D71493 Sgt McIlroy A)

The accused declines to cross-examine this witness.

2nd Witness: A3885 Pte Knowles, H, 4 Bn 1 C B R G having been duly sworn states:

I am A3885 Pte Knowles, H, file clerk 4 Bn Orderly Room

I produce Certificate under A A 163 (1) (j) purporting to relate to the accused and showing that Pte Detlor LD surrendered himself at approx 2130 hrs 11 Feb 45 (produced, shown to accused, marked Exhibit "A" and attached hereto).

(A3885 Pte Knowles H)

The accused declines to cross-examine this witness.

Question to the Accused:

Do you wish to make a statement or to give evidence upon oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but anything you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the Accused:

I have nothing to say now.

I certify that R P 4 (c), (d), (e) and (f) have been complied with.

I certify that this summary of evidence was taken down by me in the presence and hearing of the accused.

In the Field
13 Feb 45

(H R Brown) Captain
Officer taking Summary

Exhibit "A"
Witness Capt

4 BN

CERTIFICATE UNDER ARMY ACT Section 163 (1) (i)

I Lt Col L J Flynn certify that No C 5621

Rank TPR Name DETLOR L D of the

4th P.L.D.G. Regt surrendered himself

to K67700 CPL BRADLEY JS of the 4 CDN RFT BN

at Guard Room on the 11-2-45 at approx 21-30 hrs

as an absentee without leave / ~~deserter~~.

HE WAS SOBER AND WEARING KINGS UNIFORM

G.S.

L. J. Flynn Lt Col

Capt

Signature of Provost Marshall APM or other officer into whose custody the above-named soldier was taken on arrest.

Exhibit "C"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C56621	Private	DETLOR L D	4 Cdn Fwd Rft Bn 1 CBRG

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be entered to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	A A Sec 19	1 times.
For		times.
For		times.
For		times.

Date of first entry in Field Conduct Sheet

Date of last entry in Field Conduct Sheet

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for

beginning on the day of

4. The accused has been awaiting trial on the present charges for From 2130 hrs 11 Feb 45 days in civil custody; and for 3 days in military custody, *i.e.*, Nil days in open arrest, 3 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 27 years

6. The date of his attestation ~~taking up for military service~~ is 18 March 40

7. The service which the accused is allowed to reckon is N/A

†State the military decorations (if any) held by accused.

8. The accused is in possession of†

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of N/A	
In the war substantive rank of N/A	
In the acting rank of N/A	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 58900/1603 30,000 3/44 SI-4755. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 13th day of February 1945

A. E. Davidson

(A E Davidson) Capt & Adjt.

4 Cdn Fwd Rft Bn - 1 Cdn Base Rft Group CMF

No C5621 Name DETLOR LD | Sqn, Battery, or Company 4 FLDG | Corps CIC | Date of enlistment | GC Badges | SUPPLEMENTARY Service or Proficiency Pay | Exhibit "D" MFM 6 (AFB 122) 40/PAM/155 (Rev)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character AG

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2-1-45	Pte		AA Sec 19, Drunkenness in that he was drunk at 1745 hrs 2 Jan 45.	CSM Porter L/Cpl Mitchell	$5.00 fine	4 Jan 45	Lt-col LJ Flynn	

CERTIFIED TRUE COPY OF MFM 6:

A E Davidson

(A E Davidson) Capt & Adjt

4 Can Fwd Rft Bn - 1 Can Base Rft Group - CMF

(PTO)

RECEIPT FOR CHARGE SHEET & SUMMARY OF EVIDENCE

I hereby certify that I have this date 13 Feb. 1945 received from 4 Cdn Rft Bn, 1 C B R Gp, 1 copy of Charge Sheet and Summary of Evidence referring to charge (s) of AWL

AA 15 (1)

for which I was remanded for Court Martial.

J D Detta
(Sig of Accused)

REQUEST FOR DEFENDING OFFICER

I hereby request that Lieut W Shulman if available, act in my defence. If this officer is not available I request that the Commanding Officer of 4 Cdn Rft Bn, 1 C B R Gp appoint an officer to act in my behalf.

J D Detta
(Sig of Accused)

Pursuant to Chap V Sec V Sub Sec 25 of MML, I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

J D Detta
(Sig of Accused)

C.5621 Pte Detlor, L.D. - 4 Cdn Fwd Rft Bn - FGCM 14 Feb 45

The Deputy Judge-Advocate-General, Canadian Military Headquarters, having advised that the sentence in these proceedings is invalid, I, being an authority who would have had the power to commute the punishment awarded by the sentence in these proceedings if such sentence had been valid, hereby direct that the sentence be and the same is hereby removed and the accused relieved of all consequences of such sentence, and I do hereby sentence the accused, C-5621 Pte Detlor, LD, 4 Cdn Fwd Rft Bn (4 PLDG) to undergo detention for 89 days, such sentence to be effective as if awarded by the Court-Martial on 14 Feb 45.

(Beverley Matthews) Brig.,
Deputy Adjutant General
Canadian Military Headquarters.

Date: 3 May 45.

PART IV. PROMULGATED AND EXTRACTS TAKEN

Accused.	Date.	Signature of Offr.
C.5621 Pte Detlor, L.S. 4 Cdn Fwd Rft Bn (4 PLDG)	18 May 45	J.M. McCallum Lieut 4 Cdn Fwd Rft Bn

Pt II D.O. No 115 d/ 19 May 45

TTT-42. Case #2.

Pte Dettling. IW

See JJJ-44 for 1st Case.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M-106755 Pte GEORGE WILLIAM Dettling 2Bn. 1.C.B.R.D.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ NIL beginning on (date) (*)

(*. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B335 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B335 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo Detention for a period of six (6) months

(Sgd) ~~Judge Advocate~~ [illegible] Date awarded: July 4th 1944 (Sgd) [illegible] President. (RP 45, 50A)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 63. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) E & H

(1. AA 57A. Delete if not used.)

(Sgd) C.W. Haedenby

Date 4 July 44 Commanding COMMANDER Confirming Officer. 4/18

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
M.106755 Pte Dettling, George William	6 July 44	[illegible] Officer Commanding 2 Bn 1 Can Base Repl Group

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

I.43 TTT42

FIELD GENERAL COURT-MARTIAL

CFA86 (To lieu of AFA81) 40/P & S/1698 4/38B

Convened by Order of Brig. E.W. HALDENBY Comd 1. C. B. R. Gp R. dated 1 JULY 1944

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M106755	Pte.	GEORGE WILLIAM	DETTLING	2Bn. 1C.B.R.D.

PROCEEDINGS REVIEWED 9 Aug 44

JCAC [illegible] Capt

REVIEWING OFFICER, JAG's BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date) 4 JULY 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 44(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~Translator to accused:~~ Do you object to ~~[illegible]~~ as interpreter? Ans ~~[illegible]~~

The Interpreter is sworn.(1) Do you object to ~~[illegible]~~ as shorthand writer? Ans ~~[illegible]~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil.(2)

(1. RP 110. 2. If no objection, waiting member ~~retires~~ (RP 66(B). If objection, see procedure AA 31, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	A.E. SMITH. (RCA)	2 Bn 2.C.B.R.D.
Member	CAPT.	R.E. NEELANDS	~~3 Bn. 1C.B.R.D.~~ 2 Bn 1 C.B.R.D.
Member	LIEUT.	A.L. ROBERTSON	2 Bn RE-ALL CENTER
~~Judge Advocate~~			
Prosecutor	LIEUT.	J.J. MURPHY	2Bn. 1C.B.R.D.
Defending Offr	LIEUT.	D.E. JONES	2 Bn 1 C.B.R.D.

Questions by President: Is the Prosecutor a lawyer? Ans Nil. Is the Defending Offr a lawyer? Ans Nil.(1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See A9.)

A8. The accused ~~[illegible]~~ before arraignment makes(s) (no) ~~[illegible]~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~[illegible]~~ on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and, ~~[illegible]~~ considers the Instrs on Procedure after Arraignment as top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L* p 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans nil.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement (1). The Court declines (not) to advise accused to change his (their) pleas of Guilty to Not Guilty on the charge(s). The accused is (are) so informed, and he (they) (his) (their) plea(s) of Guilty to charge(s) is (are) confirmed. Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 34(4) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecuter makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 60(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf AA5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 66(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (d), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans nil.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement of Service(1) and Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)
(1. *MFB 315 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement of Service and Conduct Sheet(1), and in mitigation of punishment ?(2) Ans yes.
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence. The President records the sentence in Part I of the Schedule, which is dated and signed by him and the members of the Court.(1)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, RP 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 98(7), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

The accused, M-106755 Pte George, William DETTLING, Seaforth Highlanders of Canada, presently on strength 2 Canadian Base Reinforcement Battalion, 1 C.B.R.D., a soldier of the Canadian Army Overseas, is charged with

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, in Italy, absented himself without leave from 2 Cdn Base Rft Bn, 1 C.B.R.D. from 2200 hours 4 June 1944 until apprehended in Naples, Italy, at 1000 hours 20 June 1944. (Total absence - 15 days, 12 hours.)

SECOND CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, in Italy, on 20 June 1944 was not in possession of M.B.M. 1 Part I & II when asked for it by a C. M. Police.

(R. W. LENT) Lt.-Col.,
Commanding,
2 Cdn Base Rft Bn,
1 C.B.R.D., Cdn Army, C.M.F.

In the Field
27th June 1944.

To be tried by Field General Court Martial

(E.W. Haldenby) Brigadier
Commander
1 Cdn Base Rft Group

In the Field
1 July 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt	Full Christian Names.	Surname.	Unit.
M-106755	Pte		George William,	DETTLING	2 Bn 1 CHRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~shown~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 1 July 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~6. I also appoint as Judge Advocate (for-as the Offr mentioned hereunder~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	K.E. SMITH	8 Bn 2 CHRD
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Capt	R.E. NEELANDS	7 Bn 2 CHRD
Lieut	A.L. ROBERTSON	2 Cdn Reallocation Centre
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt or Lieut	to be detailed by OC 2 Cdn Reallocation Centre	
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 1 July 44

Commanding 1 Cdn Base Rft Group
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (RP A/45, Chs (2)(3) of AZ/45; 40 F & B/1867 (1401))

(See overleaf for notes and notes for use on trial.)

K B Smallwood Major

This is to certify that No. M.196755 PTE. DETTLING, G.W.
2 Cdn Base Rft Bn. is ..... to undergo Trial by
Court Martial.

4 July 1944

.....
Capt. & M.C.
2 Cdn Base Rft. Bn.

Statement by the Defence in Mitigation of Punishment

Pte Dettling as you can see has not had much experience in the army and has started off on the wrong foot. A short time ago he committed his first crime and owing to the fact that his pay was stopped he has felt as though he has been working for nothing which is rather discouraging. Pte has two brothers at school and previous to his first crime had an assignment to his mother which came in very handy owing to the present cost of living. Pte Dettling has never seen his unit in the field and it would probably change his actions and ideas of soldiering immensely, if he were to get to the unit. He wishes very much to get to his unit where he can clear his name and do what he joined the army to do. In reference to the second charge Pte Dettling reported the loss of his MBM 1 & 11 which he did not receive. Upon trying to find his MBM 1 & 11 I find that there were made out for him but there is no way of checking what happened to them, therefore Pte Dettling has not been paid since leaving England. The defence rests

SUMMARY of EVIDENCE

Summary of Evidence in the case of M-106755 Pte Dettling, George, William, of the Seaforth Highlanders of Canada, on strength of 2 Canadian Base Reinforcement Battalion, 1 C.B.R.D., a soldier of the Canadian Army Overseas.

By direction of The Commanding Officer the evidence is taken on oath.

FIRST WITNESS for the PROSECUTION

Capt R. L. Griffin, Adjutant, 2 Cdn Base Rft Bn, 1 C.B.R.D., having been duly sworn, states:

"I am Capt R. L. Griffin, Adjutant, 2 Cdn Base Rft Bn, 1 C.B.R.D. I produce certificate of arrest relating to the accused herein certifying that he was arrested at Naples at 1000 hrs 20 June 1944."

R. L. Griffin ..... Capt
(R. L. GRIFFIN)

The accused declines to cross examine this witness.

The certificate produced is marked exhibit "S".

F. T. Egener ..... Capt
(F. T. EGENER) Officer detailed to take Summary.

SECOND WITNESS for the PROSECUTION

K-52506 Cpl Stephen, N. H., No. 2 Cdn Re-allocation Centre, 1 C.B.R.Gp., having been duly sworn, states:

"I am K-52506 Cpl Stephen, N. H., No. 2 Cdn Re-allocation Centre, 1 C.B.R.Gp. On 4 June 1944 I was on strength of "7" Coy, 2 Cdn Base Rft Bn, 1 C.B.R.D. I called the roll of No. 2 Bay at tattoo. The accused was a member of that bay and under my command. At 2200 hrs 4 June 1944 when I called the roll he was absent. I did not see him again although he would have come under my direct command. I left the Coy approximately 10 June 1944."

Cpl Stephen, N.H. ..... Cpl
(K-52506 Cpl Stephen, N. H.)

The accused declines to cross examine this witness.

THIRD WITNESS for the PROSECUTION

3536267 L/Cpl Higgins, J., 510 Ind Mob Prov Coy, C.M. Police.

"I, A/Capt F. T. Egener, the officer taking the Summary of Evidence, certify that in my opinion the attendance of this witness may not be readily procured. A written statement of his evidence has been read to the accused and is included in the summary (attached, marked Exhibit "C"). The accused did not demand that this witness attend for cross examination although given the opportunity to so demand.

F. T. Egener ..... Capt
(F. T. EGENER) Officer detailed to take Summary

(to page two)

The accused was cautioned as follows:

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing and may be given as evidence."

The accused declines to make any statement or give evidence on oath.

Certified that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence and hearing of the accused this 27th day of June 1944.

F. T. Egener
..... Capt
(F. T. EGENER) Officer detailed to take Summary

Signed in the Field, Italy,
this 27th day of June, 1944.

Exhibit. O
to Regimental Capt

Statement of EVIDENCE in the case of
No M-106765 Pte DETTLING. S. W.
2nd BN SEAFORTH HIGHLANDERS OF CANADA.
ATTACHED No1 C. B. R. D.
C. M. FORCES.

Sir
At NAPLES on the 20th JUNE 1944, about 13.30 hrs I was on duty in VIA S. LIBORIO accompained by L/Cpl S. JACKSON, C. M. POLICE, where I saw the A/N soldier. I asked him for a pass permitting him to be in NAPLES he was unable to produce one, on being questioned, he admitted being absent about 16 days, also he was not in possession of his M. B. I. PART I #11. I arrested and conveyed him to the MILITARY POLICE GUARD ROOM where I handed him over to the N. C. O. i/c to be detained. HE WAS SOBER
C. M. P.
20th JUNE 1944
J. Jackson L/Cpl.
4806277 S. JACKSON L/Cpl.
510 IND MOB PROV COY.
C. M. POLICE.

REMARKS

Sir,
I have read over and corroborate the above Statement.
C. M. P.
20th JUNE 1944
S. Jackson L/Cpl.
4806277 S. JACKSON L/Cpl.
510 IND MOB PROV COY.
C. M. POLICE.

CHARGE

1715/B.
Army Form B.252
(See King's Regulations)

2ND BN SEAFORTH HIGHLANDERS OF CANADA. Regiment
~~Battery~~
~~Squadron~~
~~Troop or~~
Company

HIT No1 C. B. R. D.

CHARGE against No. M-106755 Rank PRIVATE

Name PETTLING G. W.

Place Date of Offence

OFFENCE. W.O.A.S. (II) ABSENT FROM 2 UNITS

APPREHENDED BY THE MILITARY POLICE IN

VIA S. LIBORIO, NAPLES, AT ABOUT 1000 HRS

ON THE 20TH JUNE 1944.

(a) NOT BEING IN POSSESSION OF HIS A.B. 64 II.

Names of Witnesses:—

363116 W/CPL T HIGGINS 51 IND MOB PROV COY C.M. POLICE

410277 W/CPL D. JACKSON 51 IND MOB PROV COY C.M. POLICE

777203 CPL R. AGNEW, 51 IND MOB PROV COY C.M. POLICE

N.C.O. i/c. GUARD. (BODY RELEIPT ATTACHED)

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

AG 2069.

Ex "E." K. Smith Bruce Major 1 Can. Para. Bde.

Exhibit S #1 Equus Capt.

CERTIFICATE OF ARREST.

Certificate in accordance with the Army Act Section 165 (1) (ii).

I, ... certify that :-

No M.106755 Rank PTE Name BETTLING, G. W.

Unit SEAFORTH HIGHLANDERS CANADA was arrested at NAPLES, ITALY

at 1000 hours on the 20TH JUNE 1944

Signature of P.M., APM., or other officer into whose custody the above named was taken on arrest.

[signature]

Commanding,

510 Pl. Pol. Sec. Coy.

C.M.P.

Date 20 June 1944.

138/171.7.D3/21-4-44

Ex. C. K. Brenchley Pres.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
M106755	Pte.	DETTLING, G.W.	2 Cdn Base Rft Bn. 1 CBRD

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The entries terminated should correspond with the number or entries in the conduct sheets, permission being given to the most serious offence in each entry, and to any recorded special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
Nil	For [illegible]	[illegible]
Nil	For [illegible]	[illegible]
Nil	For [illegible]	[illegible]
Nil	For [illegible]	[illegible]
Nil	For [illegible]	[illegible]
Nil	[illegible]	
	or	
Nil	[illegible]	

Nil 2. [illegible]

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or [illegible] Nil

Nil [illegible]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 1 14 days in military custody, making a total of 1 14 days, of which no days were spent in hospital.

5. The present age of the accused according to his record of service is 20 yrs

6. The date of his ~~enlistment~~ attestation specified in his record of service is 13 feb 43

Nil 7. [illegible]

Nil 8. [illegible]

Nil 9. [illegible] etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (*state any military decoration or reward*)).

Nil 11. [illegible]

Nil [illegible]

Nil 12. [illegible]

Nil [illegible]

(P2564) [illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. M/06935 Rank Pte Name Dettling J.L. of 2 Chinese Coy Regiment (or as the case may be).

(INSTRUCTION—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted
F.C.M.	Field 3 Apr 44	(1) A.A. Sec 15 (1) a. & L. 2215 hrs 17 Nov 43 to 1500 hrs 3 Dec 43 (21 days 15 hrs 45 mins) (2) A.A. Sec 15 (1) A.W.L. 2359 hrs 10 Jan 44 to 1900 hrs 9 Feb 44 (25 days 19 hrs 1 min) (3) A.A. Sec 24 (2) Losing by neglect, equip clothing & Regtl necessaries.	90 days detention Stoppage of pay £28.05.	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28th day of June 44

D Abbiss Capt. Adjutant

2 Bn [illegible] Reinforcement Depot

13. [illegible] Date of Promotion.

In the rank of , years, .

In the rank of , years, .

In the rank of , years, .

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs entered amended accordingly.*)

MFM 6
(AFB 122)
40/PAM/158 (5458)

No M106755 Name DETTLING, G.W. | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 13.2.43 | GC Badges | Service or Proficiency Pay |

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc C. H. Woolkee, Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Previous sheet destroyed after six months service 13.8.43					NILCASES DRUNKENNESS		J.B. WOODS, Lieut.		
Field		Pte		(1 AA Sec 15(1) AWL 2215 hrs 14.11.43 to 1500 hrs 13.12.43(28 days, 15 hrs 45 mins) (2) AA Sec 15(1) AWL 2359.14.1.44 to 1900hrs 9.2.44 (25 days, 19 hrs 1 min) (3)A Sec. 24 (2) Losing by neglect equip, clothing and Regt necessities		90 days detn	3.4.44	P.G.C.M.	Stoppage of pay $28.05 for loss of kit.

RELEASED FROM ... 2 ...F.P.C.
ON 3.6.44
SENTENCE EXPIRED. 1.6.44
REMISSION EARNED 30 days.

Certified true copy from the regimental books in my custody ..... Adjutant

(PTO)

LIST of WITNESSES
in the case of
M-106755 Pte Dettling, G. W.

For the Prosecution:

(1) Capt R. L. Griffin, Adjutant, 2 Cdn Base Rft Bn, 1 C.B.R.D.

(2) K-52506 Cpl Stephen, N. H., No. 2 Cdn Re-allocation Centre 1 Cdn Base Rft Group.

(3) 3536267 L/Cpl Higgins, J., 510 Ind Mob Prov Coy, C.M. Police.

For the Defence:

(1) N i l.

LIST of EXHIBITS
in the case of
M-106755 Pte Dettling, G. W.

Exhibit "S" - Certificate of arrest of M-106755 Pte Dettling.

Exhibit "O" - Written statement of evidence of 3536267 L/Cpl Higgins, J.

I, M-106755 Pte Dettling, G. W., 2 Cdn Base Rft Bn, 1 C.B.R.D., request that LIEUT. JONES (RCAC) (or) an officer be appointed to represent me at my trial by Court Martial.

Date 29. June 1944 (M-106755 Pte Dettling, G. W.)

I certify that I have been given, gratis, a copy of the Charge Sheet, a copy of the Summary of Evidence, a copy of the List of Witnesses, and a copy of the List of Exhibits pertaining to my trial by Court Martial.

29th June 1944 (M-106755 Pte Dettling, G. W.)

JJJ-49

PTE DETTLING G.W.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M. 106755 Private George William Dattling

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15 (1)	guilty (~~not guilty~~)	guilty	The court finds the accused was on the
2nd AA Sec 15 (1)	guilty	guilty	1st charge AWL from 2215 hrs 14th Nov 43
3rd AA Sec 24 (2)	guilty	guilty	until arrested at Casablanca at 1500 hrs
4th			13th Dec 43 - Total time absent 28 days
5th			16 hours 45 minutes.
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for —— beginning on (date) —— (1) Nil

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 85 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Ninety days detention and to forfeit 1 day's pay for each day absent to be stopped of pay amounting to £28.05 for loss of kit

3rd April 44 (Sgd) [illegible] Maj AJAG

(Sgd) —— Judge-Advocate, if any. Date awarded. (Sgd) [illegible] President. (RP 45, 51)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date —— (Sgd) —— Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 44(A), 51-56, 120, MML pp 739-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders. (1) Fourth

(1. AA 57A. Delete if not used.)

(Sgd) C W Peadon Brig

Date 4 Apr 44 Commanding COMMANDER 1 CDN BASE RFT GROUP Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr
M 106 755 Pte Dattling George William	6 Apr 44	[illegible] Maj.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ IN AB 160: JJJ 49

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA32) 40-1-6 & 7(1608) (3864)

Convened by Order of Brig E W Holdenby M C V.R. Comd 1 Can Base Ftr Gp dated 1st April 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
M 106755	Private	George William	Dattling	2 Bn 16 BRD

PROCEEDINGS REVIEWED W. C. [illegible] Capt 1 May 44 REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 3rd April 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for births and insrtns on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (1) attached thereto. (2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 0915 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Con 557. 2. AA 46(B), RP 80 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to —— as interpreter? Ans ——

The Interpreter is sworn.(1) Do you object to —— as shorthand writer? Ans ——

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E Chawcroft	6.1.6	3 Bn 1 CBRD
Member	Captain	F T Pegram	6.1.6	3 Bn 1 CBRD
Member	Lieutenant	E Chambers	6.1.6	2 Bn 1 CBRD
Judge-Advocate				
Prosecutor	Lieutenant	A H McMullen	6.1.6	2 Bn 1 CBRD
Defending Offr	Lieutenant	M P Finnerty	6.1.6	2 Bn 1 CBRD

Questions by President: Is the Prosecutor a lawyer? Ans No (2) Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See DI p 31.)

A8. The accused M 106755 Pte George William Dattling before arraignment make(s) (no) (an) plea(s) [illegible] (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 26, 112. See para 9 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 496 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(C). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 37(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in refer ence to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans [redacted].(5)
(1. *RP* 27(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on [redacted] charge(s).(2) The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on [redacted] charge(s). Part II of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "[redacted]", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here. Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans [redacted].(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the [redacted] charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the [redacted] charge(s), and allowed on the [redacted] charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans [redacted]. Do you intend to call witnesses on your behalf? Ans [redacted]. Are they witnesses as to character only? Ans [redacted].
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For guidance see Notes on back of Convening Order, CF AF5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the [redacted] charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(2) (*a*), *RP* 43, 120(*A*). 2. *AA* 54(2), *RP* 43, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans [redacted].
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(2), and certified true copy (copies) of Conduct Sheet(s)(3), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "[redacted]" and Ex "[redacted]" respectively.(4)
(1. *MFR* 251 *or AFB* 294. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans [redacted].(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its provisos, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, (*2*), 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 561-566. *Overseas AO* 309, 2322, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 13*C*. *When accused already under sentence of imprisonment or detention see AA* 44(*3*), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, M-106755 Pte George William DETTLING, 2 Bn., 1 Canadian Base Reinforcement Depot, a soldier of the Canadian army Overseas, is charged with

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in North Africa absented himself without leave from 2 Bn., 1 Cdn Base Rft Depot at 2215 hours 14 November 1943 until arrested at Oran, ~~absente~~ at 1800 hours, 21 December 1943. (Time absent - 36 days, 19 hours, 45 mins.)

SECOND CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in North Africa, when in lawful custody absented himself without leave from 2359 hours 14 January 1944 until arrested at Arzew at 1900 hours on 9 February, 1944. (Time absent - 25 days, 19 hours, 1 min.)

THIRD CHARGE
Sec 24 (2)
Army Act

WHEN ON ACTIVE SERVICE, LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES

in that he

In the Field, in Italy on 22 March 1944, was deficient of

ARTICLE		100% Vocabulary Price	75% Vocabulary Price
Anklets web prs	1	$ .77	$ .58
Battle Dress Blouse	1	6.18	4.64
Bonnet Tam O' shanter	1	.93	.70
Gloves knitted	1	.59	.44
Battle Dress Trousers	1	6.24	4.68
Brush shaving	1	.30	.23
Comb hair	1	.04	.03
Dressing field	1	.24	.18
Holdall	1	.17	.13
Housewife complete	1	.50	.38
Knife clasp	1	1.16	.87
Shorts gymn prs	1	.43	.32
Bottle water	1	.65	.49
Braces, W.E.	1	.95	.71
Carrier Waterbottle	1	.45	.34
Haversack	1	2.14	1.61
Pouches basic	2	2.98	2.24
Tins Mess Comp	1	.57	.43
Capes A/G	1	4.43	3.32
Sheets Ground	1	2.40	1.80
Blanket (1098)	1	3.65	2.74
Trousers, K.D.	1	1.58	1.19
		$ 37.39	$ 28.06

..... Lt-Col.
(R. W. ~~Lant~~) Commanding
2 Cdn Base Rft Bn.,
1 C.B.R.D., Cdn Army, C.M.F.

In the Field
27 March, 44.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
1 Apr 44

(E.W. Holdenby) Brigadier
Comd 1 Cdn Base Rft Group

FIELD GENERAL COURT-MARTIAL

CFAO 6 (In lieu of AFAO 40) 40/FAO/1697 (2008)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap 4 paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-106755	Private	George William	DETTLING	2 Bn 1 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached hereto and on (date) 1 Apr 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~I am unable to appoint: (a) three Offrs to form the Court, (b) a Pd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	F. Shawcross (Must be named. RP 106.)	CIC	3 Bn 1 CBRD (Unit.)

MEMBERS.

Capt.	F.T. Egener	CIC	3 Bn 1 CBRD
Lieut. (Rank.)	E Chambers (Named or detailed. RP 106.)	CIC	2 Bn 1 CBRD (Unit.)

WAITING MEMBER.

Capt (Rank.)	(to be detailed by 1 Bn 1 CBRD) (Named or detailed, if any. RP 106.)	(Unit.)

JUDGE ADVOCATE.

~~(Rank.)~~ ~~(Name, if named, if any. RP 106.)~~ ~~(Unit)~~

On Active Service in the Fd

in Italy (Country.)

Date 1 Apr 44

(W. W. Haldenby) (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding 1 Cdn Base Rft Group Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

I certify that: Pvt Collins G W

No. 7 BN. 1 C.B.R.D., is fit to undergo trail by Court-Martial.

3/12/43.

H B Mill Capt.
(Medical Officer)
No. 2 Bn.1 C.B.R.D.

In the Case of M 106755 Pte Dettling G W

A6 There being no objection to the members of the Court the waiting member Capt G. Vaugeois retires.

A9 On the 1st Charge

The Defending Officer to the Court: The accused under R.P. #4 (h) pleads Guilty to being absent without leave from 2215 hours on the 14th of November 1943 untill arrested by the R.A.F. Police at Casablanca at 1500 hours 13 December 1943. Total absence 28 days 16 hours 45 minutes

The Prosecutor to the Court: The prosecution has investigated this charge and has the concurrance of the convening Authority of this Field General Court Martial to try the accused on the Special Charge under R.P. #4(h)

The Court is accordingly closed to consider this submission

E3. Plea in Mitigation of Punishment

The Defending Officer:- I would like the court to consider that in over 2 years service this is the accused's first crime He is quite young. Condritions at Phillipville were pretty bad, bad food, a lot of mud and very isolated and the result was a wave of absenteeism Dettling was influenced by older soldiers. After his first offence he was in Custody for a month so that he has been in custody for a total of 80 days I would like the court to take this and his MFM 6 into consideration when awarding sentence.

Certificate in accordance with the Army Act Section 163 (1) (ii)

I certify that No. M. 106755. Pte. Dettling. G. of the 2nd. Seaforth Highlanders, Canadian Army, was arrested at Oran 1800 hrs on the 21st December, 1943.

Signature of Provost Marshal, A.P.M., or other officer into whose custody the above named person was taken on arrest. } ...Gw Jones Capt.
O.C. No. 22 C. PROVOST COMPANY

Certificate in accordance with the Army Act Section 163 (1)(ii)

I certify that No. 41.66.30. Pte. MACKAY. R. ..... of the A.A. Company Regt. R.E.A. was arrested at ASMARA at 1200 hrs, on 9. 7. 46

Signature of Provost Marshal, A.P.M. or other Officer into whose custody the above named person was taken on arrest.

Exhibit "C" E.M.K. Macgregor

Captain

GARRISON ADJUTANT, ORA

Certificate in accordance with the Army Act Section 165 (1)(ii)

I certify that No. 07/184708 Pte. Pilling, P. ..... of the ~~Gordon~~ Highlanders ..... was arrested at ORAN ..... at 1800 hrs, on 21 Dec 43

(Signature of Provost Marshal, A.P.M.) or other officer into whose custody the above named person was taken on arrest.

Exhibit B
E.M.K. Macbeth

GARRISON ADJUTANT, ORAN

LIST OF EXHIBITS IN THE CASE OF

M-106755, Pte Dettling, G.W.

EXHIBIT "A"	Record of the Declaration of a Court of Inquiry assembled in the Field on the 7th day of December, 1943 for the purpose of investigating and recording the absence, without leave, from his duty, of M-106755 Pte Dettling, G. W.
EXHIBIT "B"	Certificate of Apprehension, certifying that M-106755 Pte Dettling, G. W. was arrested at Oran, Algeria, at 1800 hours, 21st December 43.
EXHIBIT "C"	Certificate of Apprehension certifying that M-106754 Pte Walker, G., was arrested at Arzew at 1900 hours, 9 February 44.
EXHIBIT "D"	National Registration Card (George Dettling)
EXHIBIT "E"	Unemployment Insurance Commission Identification Card (George Dettling)
EXHIBIT "F"	Commercial Identification Card (George Dettling)
	("D", "E" and "F" accompanied "C")
EXHIBIT "G"	Inventory of Deficiencies in the kit of M-106755 Pte Dettling, G. W. (22nd March, 1944).

LIST OF WITNESSES IN THE CASE OF

M-106755 Pte Dettling, G. W.

Capt. R. L. Griffin, 2 Bn., 1 C.B.R.D.
E-19091 CQMS Ward, C. H. 2 Bn., 1 C.B.R.D.

I certify that I have been given, gratis, a copy of the Summary of Evidence, a copy of the Charge Sheet, a copy of the List of Exhibits and a copy of the List of Witnesses, referring to my trial by Court Martial.

27th March, 1944. Dettling G.W.
M-106755 Pte Dettling, G. W.

I wish to have an Officer assigned by the Convening Officer to assist me in my defence at my trial by Court Martial.

27th March, 1944. Dettling G.W.
M-106755 Pte Dettling, G. W.

SUMMARY of EVIDENCE

Summary of Evidence in the case of M-106755 Pte Dettling, G. W. of the Seaforth Highlanders of Canada, attached 2 Bn., 1 Cdn Base Rft Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Evidence is taken on oath.

FIRST WITNESS for the Prosecution

Capt. R. L. Griffin, 2 Bn., 1 Cdn Base Rft Depot, having been duly sworn, states:

"I am Capt. R. L. Griffin, Adjutant of 2 Bn., 1 Cdn Base Rft Depot. I produce Record of the Declaration of Court of Inquiry assembled 7 Dec 43 to investigate and record the absence without leave from 2215 hours 14 Nov 43, of M-106755 Pte Dettling, G. W. I also produce certificate of apprehension certifying that M-106755 Pte Dittling, P. was arrested at Oran, Algeria at 1800 hours 21 Dec 43. I also produce certificate of apprehension certifying that M-106754 Pte Walker, G. was arrested at Arzeu at 1900 hours, 9 Feb 44. I also produce National Registration, Unemployment Insurance Commission identification card and a Commercial identification card, all in the name of George Dettling, which were received with the second certificate of apprehension naming M-106754 Pte Walker, G."

R.L. Griffin ..... Capt.

The Record of the Court of Inquiry and the certificates of apprehension and the three s/m documents of identification referred to by this witness, produced, having been duly read to the accused, are marked respectively, Exhibit "A", Exhibit "B", Exhibit "C", Exhibit "D", Exhibit "E" and Exhibit "F". Signed by me and attached hereto.

E.M.K. Macgregor ..... Lieut.
Officer detailed to take Summary

The accused declined to cross-examine this witness.

SECOND WITNESS for the Prosecution

E-19091 C.Q.M.S. Ward, C. H. of 2 Bn., 1 Cdn Base Rft Depot, having been duly sworn, states:

"I am E-19091 C.Q.M.S. Ward, C. H., C.Q.M.S. of S Coy, 2 Bn., 1 Cdn Base Rft Depot. On 22 March 44, I inspected the kit of M-106755 Pte Dettling, G. W. There were deficiencies to the value of $37.35 as noted on inventory I now submit."

C.H. Ward ..... CQMS

This Inventory of Deficiencies was read to the accused, marked Exhibit "G", signed by me, and attached hereto.

E.M.K. Macgregor ..... Lieut.
Officer detailed to take Summary

The accused declined to cross-examine this witness.

The accused was cautioned as follows:

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing and may be given as evidence."

The accused, M-106755 Pte Dettling, G. W. (Seaf of C.) 2 Bn., No. 1 Cdn Base Rft Depot, having been duly sworn, states:

"I am M-106755 Pte Dettling, G. W. (Seaf of C) at present on strength of 2 Bn., 1 Cdn Base Rft Depot. On the 14th day of November 1943, I left camp in the Cork Forest, North Africa, and did not return. I remained absent until I was apprehended by the R.A.F. Police at Casablanca at approximately 1500 hours on the 13th Dec 43. The R.A.F. Police turned me over to the U.S. Military Police and I was taken to the U.S. Detention Camp at Casablanca. I was held there until the 20th December, when I was transferred to the U.S. Stockade at Oran. I was held in Oran for approximately five days and was then turned over to the C.M.P., who took me to the English Compound at #1 I.R.T.D. near Algiers, where I was held until the 14th day of January 1944. Then I was turned over to a Canadian escort for return to Philippeville. During an overnight stop at Setif I escaped and remained absent until 1900 hours 9 Feb 44, when I was arrested by the C.M.P. at Arzew."

G. W. Dettling

Certified that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

I certify that the foregoing Summary of Evidence, consisting of two pages, wastaken down by me in the presence and hearing of the accused this 27th day of March, 1944.

E. M. K. MacGregor ..... Lieut.
(E. M. K. MacGREGOR) Officer
detailed to take Summary.

In the Field
27th March 44.

M.F.M. 6
(A.F. B.122)
40/T & /8136 (2968)

No. M106755 Name DETTLING, G. W. | Sqn., Battery, or Company | (C-O-P-Y) Corps C.I.C. | Date of enlistment 13:2:43 | G.C. Badge | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. "C. H. Woolkee, Capt." | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing with trial	By whom awarded	Remarks
Previous sheet destroyed after 6 months service 13:8:43.				M1 Cases DRUNKENESS		"J. S. Woods, Lieut."			

Certified true copy from our regimental books in my possession.

R.L. Griffin ..... Capt.
(R. L. GRIFFIN) Adjutant.

(P.T.O.)

Exhibit B

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
M 106785	PTE.	DETTLING, C.W.	S.H. of C. (ATT. 2 BN. 1 CBRD)

1. The following is a fair and true summary of the entries in the regimental and ~~squadron, battery or~~ company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—If a trial by field general court martial the summary may be compiled from the field conduct sheet.

The conduct sheets mentioned should be produced in court with this statement, but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers, dates of trial, and punishment should correspond with the entries in the conduct sheets. Particulars being given in the most concise manner in each case, and no unexceptional specimen of those to be disregarded.

Instructions.—In the charge for misdemeanour the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For	times	times.
For	NIL times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct.~~ NIL

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Previous conviction of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 75 of the Army Act, as set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~

~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for N/A days in civil custody, and ~~56 DAYS~~ days in military custody, making a total of ~~56 DAYS~~ 56 days, of which N/A days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 20 YRS 128 DAYS.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 12 FEB 43.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused ~~is in possession of, or entitled to,~~ no military decoration or military award or is in possession of or entitled to NO DECORATIONS OR AWARDS ~~claim any military decoration or reward~~.

11. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer was of the regimental rank of

12. ~~(In the case of an officer.)~~ The accused holds in the army the rank of ~~dated~~ and in his regiment (or corps or department) the rank of dated

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. 14106765 Rank Pte Name DETTKING C. W. of S. H. or C. (ATT 2 Bn. DORSET) Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9th 3rd day of March April 1940

Lawrence Stuart Capt.
Adjutant

2 Bn. Dorset Regiment

14. The accused has served as a non-commissioned officer continuously, without reduction, **to the present date.**

Date of Promotion.

To the rank of , N/A

In the rank of , years

In the rank of , years

In this rank of , years.

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, and if this in the case of a trial by field general court-martial the information may be obtained from such sources as are available and the paragraph inserted amended accordingly.*)

6 S.
Pte. Wendling, G.

O. H. M. S.

M. F. B. 270

Correspondence to be PINNED here.

6 S

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this FOURTEENTH day of AUGUST, 19 42

Whereas it appears to me, the undersigned, an officer in Command of 6 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial in reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

~~*[I am unable to appoint (Three Officers to form the Court) A Field Officer as President) Three Officers having more than one year's service]~~

~~for the following reasons, namely:—~~

In my opinion military exigencies, namely the dieperaion of units and difficulties of communication and other difficulties render it inexpedient to observe the provisions of those rules inconsistent with Appendix "A" to D.R.O. 772 on the trial of the person named in the annexed Schedule.

PROCEEDINGS REVIEWED. Approved & Confirmed (Date) 27 AUG 42

President.

Rank.	Name.	Regiment.
Major	E.W. White	S Sask R

Members.

Rank.	Name.	Regiment.
Capt.	R. Gravel	Fus M R
Lieut.	P. Jackson	Cameron of C
WAITING MEMBERS		
Lieut.	R. DeMontigny	Fus M R
Lieut.	A.F. Dawson	~~S Sask R~~ Brig

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed W.W. Southam

Commanding 6 Cdn Inf Bde

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
H 20126 Pte. Deuling, Gerhart Camerons of C	First Charge When on Active Service offering violence to his superior officer being in the execution of his office, in that he, In the Field, on or about the 3rd day of May, 1942, when ordered to pick up some pieces of lumber by Corporal Budd, Camerons of Canada (Pioneer Platoon) answered, "Take off your tunic and we will see who is the best man", or words to that effect and waved his arms in a threatening manner. (A.A.Sec.3(2) Second Charge Using insubordinate language to his superior officer, in that he, In the Field, when ordered by Corporal Budd, Pioneer Platoon, Camerons of Canada, to do certain work, answered "Why don't you make up your fucking mind", or words to that effect. (A.A.Sec.3(2) Third Charge Deserting His Majesty's Service, in that he, at Seaford, Sussex, did absent himself without leave from 1400 hrs, 9 May 42, until apprehended	Not Guilty Not Guilty Not Guilty Not Guilty	Not guilty Guilty Guilty Guilty of AWL for 86 days 2 hrs 30 mins	I remit- 80 days detention J.H. Roberts Maj-Gen. GOC. 2 Can Div 28 Oct 42 I confirm Sentenced to 180 days detention awarded stoppages for deficiencies in kit to the amount of $3-10-9 (CARO 1371)

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—NO.

(Signed) ..... Brig (Signed) Elwhite major.
Commanding 6 Cdn Infantry Brigade Convening Officer (*e*) E. Bark. R. President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16th day of August 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*~~(4. The officers under instruction)~~
were duly sworn.

* Omit if not applicable.

Signed this Sixteenth day of August 1942.

Elwhite Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this ..... day of ..... 19 .....

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison until further orders.~~ Gpl

Signed this 3 day of Sept 1942.

GK Stubbs Brig
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) 5 Sep 42 (Signed) HBerryman Lieut-Adjt

Promulgated and extracts taken in the case of

(Dated) 4 Sep 42 (Signed) W.J. Black capt. for a/c 6 C.I.B.

As Promulgated and extracts taken in the case of

(Dated) 4 Nov 42 (Signed) R.B. MacNeill Capt. a/adjt

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Third Charge (Cont'd)

by the Military Police
at approximately 1130
hrs, 25th June, 1942.
(A.A.Sec.12(1)

Fourth Charge

Losing by neglect his equipment, in that he, on 3rd June, 1942, was deficient of clothing and equipment on charge to him in the amount of Thirteen Pounds, Seven Shillings (£13-7-0)
(A.A.Sec.24(2)

Not Guilty

Special finding R.P. 44 (D).
Guilty of loss of kit through neglect to the amount stated in Exhibit 'C' but not of that in Exhibit 'B' i.e. £ 3-10-9.

The Judge Advocate General for Canadian military and air forces
Ottawa, having advised that the convictions upon the 3rd & 4th
charges in these proceedings are invalid, I hereby direct that the
record of the convictions on the said charges be and the same are
hereby removed and the accused relieved of all consequences of his
trial thereon.

In the field
26 Oct 42

THE QUEEN'S OWN CAMERON HIGHLANDERS OF CANADA, CDN. ARMY (O.S.)

Cam 6-7
31 Aug. 42.

Headquarters,
6 Cdn Inf Bde.

M-20126 Pte. Deuling, G.
Field General Court Martial

1. The above mentioned soldier was tried by Field General Court Martial on Sunday 16 Aug. 42, and the evidence submitted by the prosecution conformed in every respect with that contained in the abstract of evidence. The defending officer did not call any witnesses to rebut the evidence submitted by the prosecuting officer. The Court found the accused not guilty on the first charge and guilty on the other three.

[illegible] Lieut-Adjt/Lt.-Col.
[illegible]
Comd. Camerons of Canada

CHARGE SHEET

H20126 Private Deuling, Gerhart, 1st Bn., Queen's Own Cameron Highlanders of Canada Regiment, Canadian Army Overseas, is charged with:-

First Charge A.A. Sec.8(2) — When on Active Service, offering violence to his superior officer being in the execution of his office, in that he, In the Field, on or about the 3rd day of May, 1942, when ordered to pick up some pieces of lumber by Corporal Budd, Camerons of Canada (Pioneer Platoon) answered, "Take off your tunic and we will see who is the best man", or words to that effect and waved his arms in a threatening manner.

Second Charge A.A. Sec.8(2) — Using insubordinate language to his superior officer, in that he, In the Field, when ordered by Corporal Budd, Pioneer Platoon, Camerons of Canada, to do certain work, answered "Why don't you make up your fucking mind", or words to that effect.

Third Charge A.A. Sec.12(1) — Deserting His Majesty's Service, in that he, at Seaford, Sussex, did absent himself without leave from 1400 hrs, 9th May, 1942 until apprehended by the Military Police at approximately 1130 hours, 25th June, 1942.

Fourth Charge A.A.Sec.24(2) — Losing by Neglect his Equipment, in that he, on 3rd June, 1942, was deficient of clothing and equipment on charge to him in the amount of Thirteen Pounds, Seven Shillings (£13-7-0).

To be tried by Field General Court Martial.

A.C. Gostling Lt.-Col.
(A.C. Gostling)
Comd. Camerons of Canada, Cdn. Army (O.S)

I acknowledge receipt of a copy of the Charge Sheet and Abstract of Evidence.

T. Deuling
H20126 Pte. Deuling, T.

I request that an Officer be appointed to represent me at my trial.

I request the services of Lieut. H. J. Kent if he is available.

T. Deuling
H20126 Pte. Deuling, T.

MEDICAL OFFICER'S REPORT

I certify that No. 11-20126 Pte Dunlop G
of Company/Coy Co is in a Good state of health,
and is fit to undergo Trial by Court martial.

B. Buchanan Capt.
Medical Officer

Station In the field

Date ~~1/8/42~~ 16/8/42

B.B

M. F. B. 246
2000—5-43 (4300)
H.Q. 1772-39-680

ABSTRACT OF EVIDENCE in the case of H20126 Private Deuling, Gerhart, 1st Bn., Queen's Own Cameron Highlanders of Canada Regiment, Canadian Army Overseas.

The first witness, H20144 Corporal Budd, Robert Henley, 1st Bn., Queen's Own Cameron Highlanders of Canada Regiment, Canadian Army Overseas, will give evidence that on the morning of 3rd May, 1942 he had occasion to take a fatigue party to Tide Mills near Bishopstone, Sussex, to pick up lumber to make blackouts. Corporal Budd had occasion to order Deuling to pick up certain lumber and the accused failed to obey the order. He again instructed the accused and others to pick it up and among other things the accused replied, "Am I the only man in this party?" When the accused and Pte. Rogers, D.R., who were at the tail end of the party reached the pile of lumber Cpl. Budd again instructed them to pick up certain specific pieces of lumber. Rogers stopped and obeyed the order but Deuling went right on. Cpl. Budd again called the accused and the accused turned around and said, "I wish you would make up your fucking mind", and then turned around and walked on again. Cpl. Budd recalled him again and ordered him to pick it up right away. The accused turned again to Cpl. Budd and said, "If you are a better man than I am, take off your tunic". The accused stood in ffont of Cpl. Budd waving his arms in a threatening manner and accused him of hiding behind two stripes. Cpl. Budd had to order the accused to go to work again before he did so. When Cpl. Budd and the working party returned to their billets, Cpl. Budd placed the accused under arrest.

H20176 Private Charron, Leonard George, 1st Bn., Queen's Own Cameron Highlanders of Canada Regiment, Canadian Army Overseas, will give evidence that the above altercation took place at the time stated and that the accused appeared to be aggravated at Cpl. Budd. He will also give evidence that he heard the accused comment with words to the effect that he wished he (Budd) would make up his mind.

H19414 Private Wolfe, Donald Harry, 1st Bn., Queen's Own Cameron Highlanders of Canada Regiment, Canadian Army Overseas, will give evidence that he heard Cpl. Budd call the accused back twice. The accused said he didn't hear Budd the first time he called and the accused went back the second time. He will specifically state that he was at a greater distance away from Cpl. Budd when the orders were given and that he had no difficulty in hearing the orders given by Cpl. Budd.

A copy of the Proceedings of a Court of Inquiry will be submitted in evidence showing that the accused illegally absented himself from 1400 hrs, 9th May, 1942 and he was still so absent on the 3rd of June, 1942, and at that time he was deficient and is still so deficient in clothing and equipment to the amount of thirteen pounds, seven shillings, and no pence (£13-7-0).

Certificate of Apprehension will be tendered in evidence as evidence of the accused's return to the Unit.

W.S. Bergman Lieut.
(W.S. Bergman)
Asst/Adjt. Camerons of Canada.

Exhibit A.

ABSENTEE REPORT

"HQ" / Squadron. / Battery. / Company. / Camerons of Canada, Cdn. Army (O.S.) 9 May, 19 42.

Regt. No.	Rank and Name	When Absent	Hour of Return	In What State	Remarks
H20126	Pte. Deuling, C.	1400 hrs, 9 May 42	1130 hrs 25 Jun 42	Under close arrest.	

CERTIFIED A TRUE COPY W Bergman Lieut.
Asst/Adjt. Camerons of Canada.

Orderly-Sergeant.

M. F. B. 273.

16. Aug. 42.

Trial of No H. 20126 Pte Dandling. G.
Q.O.C. of Com.

I deem it necessary that the Court should try the a/m man on the a/m date even though it is Sunday.

E.W. White Maj
A. Asst. A.G.
President.

Exhibit "B"

*N.B.—As this form is applicable to any Board of Officers or Committee or Court of Inquiry, the blank is to be filled in accordingly.

The signature of each Officer composing the Board, etc., should be attached to the end of the proceedings.

PROCEEDINGS of a* Court of Inquiry

assembled at Denne Park, Horsham Sussex

on the 3 June 42

by order of Lieut. R.S. Snider, Officer Commanding, Rear Party Detail, Camerons of Canada, Cdn Army O.S.

for the purpose of inquiring into and reporting upon the illegal absence, deficiencies of arms, clothing and equipment of H 20126 Pte. Deuling, G. "HQ" Coy, Camerons of Canada, Cdn Army O.S.

PRESIDENT

Capt. W.G. Thom
Administrative Officer
Rear Party Detail
Camerons of Canada, Cdn Army O.S.

MEMBERS

Capt. E.E. Chisholm, M.C.
Quartermaster
Rear Party Detail
Camerons of Canada, Cdn Army O.S.

Lieut. N.S. Bergman
Legal Officer
Rear Party Detail
Camerons of Canada, Cdn Army O.S.

The Court having assembled pursuant to order, proceed to hear the witnesses:

FIRST WITNESS: H I9214 Cpl. Sims, Harry Edwin, of The Queen's Own Cameron Highlanders of Canada, Cdn Army Overseas, having been duly sworn, states:-

I am, H I9214 Cpl. Sims, H.E. of The Queen's Own Cameron Highlanders of Canada, Cdn Army Overseas. I am the Orderly Room Corporal at Battalion Headquarters. As such, I have searched the records available and they show that H 20126 Pte. Deuling, G was reported absent without leave at 1400 hours 9 May 42. I have checked and found that he is still absent without leave.

SECOND WITNESS: H I9081 C.Q.M.S. Ritchie, Robert of The Queen's Own Cameron Highlanders of Canada, Cdn Army Overseas, having been duly sworn, states:-

I am, H I9081 C.Q.M.S. Ritchie, R., of The Queen's Own Cameron Highlanders of Canada, Cdn Army Overseas. I have checked the arms, clothing, and equipment on charge to H 20126 Pte. Deuling, G., "HQ" Coy, Camerons of Canada and found him to be deficient in the following articles.

75% of Value					
£	s	d			
	3	-3	Anklets web prs.....	1	£ 4- 4
		-3½	Badges Cap.....	1	5
			Shoulder (Canada) prs.....	3	1- 4
1	-0		Battle Dress:- Blouses.....	2	2- 5
1-13	-9		Trousers.....	2	2- 1
1-10	-3		Bootlaces prs.....	2	1
1-13	-9		Boots ankle prs.....	2	2- 5

75% of Value					
£ 3 -9	Boots lumbermans rubber prs	1		£ - 5	
-3	Insoles prs	1			4
1 -1½	Braces prs	1			1- 6
-6½	Brushes boot blacking	1			8½
1 -6½	" " " polishing	1			2- 1
1 -6½	" " Cloth	1			2- 1
-10½	" " Shaving	1			1- 2
-4	" " Tooth	1			5½
1-16 -4½	Greatcoat M.P. patt. '39	1			2- 8- 6
-1½	Combs hair	1			2
11 -3	Drawers woollen prs	2			15- 0
-9½	Dressings Field	1			1- 1
-3½	Forks M.S. table small	1			4½
-6½	Holdalls	1			9
-5½	Housewife	1			7
6 -4½	Jacket sweater	1			8- 6
2 -1½	Knife clasp	1			2-10
-7½	" " table small	1			10
-4½	Razors	1			5½
15 -0	Shirts angola drab	2			1- 0
11 -7½	" " Woollen	2			15- 6
2 -7½	Shoes canvas rubber soled prs	1			3- 6
2-10½	Socks woollen prs	2			3-10
-3½	Spoons table	1			4½
2 -3	Towels hand	2			3- 0
3 -3	Drawers cell short prs	2			4- 4
2-10½	Shirts cell	2			3-10
-2	Bags ration Mk. IV	1			2½
6 -6½	Helmets steel Mk II	1			9- 0
6 -4½	Packs web patt. 1937	1			8- 6
1 -0	Straps web supporting	2			1- 4
1 -3	Tins mess T.P.	1			1- 8
7 -6	Blankets G.S. single	1			10- 0
14 -3½	Sheets ground drab Mk. VIII	1			10- 0
9 -2½	Respirator A.G. complete	1			19- ½
	Capes A.G. camouflaged	1			12- 3
£13 -7 -6½	TOTAL VALUE			£ 17-16- 0	

FINDINGS OF THE COURT: 1. That H 20126 Pte. Deuling, G. of The Queen's Own Cameron Highlanders of Canada, Cdn Army Overseas, illegally absented himself without leave at 1400 hrs 9 May 42, and that he is still absent.

2. That he was deficient and is still so deficie deficient of articles of clothing and equipment valued in the sum of Seventeen pounds sixteen shillings (£17-16- 0).

Signed at Horsham, Sussex, this 3rd day of June 42.

W.G. Thom President
(W.G. Thom) Capt
Administrative Officer
Rear Party Detail
Camerons of Canada, Cdn Army O.S.

F.T. Chisholm Member
(F.T. Chisholm, M.C.) Capt
Quartermaster
Rear Party Detail
Camerons of Canada, Cdn Army O.S.

W.H. Bergman Lieut Member
(W.H. Bergman) Lieut.
Legal Officer
Rear Party Detail
Camerons of Canada, Cdn Army O.S.

Exhibit 'C'

DEFICIENCIES IN KIT OF H20126 Pte DEULING G.

Blouses, serge S.D.	£	1-7-8
Trousers, Serge, S.D.		1-7-11
Drawers, Cellular, Short		4-1
Housewife		2-3
Knives, Table		9½
Forks, Table		5
Spoons, Desert		4½
Dressings, First Field		1-1
Vests, Undercotton		4-4
Bags, Ration MKIV		1½
Tins, Mess, Rectangular		1-8
Packs, Web		10-6½
Straps, Shoulder		
Left		3-4
Right		3-4
Helmets Steel MKIX		6-6
Discs Identity, Red & Green		NIL
	£	4-14-5

75% = £ 3-10-9

J Wallace C.Q.M.S
H.Q. Coy 1st Bn
CAN. OF CAN. C.A.S.F.

(Substitute for A.F.W. 3296)
or W.F.W. 3003

STATEMENT OF CHARACTER AND ANTECEDENTS
OF SERVICE OF THE ACCUSED

No. H 20126 NAME DEULING, Gerhart UNIT Camerons of Canada.

AGE 21 MARITAL OR MENTAL Single NO. OF DEPENDENTS None

DATE OF ATTESTATION 15 May 1940

NO. OF DAYS CURRENT IN CLINK AMOUNT (TO DATE OF TRIAL)

CIVIL _____ MILITARY 52 HOSPITAL _____ TOTAL 52

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY

A CERTIFIED TRUE COPY OF W.F.W. 3 MUST ACCOMPANY THIS FORM

[signature] Lieut.
(Name & Appointment) A/Adjt.

Camerons of Canada Unit
Cdn Army (Overseas)

Dated at Dundurn Field
This 16 day of August 1942
(To be dated and signed as of date of trial)

PERPARED FROM M.F.M. 4.

No. H20126 Name Deuling, G. Sqn., Battery, or Company "H.Q." Corps Q0.C.H. of Can Date of enlistment 15-5-40 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 179) 11SM—7-41 (1219-39) H.Q. 1772-39-1032

Date of last entry in Company Conduct Sheet Last Sheet Lost No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Aldershot	5/11/40	Pte		W.O.A.S. Absent without leave		48 hrs Detention	6-11 40		
Delville Brks.	10/3/41	Pte		W.O.A.S. Absent without leave (8 hrs)		7 days C.B.	12/3/41		Forfeits one days pay.
Delville Brks.	6/4/41	Pte		W.O.A.S. Absent without Leave (7 hrs)		Admonished	7/4/41		Forfeits one days pay.
Delville Brks	24/6/41	Pte		W.O.A.S. Absent without leave (7 days)		27 days Detention	1/7/41		Forfeits seven days pay.
Delville Brks.	26/7/41	Pte		W.O.A.S. Absent Without Leave		28 days Detention	28/7/41		
Fleet	29/9/41	Pte		W.O.A.S. Absent Without Leave (8 Hrs)		Forfeits 3 day Pay			Forfeits one days pay

P.T.O.

Place	Date of offence	Rank	Cause of drunken zone	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Seaford	19/3/42	Pte		W.O.A.S. committing an offence under Sec 40 A.A.		Forfeits seven days PAY F.R.& I 149(2)			

CERTIFIED A TRUE COPY N.S.Bergman Lieut.
(N.S.Bergman)
Asst/Adjt. Camerons of Canada.

10 10 10-31 (Case #2)

Pte DEULING G.

See S.6 for 1st case

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H-20126 Pte Gerhart Deuling, - 2 CIRU - Camerons of C

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.A.Sec 15(1)	Guilty	Guilty	Adm.
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~A 15(1) and Section 4 Vagrancy Act~~ ~~beginning on (date)~~ ~~21 Feb 44~~

(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of One days, of which Nil days were spent in hospital.(1)

(I. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for Seventy Five days ~~detention~~ To be placed under stoppages To pay £5 to make good the cost of Def pp's pie ration 5s-1-0

(Sgd) Judge-Advocate, if any. 22 Feb 1944 Date awarded. (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be released from arrest and that all rights, duties and privileges~~

Date 22 Feb 44 (Sgd) W.H.Thwaites Lt

A/Commanding "A" GP, CRU

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr
H-20126 Pte Gerhart Deuling 2 CIRU	23 Feb 44	G. S.B. Davison (Lieut)

PART II ORDER No. 45 with 23 Feb 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

DDP-31

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) W.O.F.S.C. 7608 (2804)

Convened by Order of Col M. E. Greene A/Comd "A" Gp, CRU dated 21 Feb 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H-20126	Pte		Gerhart	DEULING	2 CIRU

PROCEEDINGS REVIEWED

F. L. Woodhouse.

3 Mar 44 Lieut

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 22 February 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AF65, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1415 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~the Interpreter is sworn.(1)~~ as interpreter? Ans ~~The shorthand writer is sworn.(1)~~ as shorthand writer? Ans

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 187, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	P. M. MILLETTE (R 22e R)	6 CIRU
Member	Capt	W F AITHEN (RWR)	2 CIRU
Member	Lt	R BOULÉ (FMR)	6 CIRU
Waiting Member ~~Judge-Advocate~~	Lt	L DORVAL (FMR)	6 CIRU
Prosecutor	LT.	D. M. RODGERS (UNB)	2 CIRU.
Defending Offr	Nil	Nil None assigned accused	

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused H-20126 Pte Gerhart DEULING before arraignment make(s) (has) (is) plea ~~Pro forma~~ Plea of Guilty (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB name and name of the accused making the plea.)

A9. The accused is ~~severally~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AF6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*H*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 90.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Yes (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E. 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. ..... Do you intend to call witnesses on your behalf ?

Ans. ..... Are they witnesses as to character only ? Ans. .....

(1. *RP* 105. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 80(*C*). *Note the further opportunity in para* E1 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*m*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(2), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. Yes.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement of Service as to Character and Particulars of Service(1), and certified true copy [redacted] of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)

(1. *AFB* 255 *or AFB* 296. 2. *AFB* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes On Statement & Conduct Sheet. Plea in Mitigation (2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to speak on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 363-366, *Overseas KO* 209, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(2), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*i*) (*b*), 98(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H.20126, Private Gerhart DEULING, Queen's Own Cameron Highlanders of Canada, on strength of 2 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army, is charged with:-

FIRST CHARGE — WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Laurentide Camp, Witley, Surrey, whilst undergoing Field Punishment, absented himself from 1600 hrs. 28 Jan 44 until surrendering to Civil Police in Newcastle at 1600 hours, 14 Feb 44.

Cost of apprehension and return to Unit - £4 - 1 - 0

Total time absent - 17 days.

(W.J. Bingham) Lt.-Col.,
A/Commanding, 2 C.I.R.U.

Laurentide Camp,
Witley, Surrey.
19 Feb 44.

To be tried by Field General Court Martial.

(H. F. Greene)Col.,
A/Cond,
"A" Gp Cdn Rft Units,
C.A.(O).

21 Feb 44
Witley, Surrey.

FIELD GENERAL COURT-MARTIAL

CFA05 (In lieu of AFA3)
40(PAM)1697 (2005)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H 20126	Pte		Gerhart	DEULING	2 CIRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has ~~have~~ committed the offence~~s~~ set forth in the Charge Sheet~~s~~ attached and on (date) 21 Feb 44 endorsed by me, ~~or by an offr of my rank or more~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~s~~ should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~s~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint any other Offr to form the Court, (by reason of his being a witness for the prosecution) I have appointed the~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I am unable to appoint a Judge Advocate. I have therefore detailed~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
MAJOR	P. M. MILLETTE	(R 22e R)	6 CIRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by CO 2 CIRU	
Lt	to be detailed by CO 6 CIRU	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	to be detailed by CO 6 CIRU	

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 21 Feb 44

(Signed personally. RP 105 fn 2.)

(M. E. Greene) Col.; (Rank.)

A/ Commanding "A" Gp Cdn Rft Units, C.A.(O).

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officer's Certificate
K.R. (Can) Para. 557.

I certify that I have this morning examined, H 20126 Pte DEULING G. (QOCH)
(No.) (Rank) (Name)

of 7 C I R U and in my opinion he is fit ~~unfit~~ to under go trial by Court Martial.

Station Lauentides Camp.

Date 22 Feb 44

W. H. Spittel Capt
(Medical Officer)

The accused pleaded guilty to the charge, and EX "D"
made himself the following statement.

"As the Army was not fair to me, and I am fed up with the routine I asked my discharge. Because as soon as I will get out of detention, I will do something worse. I am not a soldier."

J Mc

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit,* notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depôt in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depôt, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depôts are shown in the Monthly Army and Air Force Lists.

(34071) W.13674/190 10,000 6-41 A.&E.W.Ltd. Gp.698 Forms/O.1617/12

'A'

I CERTIFY that the man whose personal description is given below surrendered himself to* John Banatt Sergt 66 at Newcastle on Tyne at (hour) 4 - 0 p.m. on the 14th day of Feby 1941 as being No. H. 2026 (Rank and Name) Gunner Dowling a deserter (or absentee without leave) from 2nd C.I.R.V. Guildford. and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 23 yrs Height five Feet Eight Inches
Complexion fresh Hair brown Eyes brown
Marks
In uniform or plain clothes Uniform

Probable Date and Place of Attestation	15/5/1940 Winnipeg, Canada
Probable Date of Desertion or beginning of absence, and from what place	30/1/1941 Whitley Guildford

Signature of Officer of Police in charge of Wes Hall Sgt.
Central Station.
14 / Feby 1941 Date of Signature.

B

Expense Voucher Re—: Ref. K.R. & O. (Can) 539

Reg. No. H 20126 Rank Pte Name Duelling, G. Unit No 2 C.I.R.U.

The following expenses were incurred in apprehending and returning the R.C.N. Soldier to his ~~Unit From~~ London from Newcastle-on-Tyne.

Date	Particulars	Amount		
12 Feb. 44	Escorts return fare from LONDON To Newcastle-on-Tyne	2	1	7
	Prisoners single fare to LONDON From Newcastle-on-Tyne	1	0	9
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		15	8
	Total £	4	1	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L.J. Brayson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-56
(G.T.S. 6-485-3297)

C

Part I Daily Order No. 25, dated 31 Jan 44, Para 11(a):-

Absent more than 24 hours from 1600 hrs 28 Jan 44.

H.20126, Pte. DEULING, G. (QOCH)

CERTIFIED TRUE COPY.

Kenneth A Gray (Lt)
Assistant Adjt 2 C.W.

Appx C

D

Part I Daily Order No. 23, dated 28 Jan 44, Para 9 (c):-

H.20126, Pte. DEULING, G.	(QOCH) CHARGE (i) A.A. Sec 15 (1) A.W.L. from 2200 hrs 24 Jan 44 until apprehended by CPC in London at 0335 hrs. 26 Jan 44. (1 day 5 hrs 35 mins).	
	CHARGE (ii) A.A. Sec 40 Did make a false statement.	
AWARDED:	10 days F.P.	
FORFEITS:	2 days pay FR & I 149 (1) (a)	
	10 days pay FR & I 149 (1) (b)	
TOTAL FORFEITURE:	12 days pay	27 Jan 44.

CERTIFIED TRUE COPY

Kennell A. Gay (Lt)
Assistant Adjt. 2 C.I.U.

DJM

RECEIPT OF SUMMARY OF EVIDENCE

I, No. H.20126, Private Gerhart DEULING, (QOCH) 2 Canadian Infantry Reinforcement Unit, hereby acknowledge receipt of a true copy of the Charge Sheet in connection with the charges pending against me.

I also acknowledge receipt of one true copy of the Summary of Evidence.

Laurentide Camp, Witley Surrey, 20 Feb 44

Time 11.15 hrs

G. Deuling. Pte.

APPLICATION FOR DEFENDING OFFICER

DO NOT fmk.

I, No. H.20126, Private Gerhart DEULING, desire to have an officer assigned to represent me at my trial by Court-Martial.

G. Deuling Pte.

(G. Deuling)

Ex "A"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No. H.20126, Private Gerhart DEULING, Queen's Own Cameron Highlanders of Canada, on strength of 2 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS for the Prosecution. H.19636, Acting Sergeant TAYLOR, P.W., Q.O.C.H. of C., on strength 2 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:-

"At Laurentide Camp, Witley, Surrey, on 28 Jan 44, I was posting men for "A" Coy. and at 1600 hours I looked throughout "A" Coy. lines and the camp for Private Deuling, G., as he was to be posted. I was unable to find him and reported his absence to the Orderly Sgt., who placed the accused's name on the Absentee Report".

The accused declines to cross-examine this witness.

Sgt Taylor P.W. A/Sgt.
H.19636 (P.W. Taylor)

SECOND WITNESS for the Prosecution. Lieut. K.A. Gray, R.R.R., on strength of 2 Canadian Infantry Reinforcement Unit, an officer of the Canadian Army Overseas, having been duly sworn, states as follows:-

"I produce certificate in accordance with Army Act 163 (1) (ii) certifying that H.20126, Pte. Deuling. G. surrendered himself at Newcastle-on-Tyne at 1600 hrs. on 14 Feb 1944 (Marked Appendix "A").

I produce CMHQ 1000:55 showing cost of apprehension and return to Unit of H.20126, Pte. Deuling, G. amounting to £4-1-0 (Marked Appendix "B")

I produce certified true ~~copy of~~ EXTRACT D.O. #25, d/31 Jan 44, Para 11 (a) Absent more than 24 hours from 28 Jan 44 H.20126, Pte. Deuling, G. (Marked Appendix "C")"

~~The accused declines to cross-examine the witness.~~

~~(K.A. Gray)~~ Lieut.

I pr oduce certified true extract of D.O. #25 d/28 Jan 44, Para 9 (c) showing that the accused was undergoing 10 days Field Punishment on the 26th day of January 1944.
(Marked Appendix "D")

The accused declines to cross examine the witness.

Kenneth A Gray Lieut.
(K.A. Gray)

The accused was cautioned as follows:

" Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) (d) (e) (f) have been complied with

D.M. Rodgers Lieut.

(D.M. Rodgers)
Officer detailed to take the Summary of Evidence.

Laurentide Camp,
Witley Surrey,
19 Feb 44

Last Leave Due [illegible] 16 Nov 41 EA C

No. H20126 Name DEULING, G. | Sqn., Battery, or Company | Corps C.I.C. | Date of enlistment 15 May 1940 G.C. | Service or Proficiency Pay | Badges | Signature O.C. Company, etc. | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No.

M.F.M. 6 (A.F.B. 122) 500M—8/39 (1783) H.Q. 1771-45-18

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	4 Nov 41	Pte		(1) AWL. Abs. from the guard of which he was a member from 1245 hrs 4 Nov 41 to 0945 hrs 5 Nov 41. Total absence 21 hrs 45 mins.	Sgt Goudge Pte Duncan A.	48 hrs Detention	5 Nov 41	Maj S.R. Dudley D.S.O. M.C.	Forfeits 2 days Pay
FIELD	9 Nov 41	Pte		When Abs. from 1330 hrs 9 Nov 41 to 1330 hrs 9 Nov 41. Total absence 6 hrs	Capt Dinning G.	1 Days Pay 1 Days C.B.	10 Nov 41	Capt D.S. Emmett	Forfeits 1 Days Pay
FIELD	9 Jan 42	Pte		When Abs. from 0730 hrs 9 Jan 42 to 0140 hrs 10 Jan 42 apprehended by CPL [illegible] Total absence 6 Days 7 hrs 10 mins (AAA on 10 Jan) 2 Days 2. Making a false statement As a result of which he was removed from [illegible] Pay has not been restored	Capt Simmons A.F.	2 Days Detention	26 Jan 42	D.S.O. Brown R.A.	2 Days Pay Stopped
FIELD	23 Oct 41	Pte		When AWL absent from 1810 hrs 23 Oct 41 to 0540 hrs 24 Oct 41 CB Rm 30 mins } AA Sec 15 42	Sgt Watt 2 Days	2 Days CB	28 Oct 41	D.S.O. Brown R.A.	
FIELD	9 Feb 42	Pte		When Neglecting to obey [illegible] Order in that First Aid [illegible] 1830 hrs 9 Feb 42 and did not Report [illegible] CB Rm 657	Dong	Admonished		[illegible] Major	

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD		Pte		when handcuffed to the prisoner in charge of the Guard improperly permitted	Sergt	7 Days Pay	14 Nov 42	2/Lt A.D. Spalding	7 Days Pay
				the escape of a prisoner under his charge (Para 4 Sect 1 Chap XI KR)				Major	
FIELD	8 Sept 42	Pte		Absent from Tattoo 8 Sept 42 (Para 3 Sect 1 Chap XI KR)	Cpl Rudd RM	7 Days CB	6 Oct 42	R Simpson	7 Days CB
					7777	7 Days		Major	
FIELD	8 Aug 42	Pte		Absent from Tattoo 8 Aug 42 (Para 3 Sect 1 Chap XI KR)		180 Days Detention	16 Aug 42	F.G.C.M.	
FIELD	8 Aug 42	Pte		Absent from Tattoo 8 Aug 42 & RBC Parade 25 Jan 43					
				36 days 21 Hrs AA 15 (1)		Released from the Detention Barracks HM Prison Wandsworth on 5 Aug 43			
						Gentle & showing Expressed Remission earned under Rules			
						& Detention Barracks & Prisons Rules 17 days			
						COMMANDANTS INITIALS Lt R.S.			
					Sgt R.E. LARKINGHAM	ADMONISHED	7 Sept 42	2/Lt I.C. Bingham	Update Hqs Coy 7 DSR 14 Sept 42
FIELD	4 Sept 42	Pte		Absent from Tattoo 4 Sept 42 to 0530 hrs 5 Sept 42	Dvr				
				(Para 3 Sect 1 Chap XI KR) AA Sec 15 (1)	Cpl RUDDELL R.A.	21 Days FP 1 in Detention	7 Dec 42	Major I.C. Bingham	2 Days Confinement
FIELD	3 Dec 42	Pte		Absent from Tattoo & 3 Dec 42 to 0700 hrs 4 Dec 42	Dvr Cpl Rowan	28 Days Detention	10 Dec 42	Maj I.C. Bingham	4 Days Confinement
				Absent Roll Call 8 Dec 42 AA Sec 15(2)	Dvr Cpl Gibson	2 Days FP 1 in Detention	17 Dec 42	Maj I.C. Bingham	2 Days Confinement
FIELD	8 Dec 42	Pte		Absent Roll Call 9 Dec 42 AA Sec 15(2)					
FIELD	9 Dec 42	Pte		Absent Roll Call 10 Dec 42 AA Sec 15(2)					
FIELD	10 Dec 42	Pte		Absent Roll Call 11 Dec 42 AA Sec 15(2)					
FIELD	11 Dec 42	Pte		When under stoppage failed to pay [illegible] AA Sec 15(2)					

CERTIFIED TRUE COPY

for OFFICER IN CHARGE

POSTED 29 DEC 42

Ex "B"

M.F.B. 355
22M—5-41 (372-S)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H20126	Private	Gerhart DEULING (Can of C)	2 C.I.R.U.

1. The following is a fair and true summary of the entries in the ~~Service and Pensions~~ ~~Regimental Equivalent~~ ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~as forwarded~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AWL AA Sec 15(1)	4 times	AWL AA Sec 15(1)	10 times
For	Conduct to Prej.AA Sec 40	1 times	Making false Statement	2 times
For		times	Neglecting to obey S.Ordrs.	1 times
For		times	Conduct to Prej AA Sec 40	1 times
			Using Threatg Lang.AA Sec 8(2)	1 times

Number of instances of gallantry or distinguished conduct

or,

~~There is no entry in the conduct sheets of the accused~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under ~~A.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time~~

The accused at the present time is under sentence for AWL & Con to prej beginning on the 27 Jan 44 day of

4. The accused has been in confinement awaiting trial on the present charges, for 1 days in civil custody, and ~~Air Force~~ 6 & 7 days in military custody, making a total of 7 days in custody, of which Nil. days were spent in hospital.

5. The present age of the accused according to his record of service is 22 years 10 mos ~~apparent age~~

6. The date of his ~~re-enlistment~~ attestation specified in his record of service is 12 May 1941

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, viz.~~

9. The accused is in possession of or entitled to no ~~Air Force~~ military decoration, or ~~Air Force~~ military reward (or is in possession of or entitled to). State any ~~Air Force~~ military decoration or reward. 7.S.M. & Clasp

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held~~ ~~Air Force~~ ~~Army~~ the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated , and in his regiment (or corps), the rank of dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number H 20126 Rank Pte. Name Gerhart Deuling of (Cam of C) 2 C.I.R.U. 8 Can Inf

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F. G. C. M.	16 Aug 42	Using Threatening Language A.A. Sec 6(2) AWL A.A.Sec(15(1)	180 Days Detention	80 Days Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Twenty Second day of February 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

5-1-121

Pte. Dimtch J.W.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (1)	Guilty	Guilty.	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~As present under sentence for~~ beginning ~~on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(2)

(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be imprisoned with hard labour for one year

16 April 1945 (Sgd) R.T. Sneckling Maj
(Sgd) ..... Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5); RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57; RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(2). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 16 Apr 45 (Sgd) ..... Confirming Officer.
Commanding

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
L/3737 Pte. Deutsch J.M.	17 Apr. 1945	RHQ 1

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 23 MAY 1945 JAG BRANCH G.H.Q.

5F 121

CPA86 (In lieu of AFA3) 40/P & S/1698 (4/45)

HELD GENERAL COURT-MARTIAL 4/58B

Convened by Offr i/c ..... Comd 4 Cdn Inf Bde dated 24 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L/53737	PTE	JOSEPH WILLIAM	DEUTSCH	RHLI

PROCEEDINGS REVIEWED
2 Stat Lieut
REVIEWING OFFICER, JAG BRANCH, G.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) GERMANY on (date(s)) 16 April 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 84, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 0935 hours trial commences.(1)

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court ~~that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to ..... as interpreter ? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, viz :

President	Major	R.T. Sneckling	1 R. Regt C Essex Scot Regt
Member	Capt	J.R. Learn	" " "
Member	Lt	F.W. Berthiaume	" " "
Judge-Advocate			
Prosecutor	Lt	R.J. Dickie	RHLI
Defending Offr	Lt		

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 110. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Div p 2.)

A8. The accused ..... before arraignment makes(s) (no) ~~a~~ plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 52(E), (GB), or as to the jurisdiction of the Court (RP 34, 35(A), 117), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and Finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in All rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 52, when several accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Vol I Pte 21

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*D*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 2. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)
(1. *RP* 37(*B*). 2. *RP* 27(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) to ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive as Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans.....
Do you intend to call witnesses on your behalf ? Ans.....
Are they witnesses as to character only ? Ans.....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* 495. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity is para* E1 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(*3*) (*d*), *RP* 45, 120(*A*). 2. *AA* 54(*3*), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and deals with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 27(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement as to Character and Particulars of Service(1), and certified true copy of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex C respectively.(3)
(1. *AFB* 213 *or AFB* 294. 2. *AFB* 64. 3. *RP* 46, *KR Con* 528. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement and Conduct Sheet, and in mitigation of punishment ?(1) Ans No
(1. *RP* 27(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 27(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*3*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44 *fn* 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 336, 343-366, *Overseas AO* 309, 2323, *MML p* 60, 127-739. *As to sentences consigned for civil offences to the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*B*), 98(1), *KR Con* 364. 2. *RP* 50. *As to release from arrest on Confirming Offr see KR Con* 367. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

MEDICAL OFFICER'S CERTIFICATE

I have this day examined

I certify that No. L537337 Pte DEUTCH, JW 1 Bn. KRLI is fit

to undergo trial by Court-Martial.

(Insert fit or unfit)

R. Lynch Capt

Signature of Medical Officer

RMO - 1 KRLI

16 APR 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L53737	PTE		JOSEPH WILLIAM	DEUTCH	RHLI

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 25 MAR endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate the~~ the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	R T Suckling	R Regt C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
	To be detailed by CC Essex Scot	
	To be detailed by CC Essex Scot	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	To be detailed by CC R Regt C	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	N/A	

On Active Service in the Fd

in GERMANY (T. J. CADELDU) BRIG

(Country.) (Signed personally. RP 105 fn 2.) (Rank.)

Date 25 Mar 45 Commanding 4 CDN INF BDE

Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (PARS 120 (3)(b) OF AFAS) (See overleaf for notes and notes for use on trial.)

CHARGE SHEET

The accused, L53737 Pte Joseph William DEUTCH, 1 Bn Royal Hamilton Light Infantry, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Section 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the field absented himself without leave from 1200 hrs 18 Feb 45 until 2200 hrs 16 Mar 45.

Total absence 26 days 10 hrs.

In the Field
23 Mar 45

(HC ARRELL) Major,
A/Comd 1 Bn RHLI.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
Mar 45

Comd 4 Cdn Inf Bde.

LIST OF WITNESSES
FOR THE PROSECUTION

Capt WO AVERY, Adjt, 1 Bn Royal Hamilton Light Infantry

B70375 L/Cpl DIDMON, TD, 1 Bn Royal Hamilton Light Imfantry

A107427 Pte RUSNAK, WN, 1 Bn Royal Hamilton Light Infantry

LIST OF EXHIBITS

"A" - MFB 375, certified true copy of Record of the Declaration of a Court of Inquiry.

Summary of Evidence in the case of
L53737 Pte Deutch J.W 1st Bn R4th
a soldier in the Canadian Army Overseas.

The accused has been informed of his rights

The C.O. directs that the evidence be taken on oath.

First Witness for the Prosecution: B70375 Lcpl Didmon T.D. 1st Bn R4th sworn states: "at approx 1200 hrs 18 Feb 45 I was at B Ech. I made a search for the accused who had just returned from hosp. but I could not locate him. He was reported AWL."

The accused declines to cross-examine.

Sgd. T. D. Didmon

Second Witness for the Prosecution: - A107427 Pte Russell W.H - 1st Bn R4th sworn states:- "On 16 Mar 45 I was on R.P. duty. At approx 2200 hrs the accused reported in to me. I placed him under close arrest & reported the fact to his coy.

The accused declines to cross-examine.

Sgd. W H Russell

The accused having been duly cautioned in accordance with R.P. 44 says:
"I don't wish to say anything"
"The accused does not wish to call witnesses at this point"

Certified that R.P.'s complied with
In the field
21 Mar 45

W. Thees Capt
Offr detailed to
take the Summary.

SUMMARY OF EVIDENCE

In the case of L-53737 Pte Joseph William DEUTCH, 1 Bn Royal Hamilton Light Infantry, a soldier of the Canadian Army Overseas:

THE ACCUSED HAS BEEN INFORMED OF HIS RIGHTS

THE CO DIRECTS THAT THE EVIDENCE BE TAKEN ON OATH.

FIRST WITNESS FOR THE PROSECUTION
B-70375 L/Cpl DIDMON, TD, 1 Bn RHLI, sworn, states:

"At approx 1200 hrs 18 Feb 45 I was at "B" ech. I made a search for the accused who had just returned from hospital but I could not locate him. He was reported AWL."

THE ACCUSED DECLINES TO CROSS EXAMINE

'T.D. Didmon'

SECOND WITNESS FOR THE PROSECUTION
A-107427 Pte RUSNAK, WN, 1 Bn RHLI, sworn, states:

"On 16 Mar 45 I was on R.P. duty. At approx 2200 hrs the accused reported in to me. I placed him under close arrest and reported the fact to his coy.

THE ACCUSED DECLINES TO CROSS EXAMINE.

'W.N. Rusnak'

The accused having been duly cautioned in accordance with R.P. 4(e) says:

"I don't wish to say anything."

The accused does not wish to call witnesses at this point.

Certified that R.P. 4
complied with.

In the field
21 Mar 45

'W.F. Lees' Capt,
Offr detailed to
take the summary

"I wish the services of a defending officer."

'J.W. Deutch'

In the Field
21 Mar 45

SUPPLEMENTARY SUMMARY OF EVIDENCE

In the case of L-53737 Pte Joseph William DEUTCH, 1 Bn Royal Hamilton Light Infantry, a soldier of the Canadian Army Overseas:

THE ACCUSED HAS BEEN INFORMED OF HIS RIGHTS

THE CO DIRECTS THAT THE EVIDENCE BE TAKEN ON OATH

FIRST WITNESS FOR THE PROSECUTION
Capt WO AVERY, Adjt, 1 Bn RHLI, sworn, states:

I present MFB 375, certified true copy of a Record of the Declaration of a Court of Inquiry, which refers to the accused whom I now recognize. (Attached as Exhibit "A").

THE ACCUSED DECLINES TO CROSS EXAMINE

(WO AVERY) Capt.

Certified that R.P. 4 complied with.

In the Field
23 Mar 45

(WF LEES) Capt,
Offr detailed to take the summary.

Exhibit "A"
W.D.E.

RECORD of the Declaration of a Court of Inquiry assembled at FIELD on the 12 day of Mar 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. L93737 Pte DEUTCH JW

DECLARATION

The Court declare that No. L93737 Pte DEUTCH JW, 1 Bn Royal Hamilton Light Infantry, Canadian Army Overseas,

illegally absented himself without leave

at 1200 hours on the 13 day of Feb,

that he is still so absent, and that on the 19 Feb 45 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE $	cts	ARTICLES	VALUE $	cts
Anklets Web		99			75
Battle Dress Blouse	5	25		3	24
Battle Dress Trousers	5	39		4	03
Boots Ankle	5	46		4	10
Drawers Cellular		43			33
Jersey Pullover	1	79		1	35
Shirts Angola	2	03		1	55
Socks Worsted		37			28
		28			21
Braces		09			07
Badges		24			16
Dressings First Field		86			65
Knife Clasp					
	23	28		17	42

Capt HA OLIVER President

Lt T HERMAN Member

Signed at In the Field Lt AS CRAIG Member

this 12 day of Mar 1945.

Signature of Commanding Officer

Certified true copy

(W.O. Avery) Capt & A/J
1 Bn RHLI, 5th Army D/S

Signature of Officer having custody of original record

N.F.B. 273
A.F.B. 111
2M—4-43 (756)
H.Q. 1070-9-467

EXB

In lieu of Army Form B.296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment
L-53737	Pte	Joseph William DEUTCH	1 Bn RHLI

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 months	Since Enlistment
For AA Sec 40	nil times	2 times
For AA Sec 8(2)	nil times	1 time
For AA Sec 15(1)	nil times	2 times

Number of instances of gallantry or distinguished conduct nil

2. The accused has not been previously convicted,

3. The accused is not under sentence at the present time,

4. The accused has been in confinement, awaiting trial on the present charges, for ..... days in civil custody, and ..... days in military custody, making a total of ..... days, of which ..... days were spent in hospital.

5. The present age of the accused according to his record of service is 24 years

6. The date of his attestation specified in his record of service is 31 Mar 41

7.

8.

9.

10. The accused is in possession of, or entitled to, CVSM & clasp

11.

Schedule of Convictions by a Court-Martial or Civil Court, of summary offences under Section 47 of the Army Act and of cases in which trial has been dispensed with or quashed

No. 853737 Rank Pte Name Beutch, JW 1 Bn RHLI

Description of Court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the Court or punishment awarded by the officer	Confirmation or remission
		----- nil -----		

I hereby certify that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14 day of Apr 43

(WO AVELEY) Capt & Adjt
1 Bn RHLI, 24th Army G/S

Ex S

No. 153737 Name DEUTCH JW Sqn., Battery, or Company — Corps CAC — Date of enlistment 31 Mar 41 — G.C. Badges — Service or Proficiency Pay

M.F.M. 6 (A.F.B. 132) (15M-7-41-1319-265) H.Q. 1771-39-1652

Date of last entry in Company Conduct Sheet n/a — No. and date of last drunk n/a — Period not reckoning towards freedom from extra fine n/a — Sheet No. One — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19 Nov 41	Pvt		AA 40		7 days CB			
Field	29 Jul 43			AA 40		14 days CB			
				AA 8(2)		14 days pay			
Field	20 Oct 43			AA 15(1)					Forf 6 days p
Field	30 Dec 43			AA 15(1)					Forf 3 days p
				CERTIFIED TRUE COPY TAKEN FROM MFM 6 7 May 44		W.S.P.Oswald Capt (W.S.P.OSWALD) Lieut for COLONEL CAC Records Ottawa			

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true copy of Regimental Defaulters held in my custody.					
				(WO AY/A81) Sgt & Asst 1 Bn R.N.I 2nd Army C/S					

JJJ-5
GNR DEVAR L.F.

RECORDED AT CMHQ IN AB 160 JJJ 5

FIELD GENERAL COURT-MARTIAL

CFA90 (In lieu of AFA3) 40-P.A.S./1098 (2864)

Convened by Order of Brig J.C.Stewart CBE DSO Comd "C" Gp - CRU dated 29 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-15254	Gnr		Leo Joseph	DEVAR	3 CARU

PROCEEDINGS REVIEWED

1 May 44

REVIEWING OFFICER, JA

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 2 Mar 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~here~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~here~~ brought before the Court. At 1615 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~here~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter ? Ans ~~Not~~

~~The Interpreter is sworn.~~(1) Do you object to Sgt R C Eastwood as shorthand writer ? Ans No. A 39769
The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members ~~JA if any~~, and Offrs under instr ~~if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc

President	Lt-Col	D.L.Redman, V.D.	1 C.A.R.U.
Member	Capt.	K.D. McLellan	1 C.A.R.U.
Member	Lieut	W.P. Thomson	1 C.A.R.U.
~~Judge Advocate~~			
Prosecutor	Lieut.	E.B.Ritchie	2 C.A.R.U.
Defending Offr	Lieut.	J.B.Dickie	2 C.A.R.U.

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused before arraignment make(s) (no) ~~no~~ plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~here~~ arraigned ~~separately~~ on All charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form. D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused F 15254 Gunner DEVAR, Leo Joseph, "A" Bty, No 3 C.A.R.U., a soldier of the Canadian Army Overseas, is charged with:

1st Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

In that he,

in the field, absented himself without leave from 0800 hours 17 Dec 43 until apprehended by the Cdn Provost Corps at Bromley, Kent at 1430 hours 14 Feb 44, incurring costs of return to Unit of £0:3:6. Absent 59 days, 6 hours and 30 minutes.

2nd Charge
Section 18(4)
Army Act

WHEN ON ACTIVE SERVICE
FRAUDULENTL Y MISAPPLYING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

In that he,

in the field, on or about 16 Dec 43 with intent to defraud, sold an electric pressing iron of the value of approximately £1:10:0, which had been hired by him, said iron being the property of B 17313 Gnr. Gagnon, A.A., a person subject to Military Law.

Huron Camp,
Bramshott, Hants.,
22 Feb 44.

(B.R. Ker) Colonel,
Commanding,
No 3 Cdn Arty Rft Unit.

To be tried by Field General Court Martial

Brigadier
Commanding "C" Gp, Cdn Reinforcement Units
(Convening Officer)

Bordon, Hants

29 Feb 44

RECORDED AT CMHQ IN AD 160. VVV-5

FIELD GENERAL COURT-MARTIAL

CPA98 (in lieu of AFA3) 40-PAM 5-1608 (2004)

Convened by Order of Brig. J.C.Stewart CBE DSO Comd "C" Gp - CRU dated 29 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names	Surname	Unit.
F-15254	Gnr	Leo Joseph	DEVAR	3 CARU

PROCEEDINGS REVIEWED

1 May 44

REVIEWING OFFICER, JUDGE ADVOCATE

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 2 Mar 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1615 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~as interpreter?~~ Ans ~~No~~

~~The Interpreter is sworn.~~(1) Do you object to Lt. K.C. Ledbrook A39769 as shorthand writer? Ans No.

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Jet. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc

President	Lt-Col	D.G. Redman, V.D.	1 C.A.R.U.
Member	Capt.	K.J. McLellan	1 C.A.R.U.
Member	Lieut	W.F. Thomson	1 C.A.R.U.
~~Judge Advocate~~			
Prosecutor	Lieut.	E.B. Ritchie	2 C.A.R.U.
Defending Offr	Lieut.	J.G. Dickie	2 C.A.R.U.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See DI p 2.)

A8. The accused before arraignment makes(s) (no) ~~(s)~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 13; RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are) Arraigned Separately~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M.M.L. p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of J.A. see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*); *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 85, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of J.A or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ~~ALL~~ 1&5 CHARGES.

B1. The President ~~or J.A. if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(3) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(4), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(5), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(6)

President to accused: Do you wish to make a statement? Ans. No (6)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the ~~President~~ ~~Court~~.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence incriminating accused on any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) under paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are continued by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused F 15254 Gunner DEVAR, Leo Joseph, "A" Bty, No 3 C.A.R.U., a soldier of the Canadian Army Overseas, is charged with:

1st Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

In that he,

in the field, absented himself without leave from 0800 hours 17 Dec 43 until apprehended by the Cdn Provost Corps at Bromley, Kent at 1430 hours 14 Feb 44, incurring costs of return to Unit of £0:3:6. Absent 59 days, 6 hours and 30 minutes.

2nd Charge
Section 18(4)
Army Act

WHEN ON ACTIVE SERVICE
FRAUDULENTL Y MISAPPLYING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

In that he,

in the field, on or about 16 Dec 43 with intent to defraud, sold an electric pressing iron of the value of approximately £1:10:0, which had been hired by him, said iron being the property of B 17313 Gnr. Gagnon, A.A., a person subject to Military Law.

Huron Camp,
Bramshott, Hants.,
22 Feb 44.

(B.R. Ker) Colonel,
Commanding,
No 3 Cdn Arty Rft Unit.

To be tried by Field General Court Martial

Brigadier
Commanding "C" Gp, Cdn Reinforcement Units
(Convening Officer)

Bordon, Hants

24 Feb 44

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of AFA 2)
40/PAS/1697 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 106. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-15254	Gnr		Leo Joseph	DEVAR	3 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has ([XXX] committed the offence(s) set forth in the Charge Sheet[X] attached and on (date) 29 Feb 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [XXX XXX XXX

Medical Officer's Certificate
K.R. (Can) para 557

I certify that I have this morning examined No.F 15254 Gnr. DEVAR, L.J. of No. 3 C.A.R.U. and in my opinion he is fit to undergo trial by Court Martial.

Station No.3 C.A.R.U.

Date 2 Mar 44.

Medical Officer, No. 3 C.A.R.U.

Trial of F.15254, Gnr. L.J. DEVAR, 3 CARU

Trial on the 1st Charge

Evidence for the Prosecution is taken. The Prosecutor produced (1) a certified true copy of Declaration of Court of Inquiry. Declaration marked Exhibit 1 by the Court. The Prosecutor also produced a Certificate of Apprehension under P.C. 2797. Certificate of Apprehension marked Exhibit 2 by the Court. Prosecutor also produced Expense Voucher for 3/6. Expense Voucher marked Exhibit 3 by the Court. The Prosecution is closed.

The Defending Officer made the submission under R.P. 40 that the Prosecution had failed to make a prima facie case and asked that the charge be dismissed. The Prosecutor stated that he relied on the evidence. The Court was closed to consider the submission. The Court is re-opened. The President announced that the Court disallowed the submission as it was of the opinion that a prima facie had been established. The Defending Officer stated that he did not intend to submit any evidence. The Court was closed to consider its finding.

Trial on the 2nd Charge

Note D-3 Evidence for the Prosecution

1st Witness for the Prosecution
H.17313, Gnr. A.A. Gagnon, 1 CASCRU, being duly sworn, states:-

(The Prosecutor produces an electric pressing iron. The witness examines it and says.) I have seen this iron before. It is my iron. It is a Brock Snyder iron. It has a green cord fastened to a red cord. The green cord was the original cord. The red cord came from a Gnr. Gaudet, and he put the two together. I got this iron before I left Canada. (Iron and cord marked Exhibit 4 by the Court.) I had this iron taken into Aldershot and changed over to the English current. I think it cost me 4/6. I had this done when I first came over here about 25 Sep 43. On 9 Dec 43 before going on leave I spoke to Gnr. McGean. He asked me about renting my iron off me which I said would be O.K. Gnr. McGean then spoke to a Gnr. Devan in my presence and between the two of them they raised canned goods and enough money to amount to 10s. I then gave them my iron and I proceeded on leave the next morning. I got the goods in exchange for the rental of the iron. When returning off leave I inquired about my iron. This was about 21 Dec 43. I couldn't locate Gnrs. McGean or Devar. I understood that they were AWL at that time. After certain conversation with Gnr. Ellis, he showed me an iron. It was my iron, Exhibit 4. The iron was taken into the Bty. office by the B.S.M. and was held there for approximately a month, and the B.S.M. of "A" Bty. returned it to me about a month after I returned from leave. I did not sell the iron to Gnr. McGean or to the accused. I rented it to them for 9 days. I recognize Gnr. Devar. He is the accused (pointing to him).

Cross-examined by the Defending Officer.

When I rented the iron I just spoke to Gnr. Devar. It was Gnr. McGean who made the proposition, and it was Gnr. Devar who split with Gnr. McGean on it. I don't think I heard what went on on when Gnr. McGean and the accused had a consultation about the iron. I was getting ready for my leave at that time. I had

no further conversation with Gnr. Devar before I went on leave. I am sure that Gnr. Devar had the intention to rent the iron. I can not be sure that Gnr. Devar did not have the intention of buying it. I did not buy the iron in Canada. I value it at about £2. I am not a batman. Gnr. Devar was standing at the table when I made the deal with Gnr. McGean about the iron. He was 4 or 5 feet away. That was only during part of the conversation. I heard both Gnr. McGean and the accused talking about the goods they were producing for the iron. I know quite well that Gnr. McGean knew it was just a rental. Gnr. McGean approached me and asked me about renting it. I told him I was going to be away 9 days. I suggested 10s. for the iron when on leave. I had let him have the iron before to press a few suits and we split on the money that we got. Gnr. McGean said he would make a few shillings. while I was away. The accused overheard that part of the conversation. After I told Gnr. McGean I wanted 10s for the iron he went away to speak to Gnr. Devar who was approximately 3 beds away, but when the goods were produced they were both together approximately 2 feet away from me.

2nd Witness for the Prosecution
K.69808, Gnr. I.J. Ellis, 2 CARU, being duly sworn, states:-

(The Prosecutor produces Exhibit 4 and the witness examines it.) This is the iron I bought off of Gnr. Devar. I know Gnr. Devar, the accused (pointing to him). I never saw the accused before until I bought the iron from him. Approximately 16 Dec 43 I was in my hut and I heard that the accused wished to sell an iron. I went down to see Gnr. Devar who slept in the end of the hut I slept in. I bid a pound and a half. There was another fellow there who bid, but he didn't have any money on him. I had the money on me. I gave Gnr. Devar a pound and a half and he turned the iron over to me. I was buying the iron. Gnr. Devar told me he wanted to sell the iron. I said I was buying it. I didn't get any receipt for the transaction. That is all I heard about it for about two weeks until Gnr. Gagnon came back off leave. He claimed it was his iron. I wasn't sure about it so I turned it over to our Orderly Room. I had the iron in the bottom of my kit bag. Gnr. Gagnon described the iron to me before I let him see it. I thought the description was quite good. I then turned the iron over to the Orderly Room. I never got the pound and a half back. I cannot get the iron back.

The Defending Officer declined to cross-examine.

3rd Witness for the Prosecution
F.88485, Gnr. McGean, M.J., 3 CARU, being duly sworn, states:-

(The Prosecutor shows the witness Exhibit 4.) I recognize this iron. It is the iron I rented at 2 CARU from Gnr. Gagnon about 16 Dec 43. I got together some goods from a parcel that I received. I never had enough so I got some off of Gnr. Devar, the accused whom I now recognize (pointing to him). He had two shillings, a can of chicken and some cigarettes I think. I was renting the iron for 9 days. Then I was to give it back to Gnr. Gagnon. I asked Gnr. Devar what he had. I said to him, "I need some money to rent an iron. I am broke." I asked him for five shillings. He said he didn't have it. He had two shillings and a can of chicken and some cigarettes. He gave me that. I said to him that he and I would go into the business of pressing. He said,

Trial of F.15254, Gnr. L.J. DEVAR, 3 CARU

"All right". We intended to stay in business together until Gnr. Gagnon came back off leave, but unfortunately I was put under open arrest that day. That is I was told to stay in camp. Then I went AWL, but before going I left the iron in Gnr. Devar's charge. I told him that I would see him the next day down at Brighton. I did some pressing with the iron after I rented it, about 10 uniforms at two "bob" each. I gave some of the money to the accused and I kept the balance. The deal I had with the accused about the pressing business was whoever pressed the suit would give the other man half of the money received. When I got the goods and money from the accused he knew that I would give it back to him whenever I made the money by pressing with the iron.

Cross-examined by the Defending Officer.

I didn't tell Gnr. Devar we were buying the iron. I told him we were renting it. I didn't use specifically the term "rent" or "rental".

Questioned by the Court.

I went AWL in the evening of the day after I rented the iron. That is the evening of 17 Dec 43. I am not positive that it was on the 16th that I rented the iron, but I am positive that it was the evening of the day after I rented the iron that I went AWL. I rented the iron from Gnr. Gagnon the night before he went on leave. I am not sure that I told the accused how long Gnr. Gagnon would be on leave. I didn't tell the accused to sell the iron. When I met him at Brighton, I told him he was foolish for selling the iron. He said he thought it was my iron, and he offered me 15 shillings for it, to fix things up with me I thought. I didn't expect the 15 shillings. I didn't expect anything from him.

The Prosecution is closed.

Note D-5 Evidence for the Defence

1st Witness for the Defence
The accused being duly sworn, states:-

The first conversation I had with Gnr. McGean about the iron was by my bed. I was in bed reading. We had a normal conversation. He said I have a way of making money. I said, "What's that". He said, "I can an iron for pressing". He said, "I need some money". He said that he could get it from this fellow who was going on leave. I gave Gnr. McGean some canned goods, some cigarettes and two shillings. Gnr. McGean got the iron. We pressed for a few days. We split the money and Gnr. McGean was put under open arrest one evening, and he said he was going to Brighton. He was going AWL. He went. I saw him the next day, I think, at Brighton. I then found out that the iron did not belong to Gnr. McGean. I was about 3 or 4 beds away from where Gnrs. McGean and Gagnon were talking in the hut. There was a lot of soldiers in the hut and I could not hear what they were saying. He did not mention specifically to me that the iron was to be rented. I was not under the impression that the iron was to be rented. I thought Gnr. McGean was purchasing the iron and I was going to make something out of it by lending him what I had. I have never bought or sold an iron of this nature. Therefore, it would be hard for me to assess the value of an iron. I didn't know how much money Gnr. McGean was putting in. I knew that Gnr.

Gagnon was going on leave soon, and as a result he needed some money to go on leave with. I was quite sure that Gnr. Gagnon was not a batman when I put up the money for the iron.

Questioned by the Court.

I have no clear idea of the value of an electric iron. I was packing the iron away in my kit bag when I sold it. I was going to Brighton. There was a bunch around the table, and I said, "How much will you give me for this iron?" Gnr. McGean did not ask me to sell the iron for him.

The Prosecutor addresses the Court on the finding, as follows:-

In summoning up the evidence that we have taken, it appears that Gnrs. Devar and McGean entered into a business arrangement together.for the purpose of earning money with the iron for which they both put up cash or goods. They both admitted that they did earn some money and that they split on the profits. I don't possibly see how a man can purchase an iron for 10 shillings and in a few days later sell it for £1/10 and not know the true value or the approximate value of an iron. It is apparent that the accused sold the iron for Gnr. McGean whom he thought was the owner but without his permission.

The Defending Officer addresses the Court on the finding, as follows:-

I maintain that the Prosecution has not proved the rightful ownership of the iron. The accused sold the iron which he clearly believed belonged to Gnr. McGean and himself. He offered to give 15 shillings to Gnr. McGean which is half of what he got for the iron. Consequently I ask for an acquittal of the accused on this charge.

During the proceedings there has been no clear evidence produced to show that the accused is guilty of the intent. The Prosecutor has brought up the point that the accused must have known what the value of an iron is. There is several things against this. One is the fact that the iron was not paid for in cash only but in goods as well. What value these goods may have been to the accused is extremely difficult to accurately estimate. It has been brought out in the evidence that the accused has had no previous dealings with irons and is ignorant of their value. It is also brought out in evidence that the accused was under the impression that he was making a joint purchase with Gnr. McGean of Gnr. Gagnon's iron. In the charge he is accused of "fraudulently misapplying property belonging" to Gnr. Gagnon. It is clear from the evidence that neither Gnr. Gagnon nor Gnr. McGean took reasonable precautions to fully inform the accused as to the nature of the deal in which the accused was taking part.

Note E-3

The Defending Officer states in mitigation:-

I base my plea of mitigation of sentence on the fact that the accused has a large number of dependents; to be specific a wife and 5 children. The situation is such that if he spends over 6 months in detention his dependents will loose the excess. It will become a hardship on his dependents through no fault of their own. His family have no other means of support except what they receive from the accused. He has been in the Army since Sep 39 and has actually a good record. He was a blacksmith in civilian life. He lived in Prince Edward Island, near Central Bedeque. The accused had about two years in high school.

CERTIFICATE IN ACCORDANCE WITH P.O. 2707 of 10 Apr. 44.

I Certify that No. [illegible] Rank [illegible] Name [illegible]

Unit [illegible] was arrested at Bromley (Place)

at 1430 (hour) on 14 Feb. 44 (date) and that at the time of his arrest he was wearing (Military Uniform) OR (Civilian Clothes).

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.

(Strike out part inapplicable).

EX 2

[illegible] Capt.,
(A.P.M. Croydon), D.A.P.M.,
London Area.

London
14 Feb. 44.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No 115254 Rank Pte Name Dewar, L.V. Unit 3 C.A.P.C.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Bromley

Date	Particulars	Amount		
14/12/44	Escorts return fare from LONDON To Bromley		2	4
	Prisoners single fare to LONDON From Bromley		1	2
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		3	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

E7 3 MW

L.L. Simpson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

CMHQ 1000-55
40/P & D/483

Appendix E

RECORD of the Declaration of a Court of Inquiry assembled at Huron Camp, Bramshott, Hants on the 7th day of January 1944 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. F 15234 Gnr. DEVAR, L.J.

DECLARATION

The Court declare that F 15234 Gnr. DEVAR, L.J. illegally absented himself without leave from Superior Camp, Ludsnott, at 0800 hrs on the 17th day of December 1943, is still so absent and that on the 7th day of January 1944 he was dificient and that he is still deficient of articles to the value of £5:15:8¼ as below listed.

		100% £. s. d.	75% £. s. d.
Boots, Ankle prs 2 @ £1-4-8d. pr.		2 - 8 - 10	1 - 16 - 7½
Brasses, Cleaning	1	- - 2	- - 1½
Brushes, Boot-polish	1	1 - 3	- 11½
Brushes, Cloth	1	2 - 2	1 - 7½
Brushes, Shaving	1	1 - 6	1 - 3
Brushes, Tooth	1	- 6	- 4½
Combs, Hair	1	- 2	- 1½
Drawers, Cellular prs 2 @ 1/11d. pr.		3 - 10	2 - 10½
Fork, Table N.S.	1	- 4	- 3
Greatcoat Drab	1	2 - 16 - 0	2 - 3 - 6
Gloves, Knitted Drab	1 pr.	2 - 1	1 - 6½
Holdalls,	1	- 10	- 7½
Jerseys, Pullover	1	8 - 0	6 - 0
Knife, Clasp	1	3 - 10	2 - 10½
" Table	1	- 8	- 6
Razor, Safety	1	- 3	- 2½
Shirts, Angola Drab	1	9 - 1	6 - 9½
Socks, Worsted prs.	1	1 - 8	1 - 2
Vests, Gym	1	1 - 7	1 - 5¼
Braces, W.E. right	1	1 - 4	1 - 0
Haversack, W.E.	1	8 - 0	6 - 0
TOTAL		£ 7 - 14 - 3	£ 5 - 15 - 8¼

Names of President and Members:

PRESIDENT: Capt. Hilary Cornelius TURNER, RCA, No 3 C.A.R.U.

MEMBERS: Lieut. Lawrence Oscar Lloyd, RCA, No 3 C.A.R.U.
Lieut. James MacArthur Paterson, RCA, No 3 C.A.R.U.

Signature of Commanding Officer

EX' 1

Certified true copy (A.M. Parker) Major, A.J.A., No 3 C.A.R.U.
Officer having custody of original record.

Appendix "Q"

"P" TRAINING WING
No. 3 C.A.R.U.

PW/5-4-5
22 Feb 44.

Commanding Officer,
No. 3 C.A.R.U.

F.G.C.M. - F 15254 Gnr. DEVAR, L.J.

1. I acknowledge having duly received this date 22 Feb 44 a copy of the Charge Sheet and a copy of the Summary of Evidence concerning my forthcoming trial by Field General Court Martial.

L.J. Devar.

F 15254 Gnr. Devar, L.J.

"P" TRAINING WING
No 3 C.A.R.U.

PW/5-4-5
22 Feb 44.

Commanding Officer,
No. 3 C.A.R.U.

F.G.C.M. - F 15254 Gnr. DEVAR, L.J.

1. It is respectfully requested that an officer be appointed to defend me at my forthcoming trial by Field General Court Martial.

L.J. Devar.
F 15254 Gnr. Devar, L.J.

LIST OF WITNESSES

FOR THE PROSECUTION

Lieut. E.B. Ritchie, No. 3 C.A.R.U.

B 17313 Gnr. Gagnon, A.A., No.1 C.A.S.C.R.U.

K 69808 Gnr. Ellis, L.J., No.2 C.A.R.U.

F 66485 Gnr. McGean, M.J., "C" Bty., No.3 C.A.R.U.

FOR THE DEFENCE

---------- NIL ----------

SUMMARY OF EVIDENCE IN THE CASE OF
F 15254 Gunner DEVAR, Leo Joseph
"A" Bty No 3 Cdn Arty Rft Unit, a
Soldier of the Cdn Army Overseas.

By direction of the Commanding Officer
the Summary of Evidence is taken on oath.

1st Witness for the prosecution

Lieut. E.B. Ritchie, RCA, "Q" Wing No 3 C.A.R.U.
an officer of the Canadian Army Overseas.

"I produce:

(a) A CERTIFIED TRUE COPY of the Declaration of the Court of Inquiry purporting to be signed by Major A.M. Parker, Adjutant No 3 C.A.R.U., officer having custody of original document, relating to the accused whom I now recognize, which declared you to be absent without leave from 0800 hours 17 Dec 43 and still absent at 0800 hours 7 Jan 44. This Certified True Copy of the Declaration of the Court of Inquiry is marked Appendix "A" and annexed to this Summary of Evidence.

(b) A P.C. 2797 purporting to be signed by Capt. L.S. Grayson, D.A.P.M. London Area, relating to the accused whom I now recognize. This P.C. 2797 is marked Appendix "B" and annexed to this Summary of Evidence.

(c) One EXPENSE VOUCHER purporting to be signed by the Officer Issuing Railway Warrant and Expense Monies, relating to the accused, whom I now recognize. This Expense Voucher is marked Appendix "C" and annexed to this Summary of Evidence.

E.B. Ritchie Lt

The accused declines to cross-examine this witness.

2nd Witness for the prosecution

B 17313 Gunner Gagnon, A.A., No 1 C.A.S.C.R.U., a soldier of the Canadian Army Overseas, having been duly sworn, states:

"I, B 17313 Gnr. Gagnon, A.A. on the night of 12 Dec 43 before going on leave was spoken to by F 88485 Gnr. McGean, H.J. about renting my iron. I offered him the loan of my iron for Ten Shillings (£0:10:0) for nine days. He spoke to F 15254 Gnr. Devar, L.J., whom I now recognize, and between the two of them they produced enough money and goods to equal Ten Shillings for which I gave them my iron in loan. On returning from leave I could not find either F 15254 Gnr. Devar, L.J. or F 88485 Gnr. McGean, H.J. I spoke to Gnr. Ellis, L.J. and asked him if he knew anything about my iron. He, Gnr Ellis, L.J. said that he had bought an iron. I described the iron to Gnr Ellis, L.J. and he claimed that it was the same iron, but would not return it. I went to the B.S.M. with Gnr. Ellis, L.J. and told him my trouble. The B.S.M. took the iron from Gnr. Ellis, L.J. and kept it as evidence. F 88485 Gnr. McGean, H.J. who at that time was A.W.L. could not be produced, when F 88485 Gnr. McGean, H.J. did return Gnr. Ellis, L.J. stated that it was not the same man that he had bought the iron from. Approximately one month from the time I went on leave the iron was returned to me by the B.S.M. of "C" Troop "A" Bty No 3 C.A.R.U.

A.A. Gagnon

The accused declines to cross-examine this witness.

(to page 2)

3rd Witness for the prosecution

K 69808 Gnr. Ellis, L.J., No 2 C.A.R.U. a soldier of the Canadian Army Overseas, having been duly sworn, states:

"On approximately the 16 Dec 43 I was in my hut at No 2 C.A.R.U. Ludshott and I heard someone wanting to sell an iron so I joined in and I bid One Pound Ten Shillings (£1:10:0) for the iron. I gave the One Pound Ten Shillings in exchange for the iron to F 15254 Gnr. Devar, L.J. whom I now recognize. I got no receipt for the transaction. About two weeks later B 17313 Gnr. Gagnon, A.A. after returning from leave came to me and asked me if I had his iron? I said that I had an iron but did not know if it was his or not. B 17313 Gnr Gagnon A.A. gave me a discription of the iron and it satisfied me that it was the same iron. The iron was put in safe keeping in the Bty office and when the B.S.M. returned it was put in his care. The iron has not been my property since. My one Pound Ten Shillings has not been returned to me."

K69808 Ellis L J

The accused declines to cross-examine this witness.

4th Witness for the prosecution

F 88485 Gnr. McGean, M.J. "C" Bty No 3 C.A.R.U. a soldier of the Canadian Army Overseas, having been duly sworn, states:

"I F 88485 Gnr. McGean, M.J. together with F 15254 Gnr. Devar, L.J. rented B 17313 Gnr. Gagnon's iron for Ten Shillings worth of goods and money for nine days. I used the iron until I went A.W.L. on the 17 Dec 43, when I left the iron in possession of F 15254 Gnr. Devar, L.J. whom I now reecognize. When I returned from A.W.L. I was paraded before Major W.J. Farnsworth to answer questions about the iron. Major W.J. Farnsworth called K 69808 Gnr Ellis L.J. to identify me as the man that sold him the iron but K 69808 Gnr. Ellis, L.J. said that I was not that person.

F 88485 Gnr McGean M J

The accused declines to cross-examine this witness.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e), (f) have been complied with.

E B Ritchie Lt

(E.B. Ritchie) Lieut.
No 3 C.A.R.U.
Officer detailed to take the Summary of Evidence

Huron Camp,
Bramshott, Hants
22 Feb 44.

MFM 6
(AFB 122)
40/PAM/136 (3438)

No F 15254 Name DEVAR, L.J. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 6 Sep 39 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk / | Period not reckoning towards freedom from extra fine | Sheet No 1. | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20 Aug 42			A.A.15(1) A.W.L.		14 days F.P.			Forf 2 days pays FRI 149 (1)(a) Forf 14 days pay FRI 149(b) Total forf 16 days pay Forf 5 days pay FRI 149 (1)(b) Placed under stopp. of pay 10-3 4) FRI 172(a)
Field	3 Nov 42			A.A.Sec.15(1) WOAB, A.W.L.		5 days F.P.			

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3Nov 42		2	A.A.Sec.19 Drunkenness		Fined $5.00			Fined under FRI 161(b)
Field	28Oct 43	Gnr		A.A.Sec.15(1) WOAS, AWL from 1400 hrs 28 Oct 43 to 1620 hrs 28 Oct 43(Absent 2 hrs,20mins)		3 days pay FRI 149(2)	29 Oct 43		
Field	14Nov 43	Gnr		A.A.Sec.15(1)WOAS,AWL from 2359 hrs 14 Nov 43 to 2100 hrs 19 Nov 43 (Abs. 4 days,21 hrs 1 min)		21 days F.P.			Forf 5 days pay FRI 149(1)(a) Forf 21 days Pay FRI 149(2) Total forf 26 days pay.
				(Certified true copy as taken from M.F.M. 4)		Feb 44.			
				(R.G. McKinnon) Capt., R.C.A. Records Officer, No 3 C.A.R.U. Officer having custody of original document.					

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F 15254	Gunner	DEVAR, L.J.	No 3 C.A.R.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be referred to the proceedings. The numbers hereinafter stated should correspond with the number of entries in the Field Conduct Sheet, punishments being given in the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :— service

Within the last 12 months.	Since completion of 6 months
For	times.
For A.A.Sec.15(1)Two (2)	Four(4) times.
For A.A.Sec.19 NIL	One (1) times.
For	times.
Date of first entry in Field Conduct Sheet	20 Aug 42
Date of last entry in Field Conduct Sheet	14 Nov 43

2. Previous convictions of the accused by a court martial or a civil court are as follows :—

3. The accused is the present term of service, namely, NIL

beginning on the day of

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for NIL

days in civil custody; and for 4 16 days in military custody, i.e., NIL days in open arrest, 4 16 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 31 years 324 days

6. The date of his attestation is 6 Sep 1939

7. The service which the accused is allowed to reckon is 4 years 164 days

†State the military decorations (if any) held by accused.

EX 13
1145

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21124) W1.8670/668 100,000 4/42 A. & E. W. Ltd. Gp.698 Forms/B.296(War)/3
(22459) W1.2502/6/1573 80,000 9/43

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
[illegible]		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 2 MAR 44 day of Feb 44

J. R. MacKinnon Capt
RECORDS OFFICER
No. 5 SDN. ARTILLERY HQ

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir.(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~an~~ (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1) NOTE ATTACHED
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the~~ charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on ~~the latter charge(s).~~(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, ~~make a statement, or do neither~~? Ans. Yes Sir. ~~Do you intend to call witnesses on your behalf?~~ Ans. ~~Are they witnesses as to character only?~~ Ans. ~~—~~
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AF5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is ~~(are)~~ recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the First charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans. No Sir.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(f) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in NOTE A1.
mitigation of punishment?(1) Ans. No Sir, only to my Defending Officer.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to adduce on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~(2).
(1. When several accused tried separately see RP 36(f). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 59, 118, 119(A), KR Con 308, 330, 563-566, Overseas Act 308, 232(3), MML p 60, 732-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1b), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-15254 Gnr DEVAR, Leo Joseph - 3 CARU

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Not Guilty	Guilty	
2nd AA Sec 18(4)	Not Guilty	Not Guilty	
~~xxx~~			
~~xxx~~			
~~xxx~~			
~~xxx~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which NIL days were spent in hospital.(2)
(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo Detention for a period of (120) One Hundred and Twenty Days and to be put under Stoppages of Pay equal to Messing and Barrack Damages of 70-3-6 the [illegible]

(Sgd) [illegible] President (RP 45, 50)
Judge-Advocate, if any. Date awarded.
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn a.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 37, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further~~
(1. AA 57A. Delete if not used.)

Date 6 Mar 44 Commanding [illegible] Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
F-15254 Gnr Devar, Leo Joseph.	6 Mar 44.	[illegible] Capt RECORDS OFFR No. 2 CDN. ARTILLERY HOLDING UNIT

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Promulgated in Part II # 74 d/4 April 44.

F 15254 Gnr. Devar, L.J.

R.L. Allely Capt

(R.L. ALLELY) CAPT. - R.C.A.
Officer i/c Records
No. 2 C.A.R.U. C.A.(O)

Promulgated to the accused F 15254 Gnr. Devar, L.J. and extracts taken 1 April 44.

Mackenzie Waters

(Mackenzie Waters) Colonel,
Commanding Officer
No 2 Cdn Arty Rft Unit
Cdn Army (Overseas)

The Judge Advocate General, Canadian Army Overseas, having advised that the conviction on the first charge in these proceedings is invalid, I hereby direct that the record of the conviction on the said charge be and the same is hereby removed and the accused relieved from all consequences of his trial thereon.

In the Field
30 Mar 44.

(B.B. KEMP) Colonel,
A/Commander "C" Group,
Cdn Reinforcement Units.

4X-142.

Gnr. Davar L.J

RECORDED AT CMHQ IN AB 160. 4X-142

CPA96 (In lieu of AFA81) 40/P & B/1698 (5144) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig HON Brownfield, CBE MC, Comd "C" Gp, CRU dated 20 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 18, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/F or A/Appmt.	Full Christian Names.	Surname.	Unit.
PROCEEDINGS REVIEWED 15254	Capt (a)	Leo Joseph	DEVAR	2 CARU

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 23 Mar 45.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fms ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is open[/]. The accused is ~~(are)~~ brought before the Court. At 1020 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... as interpreter ? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (1)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(5). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.M. Miller, E.D., MC	HQ C.R.U.
Member	Capt.	A.C. MacCallum	1 C.G.R.U.
Member	Lieut.	H.E. Watson	1 C.G.R.U.
~~Judge Advocate~~			
Prosecutor	Lieut.	R.E. Matthews	2 C.A.R.U.
Defending Offr	Lieut.	W.J. Owens	2 C.A.R.U.

Questions by President: Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(f), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge (2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B2E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para L3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused F-J5254 Gunner Leo, Joseph DEWAR, "I" Training Wing, No 2 Cdn Arty Rft Unit, a soldier of the Cdn Army Overseas, is charged with:

1st Charge
Section 15(3)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

In that he,

in the field, absented himself without leave from 0800 hrs 13 Nov 44 until being apprehended at High Street, West Ham at 1030 hrs 1 Feb 45. Absent 80 days, 2 hrs and 30 mins.

(E.H.Isbell) Colonel RCA
Commanding Officer
No 2 Cdn Arty Rft Unit
Cdn Army (Overseas)

Huron Camp
Bramshott, Hants
17 Mar 45

To be tried by Field General Court Martial

Brigadier.
Commanding "C" Group, Cdn Reinforcement Units

20 Mar 45
Bordon, Hants.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-15254	Gnr		Leo Joseph	DEVAR	2 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (*date*) this date endorsed by me, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial;

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. [redacted]

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	K.M. Miller, ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by CO	1 CGHU
Lieutenant	To be detailed by CO	1 CGRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

In ENGLAND (Country.)

(Signed personally. RP 105 fn 2.) — Brigadier (Rank.)

Dat: 20 Mar 45

Commanding "C" Group, Cdn Reinforcement Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 3) 40-7 A-S/1697 (8142)

(*See overleaf for oaths and notes for use on trial.*)

Medical Officer's Report
K. R. (Can) Para 557

I certify that I have this morning examined F.15454 Gnr
(Number) (Rank)

DEVAR L.J. of 2 CARU and in my opinion he is
(Name)

fit to undergo trial by Court Martial.
unfit

Station 2.CARU

Date 23.Mar.45

Sgd: [signature] Capt
(Medical Officer)

SUMMARY OF EVIDENCE IN THE CASE OF F-15254 Gunner Leo, Joseph DEWAR. "P" Treining Wing, No 2 Cdn Arty Rft Unit, a soldier of the Cdn Army, Oversees.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

"I produce the following documents pursuant to Oversees RO 5352 which have been read over and shown to the accused and which are attached hereto as Exhibits "A" & "B".

Certified True Copy of the Record of the Declaration of a Court of Inquiry — Exhibit "A"
Certificate of Arrest — Exhibit "B"

(G. Currie) Capt RCA
Admin Offr, "P" Trg Wing, No 2 CARU
Officer detailed to take the Summary of Evidence.

The accused was cautioned as follows: "Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c),(d),(e) and (f) have been complied with.

(G. Currie) Capt RCA
Admin Offr "P" Trg Wing, No 2 CARU
Officer detailed to take the Summary of Evidence.

Huron Camp
Bramshott, Hants
17 Mar 45

5554 A

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at No 2 C.A.R.U. on the 12th day of December 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. F 15254 Gnr DEVAR, L.J.

DECLARATION.

The Court declare that F 15254 Gnr DEVAR, L.J. illegally absented himself without leave from 0800 hrs 13 Nov 44 and is still so absent on the 11th day of Dec 44, that he was deficient, and that he is still so deficient of the following articles:-

DEFICIENCIES OF KIT OF F 15254 Gnr DEVAR, L.J.

ARTICLE	QUANTITY	100% Value £	s	d	75% Value £	s	d
Blouses, S.D.	1	1	3	6	0	17	7½
Trousers, S.D.	1	1	4	1½	0	18	1
Boots, ankle prs	1	1	4	5	0	18	5
Jersey pullover	1	0	8	0	0	6	0
Socks worsted prs	1	0	1	8	0	1	3
Belts, waist w.e.	1	0	3	4	0	2	6
Haversack w.e.	1	0	8	0	0	6	0
Combs, hair	1	0	0	2	0	0	1½
Badges Cap Arty	1	0	0	4½	0	0	3½
		4	13	7	3	10	3½

PRESIDENT : [illegible]
No 2 C.A.R.U.

MEMBERS : E.F.H. KROEGER, Lt., RCA
No 2 C.A.R.U.

J.H. HUGG, Lt. RCA
No 2 C.A.R.U.

Names of President and Members

Signature of Commanding Officer Mackenzie Waters

CERTIFIED TRUE COPY.

R.D. Mulholland Major
Signature of officer having custody of Original Record. 2 CARU
ADM OFFR
(R.D. Mulholland) Major, RCA
Adm Offr, No 2 C.A.R.U.

(19558) Wt.38888/1365 120,000 1/41 A.& E.W.Ltd. Op.498
(17536) Wt.11504/173 200,000 1/41 " "
Forms/C118/56

Any communication on this subject should quote the date and number hereon. Postage must be prepaid.

METROPOLITAN POLICE.

"K" DIVISION. East Ham.

No. 144A. (Unruled)

STATION

6th. February, 194 5

REPORT for the information of the A.P.M., Canadian Military Headquarters, respecting Gnr.F.15254 L.J. Devar. 2, Cookspur Street, S.W.1.

* To { ~~S.D. Inspector~~ D.D. Inspector.

CERTIFICATE IN ACCORDANCE WITH SECTION 163(m) OF THE ARMY ACT.

I certify that the person whose description is given below was arrested at High Street North, East Ham, at 10-30 a.m., on 1st. February 1945.

Regimental particulars of soldier referred to above . . . . . (No.....F.15254
(Rank.....Gunner
(Name.....Leo Jospeh Devar.
(Unit.....No.2 C.A.R.U.

Description.....(Age.....32
(Weight.....5' 8½"
(Complexion...Fresh
(Hair.....Brown.
(Eyes.....Grey.
Marks.....Scar under right side chi

Signature of Officer of Police in charge of police station where the above named person was placed in custody on arrest.

H. Cowling Sgt 15K
.....
In charge of East Ham Police Stati

* Delete as necessary.

No. F15254 Name DEVAR, I.J. Sqn, Battery, or Company Corps R.C.A. Date of enlistment 6 Sep 39 GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 40/PAS/134 (7010)

Sheet No. 1 Signature OC Company, etc Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine

Place	Date of offence	Rank	Cases of Drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Gnr		A.A.Sec.15(1) AWL 2 days		14 days F.P.	20 Aug 42	?	2 dys pay FRI 149(1)(a) 14 dys pay FRI 149(1)(b)
Field		Gnr		A.A.Sec.15 (1)		5 days F.P.	3 Nov 42	?	Forf 5 dys pay FRI 149(1)(b) Stopp of pay 3/6 FRI 172(e)
Field		Gnr		A.A.Sec.19 Drunkenness (2)			3 Nov 42		Fined $5.00 FRI 161(b)
Field		Gnr		A.A.Sec.15(1)AWL 2 hrs 20 mins			29 Oct 42		3 dys forf pay FRI 149 (2)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial with trial	By whom awarded	Remarks
Field		Gnr		A.A.Sec.15(1)AWL 4 dys 21 hrs		21 dys F.P.	22 Nov 43	?	5 dys forf pay FRI 149(1)(a) 21 dys pay forf 149(1)(b)
Field		Gnr		A.A.Sec.15(1)AWL 9 hrs 45 mins		7 dys F.P.	4 May 44	?	Forf 1 dys pay FRI 149(1)(a) Forf 7 dys pay FRI 149(1)(b)
Field		Gnr		A.A.Sec.15(1)AWL 4 dys 23 hrs		28 dys F.P.	13 Jun 44	?	Forf 5 dys pay FRI 149(1)(a) Forf 28 dys pay FRI 149(1)(a)

3/17 MFM 6
(AFB 122)
40/PAS/136 (7010)

No. F15254 Name DEVAR, L.J. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 6 Sep 39 | GC Badges | Service or Proficiency Pay | Character

Signature OC Company, etc | Sheet No. 2

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Gnr		A.A.Sec.15(1)A.W.L. (43 days 22 hrs 50 mins)		90 days Detn	31 Aug 44	F.G.C.M.	Forf 44 d.p. FRI 149(1)(a) Forf 8 d.p. FRI 149(1)(c) (11) Forf 90 d.p.FRI 149 (1)(b)
Released from Detn 29 Oct 44, Remission earned 30 days.									
Field		Gnr		LARCENY (Civil Charge)		1 Month Imprisonment	16 Feb 45	Civil Court	Forf 28 d.p. FRI 149(1)(b) Forf 15 d.p. FRI (1)(e)(i)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of or order directing trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY OF HFM 6 AS TAKEN FROM THE HFM 4					
				G.W. Currie, Capt RCA Administrative Officer "P" Training Wing No 2 Con Arty Rft Unit					

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F-15254	Gnr	DEVAR, L.J.	No 2 C.A.R.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For within Last 12 mos since enlistment times.

For A.A.Sec.15(1) TWO SIX times.

For A.A.Sec.19 NIL ONE times.

For ____ times.

Date of first entry in Field Conduct Sheet 27 Aug 42

Date of last entry in Field Conduct Sheet 8 Jun 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused in the present case is under sentence for ____ beginning on the ____ day of ____

4. The accused has been awaiting trial on the present charges for 43 days in civil custody; and for 87 days in military custody, i.e., NIL days in open arrest, 87 days in close arrest; of which ____ days were spent in hospital.

5. The present age of the accused is 32 years 254 days

6. The date of his attestation calling up for service is 6 Sep 39

7. The service which the accused is allowed to reckon is 5 years 198 days

8. The accused is in possession of† C.V.S.M. & Clasp

9. If the accused is a warrant officer or N.C.O. The accused has served continuously without reduction, to the present rank

Date of promotion

In the substantive rank

In the war substantive rank

In the acting rank

†State the military decorations (if any) held by accused.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(75672) W1.20721/0701 25,000 2/44 A.& J.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	31 Aug 44	A.A.Sec.15(1)	90 days detn	30 days remittance
Civil Court	16 Feb 45	Larceny	1 month imprisonment	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 23 day of Mar. 45

[illegible] Capt AAFIS.
"P" Trng Wing 2 C & R U

Mr. President and members of the court.

F. 15254 Gnr. Clever L. J. was born on 12 July 1912. He was married on 4 Oct 1932 and has five dependents. In civilian life he was a blacksmith owning his own business and also owned his own home. He enlisted at Charlottetown, P.E.I., on 6 Sept 39 with the 3rd Med. Bty. R.C.A. later to become the 2nd M.A.A. Regt. He arrived in the United Kingdom with his regiment in Sept 1941. He served with the regiment until Oct 1943 at which time he was admitted to hospital. Whilst with the regiment he qualified as a driver, predictor operator and a gunner on 3.7" guns. On discharge from hospital he went to No 3 C.A.R.U. later to become No 2 C.A.R.U. He tried repeatedly to get a posting back to his regiment but to no avail. By far the majority of his time at C.A.R.U. was spent doing fatigues, he claims. This man is a problems soldier.

In my estimation the talents and qualifications of this soldier were not being utilized. Certainly he was not being employed at tasks for which he was trained and definitely was not doing work that a gunners soldier with his experience should be doing. He became discouraged and disgruntled as most soldiers do under similar circumstances. For well over the first four years of his service this man has been a good soldier and has only a few minor offences entered on his conduct sheet. I suggest that had this soldiers abilities during the period he was at C.A.R.U. been utilized to the degree of his qualifications and not supervised that he would not be here today but rather with a regiment in the field where he has proved a valuable asset. I further suggest that his career in the army was allowed to "sort of bog down" due to such a lengthy period at C.A.R.U.

About the end of October 1944 he received a letter from a ~~[illegible]~~ who resides in London, to the effect that she was pregnant. He had every reason

to believe that he had been a party to this. This news naturally caused him anxiety and worry. He applied for a weekend pass which was granted and proceeded to London arriving there approximately on the 11th ~~[illegible]~~ Nov. 1944. He found that the woman was pregnant and also suffering other pains. She would not go to a doctor for fear that if reported, her condition would interfere with her pension. She is a widow with two evacuated children and mother to support. She receives a government pension due to the fact that her husband was killed on active service in 1941. Due to her condition she was only able to work for a few days after Edvard's arrival. On 13 Nov 44 Edvar himself went to see a doctor as he felt quite ill. The doctor gave him a certificate to the effect that he would not be fit to travel for three days. He visited him again and the doctor tore up the first certificate and Edvar claims gave him another one dated the 13 Nov 44 and stating he would be fit for travel on the 19th. Certificate is attached. He realizes now that he should have informed his unit but at the time his own condition was one of his lesser worries.

On the 19th he thought he should return to his unit but also on his mind was the plight of this woman. ~~[illegible]~~ She had no income other than the pension which was sent weekly for the support of the two children and mother. With all these facts betoning him in the face he felt he could hardly leave her until a solution was found. Sometime later she told him she had taken some medicine and according to him the effects of which made her very ill. ~~[illegible]~~ For the next few days she was still quite ill and said she was no longer pregnant. She went to the hospital and was operated on for appendicitis on 28 Dec 44. About

two months later Shaw claims he went to the hospital and brought her home. She required some attention and of course still needed financial assistance after discharge from hospital. He felt his obligations had not ceased.

~~[illegible]~~

On the 1 Feb 75 Shaw was picked up by the CID of London whilst with an American soldier. It appears they were purchasing [illegible] and [illegible] came at a profit of [illegible] which would have [illegible] actually was.

He had knowingly accepted monies from the wife of his gaoler. He was held in custody for fifteen days and when he appeared before the Court was sentenced to one month's imprisonment. This sentence he discharged. He eventually forfeited forty three days army pay.

I say that this soldier has already paid in a large degree for the error of his ways. Certainly he must have suffered mental & emotional anguish already his foray is seriously affected. I feel somewhat this unfortunate experience has done more than a lesson to him, and he has assured me that in the future he intends to be a real soldier and a credit to his uniform. I felt that if this man was to be sent out on a draft to the field that he would give a good account of himself.

And so I ask the court to be lenient when passing sentence on this soldier, for briefly there are a number of his long service and good record during the first few years in the army. That he is a notable victim of a soldier not being effectively employed. That due to the unfortunate circumstances of his absence without leave that he thought he was doing the best he could to [illegible] another unfortunate [illegible] which he had been a party.

@ that he is a problem; soldier with commendable experience and decision of getting to the field, and the sooner that fact becomes a reality the sooner this man will be able to serve this country as he originally intended on 6 Sept 42.

I hereby present this plea of mitigation for your kindest consideration.

I am, Sir, your obedient servant,

Pvt. J. Cotton Jr.

23 Jan. 45

TM

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

22/3/45

To whom it may concern.

I the undersigned, do solomly swear, that the statment I am about to make is the truth, the whole truth, and nothing but the truth.

Around about Oct, 30th. I wrote to Leo. Dekar, that I was having his baby, and would he come down to see me, at this he did. I was at the same time suffering from pains in my side, Leo came about the 11th of Nov. two days later he was quite ill. I told him he had better see a doctor, this he did. Both of us was worried at my condition. I was only able to work for two days after the 13th. I did not want to go to a doctor, as I was afraid it would interfere with my pension. About the 1st of Dec: I was quiet ill, having taken some medicine and after words I was no longer regular, my appendix was still bothering me, and it was the not until the 28th of Dec before I got in the hospital —

4/71 CTA 1/5 PLEASE WRITE ON BOTH SIDES

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

I was then operated on, and left the hospital 12 days after Lee came to get me. I did not go back to work until about the 1st of Feb. All this time Lee was helping me financially, and took care of me all the time.

Iris Muriel Shipp

4/71 CFA 179

PLEASE WRITE ON BOTH SIDES

Dr. E. Hacker
6 Chequers Parade
Dagenham

TELEPHONE
RAINHAM 146

13.11.1947

I hereby Certify that in my opinion Jean L. Duval

is suffering from ac. gastro-enteritis

and is unable to return to study & will need bed rest

to travel till 19.11.47

(Signed) [illegible]

VALID FOR 7 DAYS

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans. *Nil*

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex *D* and Ex *C* respectively.(3)

(1. MFB 353 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. *Nil* (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA~~, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 89, 118, 119(A), KR Can 308, 330, 563-566, Overseas 80 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : F-15254 Gnr DEVAR, Leo Joseph - 2 CARU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

NOT

At present under sentence for ..... beginning on (date) ..... (1).

(1. Insert sentence being served, or delete. If not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo Detention for One (1) year

(Sgd) ..... 23 Mar 45 (Sgd) .....

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) .....

Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (1. AA 57A. Delete if not used.)

Date 27 Mar 45 (Sgd) .....

Commanding

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr
F15254 Gnr Devar L J	28 Mar 45	
Do c 75	2/28 Mar 45	Do c to Regt Dept
		Do c to Regt Dept

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

VVV-45

Gov. Dwar. of J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-15254 Gnr ~~DEVAR~~, Leo Joseph - 2 CARU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
~~2nd~~			
~~3rd~~			
~~4th~~			
~~5th~~			
~~6th~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which NIL days were spent in hospital.(2)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo Detention for a period of One Hundred and Fifty (150) days.

(Sgd) ..... Judge-Advocate, if any. 31 Aug 44 Date awarded. (Sgd) [signature] President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence of the court but remit sixty days detention

~~I direct that the accused be not required to undergo the detention by me until further ordered.~~ (1. AA 57A. Delete if not used.)

Date 4 Sep 44 (Sgd) [signature] Commanding J. C. STEWART, Brigadier, Commanding "C" Group, Can. Re-Inforcement Units.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F/15254 Gnr Devar L J	4 Sep 44	[signature] Major
Published in DO 195 d/ 6 Sep 44		R.H. Gibbs Capt SCAEC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 VVV-45

RECEIVED 1 SEP 1944 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA81) 40/P & R/1644 (6144) 4/38B

Convened by Order of Brig J.C. Stewart, CBE, DSO Comd "C" Gp CRU dated 29 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F-15254	Gnr		Leo Joseph	DEVAR	2 CARU

PROCEEDINGS REVIEWED 12 Sep 44
R.H. Campbell Major
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND, on (date(s)) 31 AUG 44

RECORD FORM A- OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Captions do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1350 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....
~~The Interpreter is sworn.~~(1) Do you object to ..... as shorthand writer? Ans No Sir
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	D L REDMAN	HQ CRU
Member	Capt	W S ROBERTSON	1 CARU
Member	Lt	RB PARK	2 CARU
~~Judge Advocate~~			
Prosecutor	Lt	GH DOPKING	2 CARU
Defending Offr	Lt	GE FREEZE	2 CARU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)
(1. RP 2a, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) ~~No~~ plea. (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as to bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~No~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to *Not Guilty*. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO - SIR (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 17(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras ~~B3~~ to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a seperate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 29(B), 60(A) (E), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans.....Do you intend to call witnesses on your behalf?
Ans.....Are they witnesses as to character only? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AF5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (d), RP 45, 120(A). 2. AA 54(3), RP 42, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 1(1).
Ans. NO - SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(*1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment 1(1) Ans. NO - NOT AT ALL (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove as such anything there or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any~~.(2)
(*1. When several accused tried seperately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 329, 2323, MML p 60, 737-739. As to sentences assigned for civil offences to the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1), 98(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused F-15254 Gunner Leo Joseph DEVAR, of "P" Training Wing, No 2 Cdn Arty Rft Unit, a soldier of the Canadian Army Overseas, is charged with:-

1st Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

In that he,

in the field, absented himself without leave from 2230 hours 10 Jul 44 until surrendering himself to the Guard Room at Huron Camp at 2120 hours 23 Aug 44. Total absence 43 days 22 hours and 50 minutes.

Huron Camp
Bramshott, Hants
24 Aug 44

(Mackenzie Waters) Colonel
Commanding Officer,
No 2 Cdn Arty Rft Unit.

To be tried by Field General Court Martial,

Commanding 4C Group, Cdn Reinforcement Units, Brigadier,
(Convening Officer)

Bordon, Hants.
29 Aug 44

FIELD GENERAL COURT-MARTIAL

CFA66 (In lieu of AFA3)
40/PAM/1697 [2008]

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 14, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-15254	Gnr		Leo Joseph	DEVAR	2 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [illegible] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) this date endorsed by me, [illegible] "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [illegible]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LIEUT-COLONEL	D.L. REDMAN, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
CAPTAIN	To be detailed by CO	1 CARU
LIEUTENANT	To be detailed by CO	2 CARU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND
(Country.)

(Signed personally. RP 105 fn 1.) (Rank.)

Date 29 Aug 44

Commanding [signature] Brigadier
Convening Officer.

Commanding "C" Gp, Can Rft Units.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers Certificate
D.R. (Can) para 557

I certify that I have this morning examined F-15254 Gnr Devar, L.J. of No 2 CARU and in my opinion he is ~~fit~~ unfit to undergo trial by

No. 2 C.A.R.U. RCA

Court Martial

2 CARU

31 Aug 44

W.B. Paine
Medical Officer

17

E-3

F 15254 Gnr Lewis
L.V. enlisted in the Can.
Army on 6 Sep. '39 He
has served for 5 years
less one week. During
the first 4 years he was
with a Regt in the field,
and during this time was
convicted of no serious
offence. His manners
& deportment in my
training troop for 6

weeks about a year ago and during the time was a model soldier. at least, on parade.

In civilian life he is a blacksmith by profession and prior to entering his country was in business for himself for 7 years. Pte Lewis has 6 dependents in his family and owns his own home and land on P.E.I. He has definitely established

himself as a worthy citizen in civilian life and I pray that the court will give due consideration to these facts before passing sentence.

SUMMARY OF EVIDENCE IN THE CASE OF F-15254 Gunner Leo Joseph DEVAR, of "p" Training Wing, No 2 Cdn Arty Rft Unit, a soldier of the Canadian Army Oversees.

By direction of the Commending Officer the Summary of Evidence is taken on oath.

1st Witness for the prosecution

Lieut G.W. Currie, Administrative Officer, "p" Trg Wing, No 2 C.A.R.U., an officer of the Cdn Army Oversees, having been duly sworn states:-

"I Produce:-

(a) CERTIFIED TRUE COPY OF RECORD OF DECLARATION OF COURT OF INQUIRY, purporting to be signed by Major H.C. Edworthy, Administrative Officer No 2 CARU, Officer having custody of original record, relating to the accused whom I now recognize. This certified true copy is marked appendix "A" and annexed to this Summary."

G.W. Currie Lt

The accused declines to cross-examine this witness.

2nd Witness for the prosecution

D-9261 Sjt Baldwin, C.H., Guard Commander, Huron Camp, No 2 C.A.R.U. on 23 Aug 44, a soldier of the Cdn Army Oversees, having been duly sworn states:-

"F-15254 Gnr Devar, L.J., whom I now recognize, surrendered himself to me at 2120 hours, 23 Aug 44. He was sober and properly dressed."

Sgt Baldwin Sgt

The accused declines to cross-examine this witness.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down before me in the presence and hearing of the accused and that Rules of Procedure 4(c),(d),(e) and (f) have been complied with.

EX A

D Korn Lieut.

(D.Korn) Lieut., RCA
Assistant Admin Officer
"p" Training Wing,
No 2 Cdn Arty Rft Unit.

Huron Camp
Bramshott, Hants
24 Aug 44

Officer detailed to take the Summary of Evidence.

EXHIBIT "A"

P/W

Army Form B 115.

ion of a Court of Inquiry on the Illegal Absence of a Soldier.

Declaration of a Court of Inquiry assembled at Bramshott Hants on the 1st day of August 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

F 15254 Gnr DEVAR, L.J.

DECLARATION.

The Court declare, that F 15254 Gnr Devar, L.J. did absent himself without leave from approximately 2230 hrs 10 Jul 44., continuously and is still so absent. Deficiencies in kit are as shown :-

ARTICLE	QUANTITY	VOCAB PRICE	WORN PRICE
Anklets, Web Prs.	1	0-4-5	0-3-4
Badges, cap, Arty	1	0-0-4½	0-0-3½
Blouses, B.D.	1	1-3-6	0-17-5½
Trousers, B.D., Prs.	2	2-6-3	1-16-2
Cap Comforter	1	0-1-6	0-1-1
Dressings, F.F.	1	0-1-1	0-0-10½
Spoons, table	1	0-0-4	0-0-3
Belts, waist	1	0-3-4	0-2-6
Haversack, respirator	1	0-6-4	0-4-9
Ointment, A/G	2	0-1-4	0-1-0
Eyeshields, A/G., Pkgs of 6	1	0-2-0	0-1-6
TOTAL		4-12-5½	3-9-4½

Names of President and Members

President :-Lieut. K.H. Kroeger, RCA # 2 CARU

Members :-Lieut. A. Robb, RCA # 2 CARU
Lieut. R.E. Wosley, # 2 CARU

Signature of Commanding Officer (Mackenzie Waters) Colonel

CERTIFIED TRUE COPY

A.H. Edwards, Major
2 CARU

Signature of Officer having custody of the Original Record

(41705) W.L.24516/1583 75,000 6/39 A.& E.W.Ltd. Gp.488
(71548) W.L.42725/760 225,000 1/40 Forms/B115/58

84153

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F-15254	[redacted]	DEVAR, L.J.	No 2 C.A.R.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers hereinafter stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :— Since completion of 6 mos service within last 12 months

For			times.
For	A.A.Sec 15 (1)	FOUR	SIX times.
For	A.A.Sec 19	NIL	TWO times.
For			times.

[redacted]

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for N.I days in civil custody; and for 7 days in military custody, *i.e.*, N.I days in open arrest, 7 days in close arrest; of which N.I days were spent in hospital.

5. The present age of the accused is 32 years 49 days

6. The date of his attestation [redacted] 6 Sep 39

7. The service which the accused is allowed to reckon is 4 years 359 days

[redacted]

†State the military decorations (if any) held by accused.

[redacted]

E x B

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W1,667/0/665 100,000 4/42 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/2
(21459) W1,292/0/1673 80,000 9/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 31 day of August 1944

(W.H. Taylor) Lt-Col., RCA
O.C. "P" Trg Wing, No 2 CARU

	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	Gnr		A.A.Sec.15(1) AWL 2 days					
Field	Gnr		A.A.Sec.15(1)		14 days F.P.	20 Aug 42	?	2 dys pay FRI 149(1)(a)
Field	Gnr		A.A.Sec 19 Drunkeness(2)		5 days F.P.	3 Nov 42		14 dys pay FRI 149(1)(b)
Field	Gnr		A.A.Sec.15(1)AWL 2 hrs 20 mins.	EXC ML		3 Nov42	?	Forf 5 dys pay FRI 149(1)(b) Stopp of pay 5/6 FRI 1/2(a)
						29 Oct43	?	Fined $5.00 FRI 161(b) 3 dys forf pay FRI 149 (2)

(PTO)

No F15254 Name DEVAR, L.J. | Sqn, Battery, or Company | Corps | Date of enlistment 6 Sep 39 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/125 (B438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Gnr		A.A.Sec.15(1) AWL 2 days		14 days F.P.	20 Aug 42	?	2 dys pay FRI 149(1)(a) 14 dys pay FRI 149(1)(b)
Field		Gnr		A.A.Sec.15(1)		5 days F.P.	3 Nov 42		Forf 5 dys pay FRI 149(1)(b) Stopp of pay 3/6 FRI 172(a)
Field		Gnr		A.A.Sec 19 Drunkeness(2)			3 Nov42	?	Fined $5.00 FRI 161(b)
Field		Gnr		A.A.Sec.15(1)AWL 2 hrs 20 mins.	EXC ML		29 Oct43	?	3 dys forf pay FRI 149 (2)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Gnr		A.A.Sec.15(1)AWL 4 dys 21 hrs.		21 dys F.P.	22 Nov 43	?	5 dys forf pay FRI 149(1)(a) 21 dys pay forf 149(1)(b)
Field		Gnr		A.A.15(1)AWL 9 hrs 45 mins		7 dys F.P.	4 May 44	?	Forf 1 dys pay FRI 149(1)(a) forf 7 dys pay FRI 149 (1)(b)
Field		Gnr		A.A.Sec.15(1)AWL 4 dys 23 hrs		28 dys F.P.	13 Jun44	?	Forf 5 dys pay FRI 149(1)(a) Forf 28 dys pay FRI 149(1)(a)

CERTIFIED TRUE COPY
(W.H.Taylor) Lt-Col RCA
Officer Commanding
"P" Trg Wing No 2 CARU

Officer having custody of True Copy as taken from MFM4

LIST OF WITNESSES.

FOR THE PROSECUTION	Lieut G.W. Currie	2 CARU
	D 9261 Sjt Baldwin, C.H.	2 CARU

FOR THE DEFENCE

NIL

LIST OF EXHIBITS

Exhibit "A" DECLARATION OF A COURT OF INQUIRY

"P" No 2 TRAINING WING CARU

Commanding Officer
No 2 C.A.R.U.

PW/5-4-5
24 Aug 44

FGCM F-15254 Gnr DEVAR, L.J.

1. It is respectively requested that an officer be appointed to defend me at my forthcoming trial by Field General Court Martial.

L. J. Devar.
F-15254 Gnr DEVAR, L.J.

"P" TRAINING WING
No 2 CARU

Commanding Officer
No 2 C.A.R.U.

PW/5-4-5
24 Aug 44

F.G.C.M. F-15254 Gnr DEVAR, L.J.

1. I acknowledge having duly received a copy of the Charge Sheet and a copy of the Summary of Evidence concerning my forthcoming trial by Field General Court Martial.

L. J. Devar.
F-15254 Gnr Devar, L.J.

KKK-132
PTE DEVARENNE A J.

CERTIFIED TRUE COPY

RECORDED AT CMHQ IN AB 160 KKK-132

(R. QUARTERMASTER GEN'L)

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this Eighteenth day of March, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 3 Can Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~and that it is not practicable to delay the trial for reference to a superior qualified officer;~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~I am unable to appoint~~
* ~~(1) Three Officers to form the Court.~~
* ~~(2) A Field Officer as President~~

~~for the following reasons, namely:~~

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the posts to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A M Russell	West NSR

Members.

Rank.	Name.	Regiment.
Captain	R G Therton	West NSR
Captain	J B Jalbert	R 22e R
Lieut	R Piche	R 22e R

Sitting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "F.O. Gibson" Brigadier,

Commanding 3 Can Inf Bde

Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G51322 Pte Albert Joseph DEVARENNE, Carit & York R	First Charge Sec (12)(1)(a)AA	Not Guilty	Guilty Two years imprisonment with hard labour. "A.E. Russell" Major 22 Mar 1944	Confirmed "JGG"

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) "T.G. Gibson" Brigadier (Signed) A.E. Russell" Major

Commanding 3 Cdn Inf Bde *President.*
Convening Officer (e)

(a) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 22 day of March 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The Interpreter~~
4. ~~The officers under instruction~~

*Omit if not applicable.

were duly sworn.

Signed this 22 day of March 19 44.

"A.E. Russell" Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 702 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

"A.R"
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~I direct that the soldier named in the margin be not committed to prison or detention barracks until further order.~~ "JGG"

Signed this 25 day of Mar 19 44.

"T.G. Gibson" Brig.
Confirming Officer.

Promulgated and extracts taken in the case of G51322 Pte. A.J. Devarenne

(a) (Dated) 30 Mar 44 (Signed) "W.L. Ritchie" Lt.-Col.,
D.A.A.G. 3 Cdn Inf Div.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(7873) 51-4017/8-5000 30,000 2-45 A.A.F.U. Ltd. Gp.A93
(8426) W.L.1332/1-71 100,000 3-44

CM/211/J

8 APR 44



Officer i/c
Cdn Sec GHQ 2 Ech CMF
AVELLINO

F.G.C.M. - 22 MAR 44
G-51322 Pte A.J. Devarenne
Carleton & York R.

4/17

Herewith proceedings of the m/n F.G.C.M. following review at this H.Q. together with AFA 3104 completed in accordance with Overseas R.O.2591.

2. The evidence for the prosecution is unsatisfactory in that it does not disclose the particular service for which the accused was warned.

(G.M.Morrison) Major
D.J.A.
for G.O.C. 1 Cdn Corps

CMM/A
POST/DRLS

CHARGE SHEET

The accused, C.51322 Private Albert Joseph Deverenne, a soldier of the Carleton and York Regiment, Canadian Army Overseas, CMF., when on Active Service is charged with:

First Charge
Sec 18(1(a)AA

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, when under orders to move forward to a front line position absented himself without leave, from his company from 2000 hrs on 10 Feb 44 until he was apprehended by the Provost at SANT at about 2300 hrs on 2 Mar 44, with intent to avoid so proceeding to the front line.
Total Absence: 21 Days 3 hrs.

In the Field
Date 15 Mar 44

"W.D. Danby" Major
T/Comd Carleton York R

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
Date

"T.J. Gibson" Brigadier
Comd 3 Cdn Inf Bde.

B. 2

"A.E. Russell

MEDICAL OFFICER'S CERTIFICATE

MR(CAN) PARA 357

I certify that I have this morning examined No. G.51322 Devarenne, A.J. of the Carleton & York Regiment and in my opinion he is fit to undergo Trial by Court Martial.

"H.A. Gibereon" Capt
Medical Officer
R.C.A. Carleton & York Regt.

Station In the Field

Date 22 Mar 44.

"A.M. Russell"
Major.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field on the 22 day of March 19 44 by order of Brigadier T.G. Gibson Commanding 3rd Cdn Inf Bde dated the 18 day of March 19 44

President

Major A.E. Russell West N.S.R.

Members

Capt. R.A. Cheston West N.S.R.

Capt. J.W. Zelbert R. 22e R.

Trial of* G.51522 Pte. Albert Joseph Devereaux, Judge Advocate Capt. A York R.

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

~~The Court satisfy themselves that ... is not available to serve owing to ... "A.B." ... waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. A.A. Record

Counsel‡ or defending officer† Lieut. J.A. Soldier

At 0915 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer. No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).

† Here state Rank and Name, and Regiment (if any).

‡ Qualification to be stated.

B

The President, members and judge-advocate are duly sworn. "A.G.R."

The following officers under instruction are duly sworn. "A.G.R."

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Not Guilty *Answer.*

"A.G.R." Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

"A.G.R." Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

"A.G.R." Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to N/A charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty" until after the finding on that other charge. *Instruction.*

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

The prosecutor makes an opening address (hands in a written address which is read, marked "A" and signed by the President, and attached to the proceedings).

The prosecutor proceeds to call witnesses.

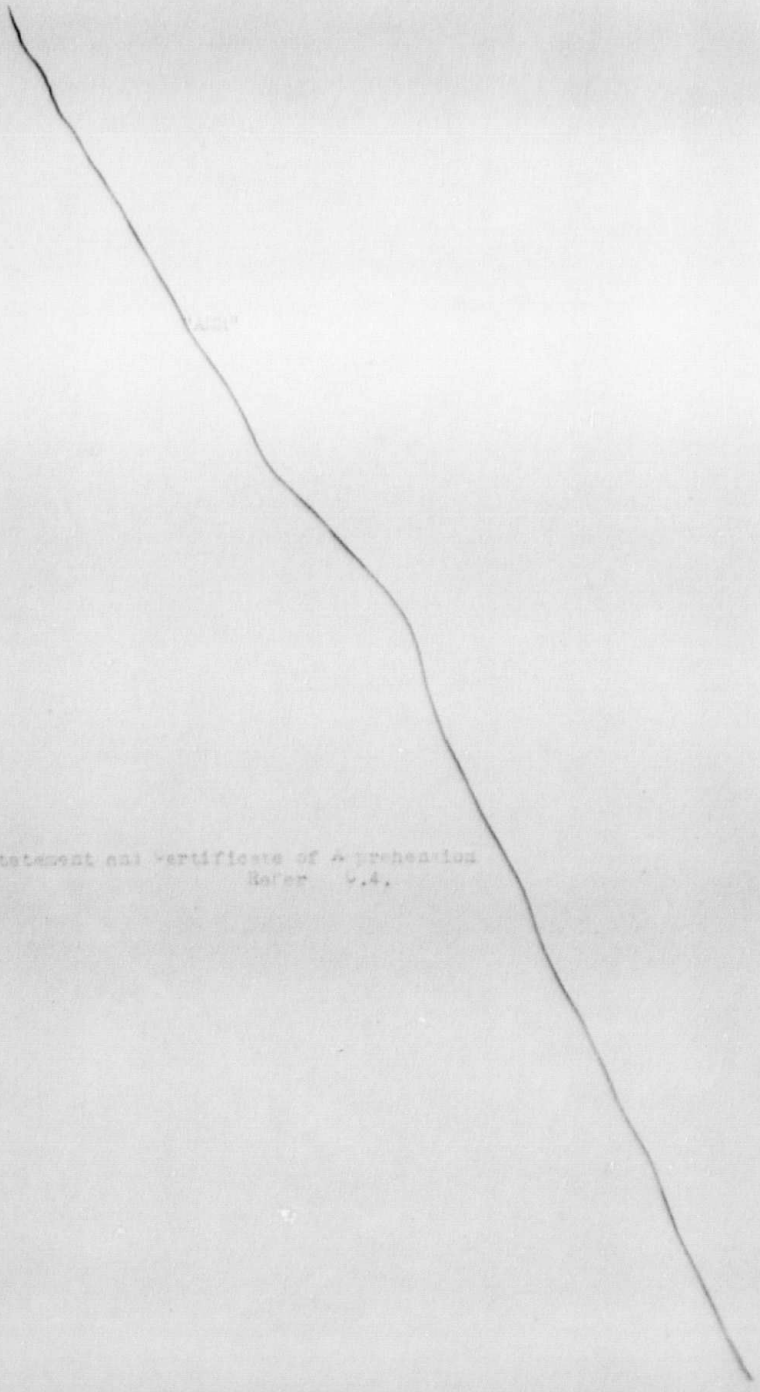
First witness for prosecution.

being duly sworn, is examined by the prosecutor.

See Appendix C.1-3.

"A"

C 2



Statement and Certificate of Apprehension
Rafer 6.4.

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. Yes, sir.

Question. Do you intend to call any other witness in your defence?

Answer. No, sir.

Question. Is he a witness as to character only? *Answer.* N/A

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. ~~Have you anything to say in your defence?~~ "A[illegible]"

Answer. ~~The accused in his defence says:~~

~~[Here or a written address which is read, marked~~ "A[illegible]"

~~signed by the President and attached to the proceedings.]~~

"A[illegible]"

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

D 2

Appendix D1

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

"AMR"

Prosecution closing address (See P)
Defence closing address (See O.)

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

0.51322 Lte. Albert Joseph DEVANEY, Yorkt & York R.

is guilty of the first charge.

"A.R."

Proceedings on Conviction *before* Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut. R.A. Record is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes Sir

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "B" signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes Sir

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes Sir

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes Sir

Cross-examined by the accused.

Defence declines to cross-examine.

Question to the accused.

Do you wish to address the Court? *Answer.* Yes

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused *Sentence*

G.51329 Pte. Albert Joseph Devarenne Carlt & York R

To serve two years imprisonment with hard labour.

"...." Russell"
Maj.

Field 22 Mar 1944.

C.1.

A.M. Russell

1st Witness Prosecution

D.66388 Cpl. Rosen, S is sworn and states:

1. Q. Will explain to the Court what happened prior to the move from Ortona regarding the accused.

1.A. On February 10 in the morning we were notified for movement at 2000 hours. Boys were all notified and I found that Pte. Devarenne was not at his billets. At about 1600 hrs Pte. Devarenne had returned to his billets and was told then for movement that night. After lunch all men were warned that they were not to leave their billets. When we moved off at 2000 hrs I found Pte. Devarenne absent and reported the absence to the C.O.

2.Q Do you recognize this man as Pte. Devarenne.

2.A Yes Sir.

3 From Defence

3.Q. After Pte. Devarenne came back, who warned him.

3.A I did, sir.

4.Q At the time you warned him was he in his billet lying down.

4.A. No sir, he was outside standing up.

5.Q At the time that you warned Pte. Devarenne to move was there any indication he was drinking

5.A Yes Sir

6.Q Would it be impossible that he did not understand what you said because he was drinking.

6.A No Sir

7.Q How do you know he understood you.

7.A Because he promised me he would stay in his billet. He told me he would be there.

8.Q In the past seven or eight days previous to that time had the accused been drinking.

8.A Yes sir.

9.Q Had he been drinking heavily

9.A I don't know

10.Q Would you know whether liquor affects the accused very much.

10.A I would not know.

11.Q By the Court
When the men were warned after lunch that they were not to leave their billets was that after Devarenne's return?

11.A Yes, sir.

R.P. 83(b) has been complied with.

2nd Witness F.49947 C.S.M. Noles, A.F. having been duly sworn states:-

12.Q Will you tell the Court what happened prior to the move.

12.A At about 2000 hrs on the 10 Feb 44 before moving to the front line positions I checked the Coy and found that Pte. Devarenne was absent. He did not report to the Coy nor did I see him till he was in the Guard Room.

13.Q Can you recognize the accused as Pte. Devarenne.

13.A Yes Sir

C 3

Defence

14.Q Did you see the accused at anytime during that day.

14.A I would not know sir. They were living quite far apart. I had report at night on who was absent.

15.Q How did you make the check up of your Coy.

15A I checked by platoon. The P.S.M. in charge reports to me how their Pl. is.

A.F. 83(b) has been complied with.

"A.B"

Capt. D.A. Sharpe C.Y.R. having been duly sworn states:-

"I am the Adjutant of C.Y.R. and I hereby produce documentary evidence:

163(1) AA pertaining to the arrest of the accused marked A.

Q. by the Court: Is the accused the person named in this document.

A. Yes sir.

R.P. 83(b) has been complied with.

"A.H. Russel"
Maj.

WITNESS FOR DEFENCE "A.M. Russell"

The accused S.51322 Pte. Devarenne, under oath states:

1.Q. Will you give the Court what happened on the day your Coy let Ortona.

1.A I had been drinking quite heavy that day. Mr. Rosen says he came up to me and told me about the move. I had been drinking quite a bit. I am not sure I understood exactly. I went away sometime before six o'clock, I left in a truck. From that time, I have been away until picked up in Bari. I fully intended coming back the following day.

Prosecution

2.Q. After you were warned did you take more liquor.

2.A Yes I did.

3.Q. You said you had been drinking before that day. How many days before.

3.A Six or seven days.

4.Q. In other words you had been drinking since the time the unit came at rest.

4.A Yes sir.

Prosecution

5.Q. Did you know the unit was moving.

5.A Yes I did.

6.Q. Did you know of the time.

6.A No sir.

7.Q. Did you realize the seriousness that you were endangering your own life and the life of your comrades.

7.A No sir.

By the Court

8.Q. You say that you do not remember very much that happened due to drinking. Is that right.

8.A Yes sir.

9.Q. How do you know that you intended coming back the next day.

9.A Well me and another fellow decided that the next day we would go back.

10.Q. Do you mean to say that you and that other fellow had intended to come back before you were arrested.

10.A We intended to come back the following day but were apprehended that night, the 2nd of March.

11.Q. What do you mean by the next day.

11.A The day I was arrested and not the day after I left the Coy.

"A.M."

CLOSING ADDRESS (PROSECUTION)

"A.M. Russell"
Maj.

This man who was warned by his C.O. that the unit was moving to the front. He was told when the unit was ready to move he was found absent. He says he had been drinking steadily and that liquor effects him. He admits he was told of the move, he says he didn't realize the time but he did know that the unit was going to move. He drank after he was warned. He made no attempt to sober up and prepare himself for the move. He says he was too far under the influence to realize what he was doing but he wasn't to far under the influence to find his way out of town and the way to Bari. He was warned he was going up the line but he wasn't going. He skipped out. He was absent for 21 days 3 hrs. That must have been great stuff he was drinking. To remain that long without realizing what he was doing. This man left his unit after being warned that he was moving up to the front line. He failed to go. He travelled a considerable distance behind the line. He has shown no proof that he intended to come back until apprehended by the Provost at Bari. In closing I think this man should pay the full penalty of the law.

"R.A. Record" Lieut.

CLOSING ADDRESS OF DEFENCE

"A.M. Russell"

Pte. Devarenne A.J.

The accused was at rest, for the past 6 or 7 days he had been drinking, due to the fact that he was warned about the move, whether he understood or not would not stop a man drinking, especially a man who has been drinking for days. Liquor effects a man in strange ways. A man who when sober would fully and clearly understand an order to move, at the same time would never dream of absenting himself, and maybe endangering his comrades. Again due to the fact that he did not return immediately, but was apprehended in Bari, it is possible that he was afraid of the consequence. But at last it got the better of him, and realizing that he had done wrong had planned to return the following. While in Bari the accused did not in any way sell any part of uniform or equipment an indication that he planned to return. As defending officer I plea with the court to dispose of the offence as one of A.W.L.

"J.A. Poirier" Lieut.

FINAL ADDRESS BY DEFENCE IN THE CASE OF PTE DEVARENNE, A.J.

"A.J. Russell"
Maj.

Gentlemen:

The accused has a good record he has two slight charges against him, but considering the time that he has been in the army his record is good. Now all of a sudden this charge is laid against him, a charge if he had been in normal condition would have not happened. Is this charge to be a black mark that will follow him through life, to wreck his good military career. Gentlemen as Defending Officer I plea with the court to be lenient in their judgement.

"J.A. Poirier" Capt.

53 F. Gov. Dorcas Jo.

O. H. M. S.

M. F. B. 270

F-86714 Gnr. Deveau, J.C.
No.3 C.A.R.U.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 25th day of February, 19 42

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *and ~~that it is not practicable that the trial should be postponed~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

*~~Provost Officers detailed by the Provost Marshal~~

*(1. ~~Officer of the Court~~)

*(2. ~~Officers having no~~

*(3. ~~Officers having no~~ service)

~~Two Canadian officers~~]

* Omit if not applicable.

Judge-Advocate Lieut. G.M. Forbes, H.Q.,C.R.U.

PROCEEDINGS REVIEWED.

President.

Rank.	Name.	Regiment.
Major	D.A. Petrie	1 Cdn Div Inf Reinf Unit

Members.

Rank.	Name.	Regiment.
Captain	W.H. Ellis	No.1 Cdn Sigs Reinf Unit
Lieutenant	J.C. Newlands	1 Cdn Div Inf Reinf Unit
Lieutenant	R.A. Lombard	No.1 Cdn Eng Reinf Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier

Commanding Cdn Reinforcement Units.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F-86714 GNR. DEVEAU, J.C. No.3 Cdn Arty Reinf Unit.	First Charge A.A. sec 41 Alternative Second Charge A.A. sec 41 Third Charge A.A. sec 15(1) Fourth Charge A.A. sec 24(2) Fifth Charge A.A. sec 40 Sentence See charge sheet attached.	not guilty guilty not guilty guilty guilty not guilty guilty guilty	not guilty not guilty guilty not guilty of the charge as laid but guilty of leaving by neglect his vehicle & making it use guilty To undergo detention for a period of nine months and to undergo stoppage of pay until he has made good the sum of $252-5 in respect of loss of kit-cost of apprehension and return.	Findings and sentence confirmed but sentence remitted to six months detention with stoppages as stated in sentence Fine [illegible]

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) D.V. Pratt Brigadier (Signed) D. Watson Maj.
Commanding Cdn Reinforcement Units. President.
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

I certify that the above Court assembled on the third ~~sitting~~ B.
day of March 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. Certificate of President as to proceedings.

I also certify that :—
1. The members of the Court
2. The witnesses
*3. ~~The interpreter~~ Shorthand Writer
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this Seventh day of March 1942
D. Watson Maj.
President of the Court Martial.

* See footnote (b) on page 762 M.M.L. 1929. ~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~ C. Certificate in case of death sentences

~~Signed this day of 19~~

President of the Court Martial.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. D. Confirmation

* To be omitted unless penal servitude or imprisonment has been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~

Signed this 7th day of March 1942
D.V. Pratt Brig
Confirming Officer.

Promulgated and extracts taken in the case of F-86714 - Gnr Deveau J.C. (DO 57)
(a) (Dated) 14 March 42 ~~Officer Commanding~~ Pte Wood

Promulgated and extracts taken in the case of
(Dated) (Signed)

Promulgated and extracts taken in the case of
(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, No. F-86714 Gunner John Clayton Deveau, No. 3 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas is charged with:-

1st Charge
Section 41
Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING

in that he

at Glasgow, Scotland, between 1st and 3rd January, 1942, stole a ring, valued at £2: 0: 0:, the property of William Milne of 50 St.Mungo Street, Glasgow.

2nd Charge
(Alternative)
Section 41
Army Act.

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, RECEIVING STOLEN GOODS

in that he

at Glasgow, Scotland, between 1st and 3rd January, 1942, did receive a ring valued at £2: 0: 0:., the property of William Milne of 50 St.Mungo Street, Glasgow, knowing the same to have been stolen.

3rd Charge
Section 15 (1)
Army Act.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Huron Camp, Bramshott, Hants, absented himself without leave from 0700 hrs 18 Dec 41 until apprehended by the Civil Police, Eyemouth, Berwickshire, Scotland, at about 1030 hrs 15 Jan 42. Cost of apprehension £4: 18: 10.

4th Charge
Section 24 (2)
Army Act

WHEN ON ACTIVE SERVICE, LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES

in that he

at Huron Camp, Bramshott, Hants. on 22 Jan 42 was deficient of equipments, clothing and regimental necessaries to the value of £2: 18: 0. which amount is 75% of the vocabulary price of such articles which totalled £3:18: 4: in accordance with C.A.O.R.O. 1396, as under:-

	£	s	d
Overalls Blouses Denim		9:	6-½
" Trousers "		8:	9-½
Combs, hair		1:	1-½
Brasses, button		1:	1-½
Brushes, hair		1:10-	½
" blacking		6-	3/8
" polishing		1:	6-½
" button		:10-	½
Drawers, Cellular, Short		1:	7-½
Dressings, first field		0-	½
Forks, table N.S.		3-	3/8
Housewife		5-	½
Haversack, web		6:	4-½
Knife, clasp		2:	1-½
Carried forward	£ 1:	18:	1-½

Brought forward		1:15:	1-½
Knife, table	£	: :	7-½
Vests, cotton		: 1:	9
Shoes, canvas, prs		: 2:	7-½
Straps, shoulder, right		: 1:	8-½
" " left		: 1:	8-½
Tins, mess		: 2:	1-½
Spoons, table, N.S.		: :	3-3/8
Bags, ration		: :	1-7/8
Covers, mess tins		: :	2-½
Outfits, anti-dim		: :	1-7/8
Eyeshields, A/Gas prs 1 at 4½d.		: :	3-3/8
Capes, A/Gas plain		: 8:	9-½
		£2:15:	0.

5th Charge
Section 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Glasgow, Scotland, between the 1st and 3rd January, 1942 was wearing three chevrons which he was not authorized to wear.

.....T. E. Rowley-Conway Col.....

Commanding,
No. 3 C. A. R. U.

Huron Camp,
Bramshott Hants.
February, 1942.

APPROVED UNDER K.R.(CAN) 540.

for (P.J.Montague) Major-General
J.A.G.
Canadian Military & Air Forces Overseas.

19 Feb 42.

To be tried by Field General Court Martial

(F.R. Phelan) Brigadier
Commanding Cdn Reinforcement Units.

Farnborough, Hants
This 25th day of Feb 42.

Huron Camp, Bramshott.
3 March 1942

I certify that No.F 86714 Gnr Deveau, J C , No. 3 Cdn Arty Reinf Unit is fit to undergo trial by Field General Court Martial.

(C.B. Caswell) Capt. RCAMC
Medical Officer.

Lt. Mc Kechnie R.D.
3 C.G.R.U.

MEDICAL OFFICER'S CERTIFICATE

I certify that No E.86714 , Gnr. DEVEAU, J.C. No. 3 C.A.R.U.

is# fit to undergo trial by Court-Martial.

#Insert "fit" or "unfit".

(Signature of the Medical Officer.

Trial of F96714, Gnr. DEVEAU, J. C.
No. 3 C.A.R.U.

Prosecutor : Major A. M. Clarke, R.C.A.

Defending Officer: Major R. H. Jorgenson, R.C.A.

The Court assembled at 1000 hrs 7 Mar 42

- - - - - - - - - - -

Court — The accused was asked if he had any objections to the Court short hand writer.

Answer — No, Sir.

The Court Shorthand writer, D-114808, Sgt. MacKercher, R. D., No. 3 C.A.R.U. was then duly sworn.

Court — Has the prosecution any further witnesses?

Answer — No, Sir.

Court to Accused — The prosecution being closed, do you apply to give evidence yourself as a witness?

Answer — No, Sir.

Court — Do you intend calling any witnesses in your defence?

A. — No, Sir.

Court — Have you any character witnesses you wish to call on?

A. — No, Sir.

Court — Have you anything to say in your defence?

Defending Officer — With regard to the first two charges, I would like to make a submission that the prosecution has not produced sufficient evidence to prove the guilt of the accused under the Notes of Rules of Procedure No. 41.

Court — Does the Prosecutor wish to make any remarks on this submission?

A. — No, Sir.

The Court is adjourned for five minutes while the Court discusses this matter.

The Court re-assembles.

Court — The submission of the Defending Officer that not sufficient evidence has been produced to make a case against the accused, the accused is found not guilty of the first two charges.

The Court will now proceed with the third, fourth and fifth charges.

The plea is not guilty to the fourth charge.

Court to Prosecutor — Do you wish to call any witness on the fourth charge?

p.t.o.

Answer — Yes, Sir. I would like to call RQMS Skinner.

RQMS Skinner, W. H., P-9851, xxxxxxxxxxxxxxxxxx was then duly sworn.

Prosecutor — When did you first check the kit of Gnr. Deveau?

Answer — On the 8 January 1942, Sir.

Q. — When did you last check his kit?

A. — On the 26th February, 1942, Sir.

Q. — Have you got a record of the deficiencies, if any?

A. — Yes, Sir.

Q. — Can you produce it?

A. — I have it here, Sir.

Q. — There have been several articles returned since you first checked it.

A. — Yes, Sir.

Q. — This certificate which I will submit to the Court as an Exhibit shows xxx outstanding deficiencies now to the value of Seven Shillings and Seven Pence, and if the Defending Counsel sees fit to plead guilty to xxx shortage involving this amount, it will be alright with the Prosecution.

Court to Pros. — You are going to submit this as evidence?

A. — Yes, Sir.

Prosecutor to Witness — Will you read out to the accused the list of deficiencies at the present time.

A. — Yes, Sir:-

		£ s. d.
Drawers, cotton, short	1	- 1- 7½
Dressing, First Field	1	- - 9½
Knife, clasp	1	- 2- 1½
Shoes, canvass	1 pr	- 2- 7½
Bags, ration	1	- - 2
Covers, Mess tin	1	- - 2½
		£ - 7- 7

Court to D.C. — Do you wish to defend this?

A. — No, Sir.

Court — That is the case for the Prosecution.

A. — Yes, Sir.

Court to Acc. — Do you wish to give evidence as a witness?

A. — No, Sir.

Court to Acc. — Do you wish to xxxxxx call any xxxxxxxx witnesses in your defence.

A. — No, Sir.

Court to Acc. Do you wish to call any character witnesses?

A.2 No, Sir.

The Court is adjourned.

The Court re-assembles.

Court Have you any statement to make for mitigation of punishment?

D.C. No, Sir.

Court Have you any evidence to produce as to the character and service of the accused?

Pros. Yes, Sir.

The Prosecutor, Major A. M. Clarke, R.C.A. having been duly sworn, stated-

I produce Army Form B 296, N.P.M.6 and statement as to cost of apprehension.

I produce A.F.B. 296, Statement as to Character and Particulars of Service of Accused.

(This is read out)

Court Is the accused the person named in this statement which has just been read.

A. Yes, Sir.

Court to Pros. Have you compared the above entries with the records kept in the Regimental Books?

A. Yes, Sir.

Court to D.C. Do you wish to cross-examine this Witness?

D. C. No, Sir.

A.F.B. 296, N.P.M. 6 and Statement as to Cost of Apprehension and Return, are signed by the President, and attached to the Proceedings.

Court Do you wish to address the Court.

D.C. Yes, Sir.

I would like to point out to the Court some of the facts concerning the accused. In the first place this man is recommended for reboard, which he is taking in due course, due to disability suffered when four or five years old when his clothing caught fire and his body was somewhat damaged. He still suffers the effects. The scars can be seen on his neck at the present moment.
Also, I would like to point out that this man's Statement of Character reflects that this man has only been absent three times, and the longest absence was for 3 days and 20 hrs. The other absences are for less than 24 hrs.
I would also like to point out that this man has endeavored to serve his country. He enlisted in September 1939, and

was discharged as medically unfit after four weeks. He again enlisted in March 1941 and was discharged as medically unfit after one week. In conclusion I would like to ask the Court to consider leniency because of his repeated attempts to join the army and because of his present physical condition which precludes much standing or walking due to the injuries to his legs.

Court — The Court is closed for the consideration of the sentence.

SUMMARY OF EVIDENCE IN THE CASE OF
F-86714, Gnr. DEVEAU, J. C.,
"Administrative Wing", No. 3 C.A.R.U.

The Commanding Officer directs that the evidence be taken on oath.

1st Witness for Prosecution.

B-6603, Bdr. Bromiley, W., "Administrative Wing", No. 3 C.A.R.U., having been duly sworn, states:-

As Orderly N.C.O. for Administrative Wing, 3 C.A.R.U. on 18 Dec 41, acting on instructions received I investigated the whereabouts of Gnr. Deveau at 0700 hrs. I searched the camp and failed to find Gnr. Deveau anywhere.

He was not present when I took the Tattoo Roll call at 2215 hrs on the same day, and I then reported him absent as from 0700 hrs that morning.

The accused declined to cross-examine this witness.

William Bromley Bdr B6603

2nd Witness for Prosecution.

F-9881, Sgt. Skinner, H. E., "G" Battery, No. 3 C.A.R.U., having been duly sworn, states:-

I am the Sergeant in charge of the Kit Stores at No. 3 C.A.R.U., and on 22 Jan 42 I examined and inspected the kit of F-86714, Gnr. Deveau, J. C., and, having compared his kit with the articles issued to him as set out in his M.P.M. 800, I found him to be deficient of the following articles:-

	£	s	d
Overalls Blouses Denim		12	9
" Trousers		11	9
Combs, hair			2
Brasses, button			2
Brushes, hair		2	6
" blacking			6½
" polishing		2	1
" button		1	6
Drawers Cellular Short		2	2
Dressings first field		1	1
Forks table N. S.			4½
Housewife			7
Haversack web		8	6
Knife clasp		2	10
" table			10
Vests cotton		2	4
Shoes canvas prs		3	6
Straps shoulder right		1	11
Straps shoulder left		1	11
Tins mess		2	10
Spoons table N. S.			4½
Bags ration			2½
Covers mess tin			3
Outfits anti-gas			9½
Eyeshields A/Gas prs. 1 @4½d.			4½
Capes A/Gas plain		11	9
	£ 3	13	4

The accused declined to cross-examine this witness.

H H Skinner Sgt

3rd Witness for Prosecution.

Police Constable, R. Douglas, Coldingham Station, Berwickshire Constabulary.

I, J. L. Goldie, Lieut., R.C.A., the Officer making this Summary, certify that owing to the expense and loss of time involved, the attendance of Police Constable R. Douglas cannot, in my opinion, be readily procured.

J L Goldie Lieut

I now produce and read to you a statement in evidence, marked "A", and annexed hereto, purporting to be

Dat'.

made by the said Police Constable R. Douglas.

The accused does not require the presence of this witness at the trial for the purpose of cross-examination.

4th Witness for Prosecution. William Milne, 50 St. Mungo Street, Glasgow.

I, J.L. Goldie, Lieut., R.C.A., the Officer taking this Summary, certify that owing to the expense and loss of time involved, the attendance of William Milne cannot, in my opinion, be readily procured.

J.L. Goldie Lieut

I now produce and read to you a letter purporting to be written by the said William Milne:-

"Ptes. John Clayton De Veau and Pte. Joe Le Blanc resided with me for five days. I gave them food and sleeping accommodation. They gave me 4 shilling money I think they got from pawning my wedding ring of which they stole. My wife is in a mental hospital and I have a son 13 years old and daughter 10 to support and as I have a wage averaging £3:10: 0 per week I think that the guilty one should be made to pay the £1 that it cost me to get the ring from the pawnshop, the Clearance Line you will receive from the Glasgow C.I.D."

"I sincerely hope that I have taken the proper method by writing to you."

"Yours most respectfully,"

(Sgd.) "Mr. W. Milne"

I now produce and read to you a statement in evidence purporting to be made by the said William Milne to the City of Glasgow Police:-

"I am a brushmaker by occupation and reside with my two children at the address given."

"For the past seven years my wife has been a patient in Woodielee Mental Institution. When she entered the institution I retained her wedding ring which I always keep in my wallet."

"About four months ago while in McAslin Street, I met a Canadian soldier. After some conversation I invited him to my house where we had tea together. When leaving I informed him that should he be in Glasgow at any time to give me a look up. He told me his name was John Clayton De Vaux."

"About 11 a.m. on Thursday, 1st January, 1942, De Vaux called at the house accompanied by another soldier whom I now know to be John Le Blanc. I noticed that De Vaux wore Sergeant's stripes, while Le Blanc had one stripe up. They informed me that they were broke and asked if I could put them up which I immediately agreed to do."

"On Sunday 4th January 1942, I had occasion to go to my wallet which was inside the wardrobe and in my coat pocket. On examining the wallet I missed the ring. I recalled having last seen it on 31st December 1941, and immediately suspected the soldiers for the theft."

"I did not say anything to them at the time, but on my return from work the following day I was informed by my children that the soldiers had gone to stay in the Lion Club in North Frederick Street. On hearing this I went there, but could not find them. On my return home and as I entered the close I found the Sergeant (De Vaux) standing there. I invited him into the house and he stayed with me overnight. I questioned him regarding the ring and he remarked, "That is where Le Blanc has got

Dan.

the money". I asked him to try and get it for me and he left the house to try and trace Le Blanc, but he returned without him or any word of the ring. He left my house on 5th January, 1942, and I have not seen him since."

"I made enquiry with a view to tracing Le Blanc but as I could not find him I called at the Central Police Office and reported the matter."

"About 1 p.m. on Tuesday, 13th January, 1942, I was passing the Lion Club in North Frederick Street, when I saw the accused Le Blanc standing at the door. I went forward and asked him about the ring. He informed me that he had seen De Vaux with the ring and that he had pawned it in Parliamentary Road. I was not satisfied and asked him to accompany me to Parliamentary Road, where I handed him over to a Constable after explaining the circumstances. I accompanied them to the Central Police Station."

"I was later shown a gold wedding ring by Detective Sergeant Robertson and I identified it as my property."

"The value of the ring is £2 and I signed label attached."

The accused does not require this witness' presence at the trial for the purpose of cross-examination.

5th Witness for Prosecution. Marshall Liddell (40) residing at 74 Gower Street, Glasgow.

I, J.L. Goldie, Lieut., R.C.A., the Officer taking this Summary, certify that owing to the expense and loss of time involved, the attendance of Marshall Liddel cannot, in my opinion, be readily procured.

J.L. Goldie Lieut

I now produce and read to you a statement in evidence purporting to be made by the said Marshall Liddell to the City of Glasgow Police:-

"I am manager in Pawn Office of A.J. Liddell at 8 Sauchiehall Street, Glasgow."

"On Saturday, 3rd January 1942, two soldiers called at the premises. The one who was wearing Sergeant's stripes pledged a gold wedding ring and was advanced £1"

"He gave his name as John Le Blanc, 5th Light A.A. C.E.F. England."

"On Wednesday, 14th January, 1942, Detective Sergeant Robertson called at the premises and took possession of the ring."

"He was accompanied by a soldier, but I was unable to identify him as the soldier who accompanied the Sergeant when he pledged the ring."

"I could not identify the Sergeant."

"I signed label attached to ring."

The accused does not require that this witness be present at the trial for the purpose of cross-examination.

6th Witness for Prosecution. James Ralston, No. 376 Constable, Police War Reserve, Central Division, Glasgow City Police.

I, J.L. Goldie, Lieut., R.C.A., the Officer taking this Summary, certify that owing to the expense and loss of time involved, the attendance of Police Constable James Ralston cannot, in my opinion, be readily procured.

J.L. Goldie Lieut

I now produce and read to you a statement in evidence purporting to be made by the said Constable Ralston.

"About 1.10 p.m. on Tuesday, 13th January, 1942, I was on point duty in Parliamentary Road, when I was approached by the witness William Milne, who was accompanied by the accused Le Blanc. Milne informed me that Le Blanc and a sergeant of the Canadian Army had lived with him between 31st December, 1941, and 5th January, 1942, and that after their departure on the latter date, he had missed a wedding ring from his house."

"I informed the witness, Constable Milne, of what I had been told, and the accused Le Blanc was asked after being cautioned, if he knew anything about the ring. He replied, "The first time I saw the ring it was in possession of the Sergeant on the street." "I accompanied the Sergeant to a pawn office, where he pledged it in my name for £1." "I did not know where the ring had come from, and I did not receive any money from the Sergeant"."

"As the witness William Milne had previously reported the theft at the Central Police Office, I conveyed the accused there, where he was questioned by Detective Sergeant Robertson."

The accused does not require the presence of this witness at the trial for the purpose of cross-examination.

7th Witness for Prosecution. Alexander Milne, No. 80 Constable, Central Division, Glasgow City Police.

I, J.L. Goldie, Lieut., R.C.A., the Officer taking this Summary, certify that owing to the expense and loss of time involved, the attendance of Police Constable Milne cannot, in my opinion, be readily procured.

J.L. Goldie, Lieut.

I now produce and read to you a statement in evidence purporting to be made by the said Constable Alexander Milne.

"I can corroborate the statement made by the witness Constable Ralston, and further that I was present at the Uniform Bar when the accused was cautioned and charged as now libelled. He replied, "I was with the other soldier when he pawned the ring"."

The accused does not require the presence of this witness at the trial for the purpose of cross-examination.

8th Witness for Prosecution.

John Robertson, Detective Sergeant, Headquarters, City of Glasgow Police.

I, J. L. Goldie, Lieut., R.C.A., the Officer taking this Summary, certify that owing to the expenses and loss of time involved, the attendance of Detective Sergeant John Robertson, in my opinion, cannot be readily procured.

J. L. Goldie Lieut.

I now produce and read to you a statement in evidence purporting to be made by the said Detective Sergeatn John Robertson.

"I had charge of the Police enquiry into this case and took statements from witnesses."

"About 2.15 p.m. on Tuesday, 13th January, 1942, I saw the accused Le Blanc in the Central Police Office where he was brought by Constables Ralston and Milne. I cautioned and questioned him regarding the ring and he stated that on Saturday, 3rd January, 1942, he was in Parliamentary Road along with the boy, De Vaux, when he showed him a ring, and that he had accompanied him to a pawn shop in Parliamentary Road, where it was pledged for £1. When pledging De Vaux gave his (Le Blanc's) name and that he did not receive any of the money".

"De Blanc also stated that being a stranger to Glasgow he did not know where the pawn office was situated but that he could point it out. Le Blanc was then charged with the theft as now libelled and cautioned in the usual manner to which he replied,'I was with De Vaux when he pawned it but I did not steal it'."

"He was taken to the bar of the Central Police Office where he was again cautioned and charged and replied, 'I was with the other fellow when he pawned it'."

"The following day he was taken out in the Police car and he pointed out the pawn office at 8 Sauchiehall Street Glasgow, as the one in which the ring was pledged. I took possession of the ring which had been pledged for £1 under the name of John Le Blanc."

"He further admitted that neither he nor De Vaux were non-commissioned officers but that they had obtained the stripes and put them up themselves. He also stated that he had been an absentee from his unit since 24th December, 1941, and that, as far as he knew, De Vaux, had returned to his Unit."

"I signed the label attached to the ring."

The accused does not require that this witness be present at the trial for the purpose of cross-examination.

9th Witness for Prosecution.

Harry Duncan, Detective Constable, Headquarters, City of Glasgow Police.

I, J. L. Goldie, Lieut., R.C.A. the officer taking this Summary, certify that owing to the expense and loss of time involved, the attendance of Harry Duncan cannot, in my opinion, be readily procured.

J. L. Goldie Lieut.

I now produce and read to you a statement in evidence

purporting to be made by the said Detective Constable Harry Duncan.

"I can corroborate the statement of Detective Sergeant Robertson in full."

The accused does not require the presence of this witness at the trial for the purpose of cross-examination.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused then made the following statement:-

"I do not like being blamed for something I did not take".

I certify that the foregoing Summary of Evidence consisting of six (6) pages was taken down before me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), and (f) have been complied with.

(J. D. Goldie) Lieut., R.C.A.
No. 3 C. A. R. U.

Huron Camp,
Bramshott Hants.
22nd January, 1942.

Berwickshire Constabulary.

Form B.—No. 32.

Goldingham Station
15th Jan. 1911.

Re: John Clayton Neveau, Gunner No. F 864/14, 86th Battery, 5th D.A.A. Regt., R.C.A. (A.F.)

I beg to report with reference to the above man that on 13th January 1911, I received information from Sergt. Gibb, Eyemouth, that a Canadian soldier who was staying in my beat had been in Eyemouth some time ago and might be a deserter.

I found this soldier to be wearing a greatcoat with sergeants stripes. When I asked him to produce his leave pass he said it was in his equipment and asked for time to allow him to search for it. He later said he had lost it. He said he was on leave from 11th to 19th inst. and that he was stationed at Bramshott. I pointed out to him that there was no record in his papers of his being a sergeant and he said he had been a sergeant since early in December 1910.

Eventually he admitted that he was absent from his unit without a pass and that he was not a sergeant, saying that someone had stolen his great coat and he had stolen this one which had stripes on it. He had no stripes on his battle dress. He said he had left his unit on 19th December 1911. I took him into custody at 10 a.m. on 15th January 1912.

Neveau states that the address of his unit is 86th Battery 5th D.A.A. Regt. R.C.A. (A.F.) No. 3 C.A.D.U. Bramshott. He has no equipment nor hat.

R. Douglas P.C.

While in custody awaiting escort Neveau removed from the greatcoat the sergeants stripes and destroyed them.

R. Douglas P.C.

CANADIAN MILITARY DEPARTMENT
LONDON

SUPPLEMENT TO:-
SUMMARY OF EVIDENCE IN THE CASE OF
F-86714, Gnr. DEVEAU, J. C.,
"Administrative Wing", No. 3 C.A.R.U.

The Commanding Officer directs that the evidence be taken on oath.

1st Witness for Prosecution

B-6603, Bdr. Bromiley, W., "Administrative Wing", No. 3 C.A.R.U., having been duly sworn, states:-

"I wish to make an addition to my testimony given in the Summary of Evidence taken on 22 Jan 42 in the case of F-86714, Gnr. Deveau, J. C., as follows:-

After reporting him absent I did not see or hear of the accused until 22 Jan 42 when I saw the accused for the first time since his absence."

William Bromley Bdr. 6603

The accused declined to cross-examine the witness.

I certify that the foregoing supplementary testimony consisting of one (1) page was taken down before me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), and (f) have been complied with. Signed at Huron Camp, Bramshott, Hants, this 30th Day of January, 1942.

(J. L. Goldie) Lieut., R.A.O.C.
No. 3 C. A. R. U.

No. W6714 Name DEVEAU, J.C. Sqn., Battery, or Company 5 LAA Regt. Corps 88 Bty

Date of enlistment 4-6-41 G.C. Badges

Service or Proficiency Pay

Character

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No. 1 Signature O.C. Company, etc.

M F M 6 (A P B 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original sheet destroyed 4-12-41 on completion of six months service.					

Certified True Copy —

RECORDS OFFICER

No 2 CDN ARTILLERY HOLDING UNIT

(F.T.O.)

Ref: K.R.& O.(Can.)839

Regt. No. F-86714

Rank Gunner.

Name Deveaux J.

Regt. No.3 Cdn.Art.Hold. Unit

Unit:

The following expenses were incurred in apprehending and returning the H/M soldier to xxxxxxxx from Berwick-on-Tweed, London

DATE	PARTICULARS	AMOUNT		
21 Jan.42	Escort return fare from Edinburgh (Scot) to London	3.	0.	8.
21 Jan.42	Prisoners single fare to London from Berwick-on-Tweed.	1.	5.	11.
	Prisoners Single fare from London to			
21 Jan.42	Escorts expense for xxx, meals, xxxx fares and meals for the prisoner.	0.	9.	3.
	TOTAL ---------- £	4.	15.	10.

I certify that the above statement of expenses is correct and that the amounts are fair and just.

F.O. Whittington Lieut.

O.C. No 6 Prov. Coy.
Canadian Provost Corps.

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
P-86714	Gunner	DEVEAU, J. C.	No. 3 C. A. R. U.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given for the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A W L	3 rd 4 times	3 rd 4 times
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of entries entry is cancelled~~

or

~~There are no entries in the conduct sheets of the accused.~~

~~The accused has not been convicted~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or There is no sentence~~

beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for days in civil custody, and 49 days in military custody, making a total of 49 days, of which NO days were spent in hospital.

5. The present age of the accused according to his ~~service~~ attestation paper is 25 years 7 months.

6. The date of his ~~enlistment~~ attestation specified in his ~~attestation~~ attestation paper is 4 June 1941

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 9 months.

8. The accused is entitled to deferred pay or gratuity in respect of 9 months service.

9. The accused is entitled to reckon 9 months service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~or has forfeited or ceased to be entitled to the following~~

11. ~~(If the accused is a warrant officer) There are no circumstances which it would be desirable that the Board of Inquiry should~~

12. ~~(Where the case is) There are circumstances which it is desirable~~ ~~should be brought to the notice of the Board~~

(7/1940) W.L.B.(2,000) 75,000 12/40 A.& E.W.,Ltd. Gp.499

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. P-86714 Rank Gunner Name DEVEAU, J. C. of No. 3 C.A.R.U. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispositions with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the disposing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd day of February 1922

RECORDS OFFICER
No. 3 CDN. ARTILLERY HOLDING UNIT.

13 [illegible]

In the rank of , years.

In the rank of , years.

In the rank of , years.

Date of Promotion.

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the particulars inserted amended accordingly.)

78 N
gnr. Deveau J L
(Sec 83 F)

O. H. M. S.

M. F. B. 279

F-86714, Gnr. Deveau, J.C.
3 C.A.R.U.

Army Form A.3.

Correspondence to be PINNED here.

(T.A.I.Anglin) Colonel
D.J.A.G., C.M.H.Q.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this TENTH day of AUGUST, 1942.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY, OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely

* Omit if not applicable.

PROCEEDINGS REVIEWED

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	C.E. SUDDARD, R.C.A.	2 C.A.R.U.

Members.

Rank.	Name.	Regiment.
CAPTAIN	E.A. MURATT, R.C.A.	2 C.A.R.U.
LIEUT.	[illegible]	[illegible]
LIEUT.	J.J. TAUGHEY Waiting Member	from 3 C.A.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [illegible] Brigadier,
Commanding "C" Group, Can. Reinf. Units.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F-86714 GNR. DEVEAU, J.C. (R.C.A.) 3 C.A.H.U.	FIRST CHARGE A.A. Sec. 11	Not Guilty	Guilty	Remainder of finding and the sentence for confirmation by reason of lack of jurisdiction
	SECOND CHARGE A.A. Sec. 15(1)	Guilty	Guilty	The findings and sentence having been offered to me as superior authority under the provisions of Army Act Sec. 54(5) I do not confirm the finding of the court on the first charge I confirm the finding on the second charge I commute the sentence to one of detention and remit 30 days detention and vary the sentence so that it shall be as follows "10 months detention for 45 days and I confirm the sentence as so varied
	See Charge Sheet Attached.		18 Months I.H.L.	

P Montague

(P. E. Montague) Major-General
Senior Officer
Canadian Military Headquarters

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) H Stewart Brigadier. (Signed) C K Lucksted Major R.C.A.
Commanding 2nd Group, Can Reinf Units. 42 C.A.H.U.
Convening Officer (c) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 12 day of Aug 42, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) C K S
*(4. ~~The officers under instruction~~) C K S

were duly sworn.

Signed this 12 day of Aug 19 42.

C K Lucksted Major R.C.A.
President of the Court Martial.

* Omit if not applicable.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1939.

I ~~certify that the terms of A.C.I. 87 of 1918 have been complied with~~ C K S

~~Signed this~~ day of 19 C K S

C K Lucksted Major R.C.A.
President of the Court Martial.

D. Confirming Officer.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~I direct that the soldier named in the margin be not committed to prison or detention barracks until further order.~~) PM

Signed this 26 day of Aug. 1942

P Montague
(P. E. Montague) Major-General
Senior Officer
Canadian Military Headquarters

26 AUG 1942

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of F 86714 Gnr Deveau J. C.

(Dated) 2 Sept 42 (O.C. 185 dated 31st Aug 42) (Signed) H Stewart Major R.C.A.
ADJT. 3 C.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, R-86714, Gunner John Clayton DEVEAU, "R" Training Wing, No. 3 Canadian Artillery Reinforcement Unit, R.C.A., a soldier of the Canadian Army Overseas, is charged with:-

1st Charge
Section 11
Army Act

WHEN ON ACTIVE SERVICE,
NEGLECTING TO OBEY C.A.
(Overseas) R.O. 635

in that he

at Wokingham, Berks, on the 23rd Day of July 1942, did sell or dispose on a commercial or barter basis to Mrs. Cox, a civilian person, a quantity of cigarettes which he had received as a gift, and which had entered the United Kingdom free of duty.

2nd Charge
Section 15 (1)
Army Act

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF WITH-
OUT LEAVE

in that he

at Pinewood, whilst a patient at #6 C.C.S. absented himself without leave from 1645 hrs 29 July 1942 until apprehended at 1715 hrs 30 July 1942. Total absence 1 Day, 30 mins.

(W.E. Huskvale) Colonel
Commanding,
No. 3 C.A.R.U.

Huron Camp,
Bramshott, Hants.,
8 August 1942.

To be tried by Field General Court Martial

Brigadier,
Commanding 3rd Group, Can Reinf Units.
(Convening Officer)

Bordon, Hants.,
10 Aug 42.

MEDICAL OFFICER'S CERTIFICATE

I certify that No. F-86714, Gnr. DEVEAU, J. C., "P" Training Wing, No. 3 C.A.R.U. is fit to undergo trial by Field-General Court Martial.

Refused inoculation due

Signature of Medical Officer.

Dated at Huron Camp,
Bramshott, Hants,
this 12th Day of August, 1942.

TRANSCRIPT OF NOTES ON

FIELD GENERAL COURT MARTIAL

TRIAL OF:- F. 86714 Gnr. DEVEAU, J.C., No. 3 C.A.R.U. held at HURON CAMP, BRAMSHOTT, HANTS., on the 12th day of August 1942

At 1430 hours the Trial commenced.

1. The Order convening the Court, Charge Sheet, Summary of Evidence and Medical Certificate are laid before the Court. The Court satisfy themselves as provided by R's. P. 22 and 23.

PROSECUTOR:	Lieut. G.F.Boyer, R.C.A. 3 C.A.R.U.
DEFENDING OFFICER:	Major H.G.Williams,R.C.A. 3 C.A.R.U.

The following constitute the Court:-

PRESIDENT:	Major C.K.Studdard, R.C.A. 2 C.A.R.U.
Members:	Captain E.A.Mowatt, R.C.A. 2 C.A.R.U.
	Lieut. J.J.Taugher, R.C.A. 3 C.A.R.U.

The Order convening the Court is read out, signed by the President, and attached to the proceedings.

The names of the President and Members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q. Do you object to be tried by me as President or by any of the Officers whose names you have heard read over?

A. No, Sir.

The President, and Members of the Court are duly sworn.

Q. Do you object to D-114808, Sgt. MacKercher, R.D. acting as shorthand writer?

A. No, Sir.

The shorthand writer is duly sworn.

The charge sheet is read out, signed by the President and attached to the proceedings.

Q. Are you guilty or not guilty of the first charge which you have heard read?

A. Not guilty, Sir.
R.P. 39 (a) complied with.

Q. Are you guilty or not guilty of the second charge which you have heard read?

A. Guilty, Sir.
R.P. 35 (b) complied with

Q. Does the Prosecutor wish to make an opening address?

I am here this afternoon to prove with the aid of witnesses that Gnr. DEVEAU is guilty of the first charge, in that he did dispose of or sell on a commercial or barter basis a quantity of cigarettes which arrived in this country free of duty. In this Unit's Orders an extract of Routine Order 635 has been quoted, definitely stating that such cigarettes cannot be sold. I would now like to call my witnesses.

First witness for Prosecution.

Sgt. A.C.Christopher, C.I.D. Branch Wokingham Police, having been duly sworn, is examined by the Prosecution

Q. Sgt.Christopher would you mind telling the Court just what happened when you were called by Major Ritchie of No. 6 C.C.S. to investigate the matter of some cigarettes which were sold.

A. At about 10.30 P.M. on the 29th July accompanied by Major Ritchie, Captain Jennings and Sgt. Marples of Pinewood Canadian Hospital, Wokingham, we went to the Welcome Inn where I interviewed Mrs. Cox. On the shelf behind the bar I saw 2 packages of 25 Winchester cigarettes which I now produce.

(These are examined by the Court and returned to the witness.)

After further questioning Mrs. Cox produced a further 24 similar packages of cigarettes which I now produce to the Court.

(The 24 packages of cigarettes are examined by the Court and after examination are returned to Sgt. Christopher) I marked these cigarettes with the letter "A" on the top left hand corner of each package.

Questioned by the Court

Q. When you confiscated these cigarettes was the seal covered over with brown paper?

A. They are in the same condition as when taken from the shelf behind the bar.

Q. Where were the other cigarettes taken from?

A. Mrs. Cox went to another room and produced the 24 packages.

Second Witness for the Prosecution

Mrs. Cox, The Welcome Inn, Wokingham, having been duly sworn is examined by the Prosecutor.

Q. We have one of our gunners here who has been accused of illegally disposing of cigarettes. I believe he has been to the Welcome Inn on several occassions when he was a patient at No. 6 C.C.S. Is he here?

A. Yes, there (pointing to accused)

Q. Would you mind telling us in your own words what you know in connection with the selling of cigarettes by him

A. We have always known him as a quiet, respectable sort of fellow.

Q. Had he ever mentioned receiving parcels from home?

A. Yes he had said he had received parcels from home.

Q. Did he tell you what was in them?

A. Not exactly, he said he had received cigarettes and other things.

Q. Had he ever mentioned to you that he had too many cigarettes?

A. He said he had a lot and I asked him, "What do you do with them all" and he said he did not know, he ~~suggested~~ to give some away.

Q. Was there any suggestion made by him or by you that he could give you some of these cigarettes.

A. I knew that he had given away some cigarettes and had more with him which he did not want.

Q. Did he come in with a lot of cigarettes?

A. Yes, I do not know how many.

Q. You cannot remember how many?

A. No.

Q. Did he leave any of these with you at any time?

A. Only that once there were cigarettes on the table where he was sitting.

Q. What did you do with them?

A. He did not want them all or nothing was said about selling them, he did not ask for any money, if I had not offered him money he might have given to me for nothing.

Q. How much did you offer him?

A. I gave him £ 4.

Q. What did he do with this money?

A. I do not know what he did with it.

Q. Do you remember what kind of packages they were in?

A. They were in some brown ~~cardboard~~,

Q. Were they single cigarettes?

A. They were in packets.

Q. How many in a package?

A. 25

Q. They were sealed?

A. Yes

Q. Could you give me a rough idea of how many packets there were?

A. There was a lot, I got rid of some. There were 26 left when they came for them.

XX ----

Q. When the Officers came did they ask you this man's name?

A. I think they did but I had never heard his name.

Q. Did they ask you to go up to the hospital and identify this man?

A. Yes.

XX -- Q. What happened to those?

A. The Police took them away, they were some that I had from him.

Q. Were you able to identify him?

A. Yes, not at first as he was playing cards he had his head down and was looking at his cards, when I saw his face I knew it was him.

Cross-examined by the Defending Officer

Q. Mrs. Cox have you known this man for some time?

A. Yes, several weeks.

Q. Had he ever brought you cigarettes before?

A. No, until the time in question I never knew he had had a parcel.

Q. Was it in the daytime or evening?

A. It was in the evening.

Q. Was he alone?

A. No, he had a friend with him.

Q. Do you know the other man?

A. No.

Q. Did Deveau or yourself mention anything about buying or selling cigarettes?

A. No, I asked what he did with so many cigarettes.

Q. Did Deveau say you could have them?

A. I think he did, he offered them to me. There was nothing much said. They were on the table. I offered him money for them.

Q. Was there any mention of buying or selling cigarettes?

A. No not at any time.

Q. It was Deveau you gave the money to?

A. Yes, I thought I was doing him a good turn.

Q. Was he in the morning of the same day?

A. Yes, I think he was.

Questioned by the Court

Q. How long did you have the cigarettes before the army officials came around?

A. I think it was two days.

Third Witness for the Prosecution

H-19007, Sgt. Major Todd, O. R., No. 6 C.C.S., R.C.A.M.C., having been duly sworn, is examined by the Prosecutor.

Q. Do you know the accused, and is he present in this Court?

A. Yes, Sir, he is there (pointing)

Q. I believe you held an indentification parade at which Mrs. Cox was present to attempt to identify a man who had sold cigarettes to her at her pub. Will you tell me what you know about this.

A. At approximately 2000 hrs on the 30th July 1942 I was instructed to prepare a ward of the hospital for an identification parade. I did this by confining all the patients of one of the wards to the ward without telling them anything as to why I was doing this.

Mrs. Cox in company with my Adjutant and Quartermaster passed through the ward and was not certain that she had seen him at first. We asked her to go back through again which she did. When she passed the accused she spoke to him and then said it was the man in question.

Q. Was she at any time out of the room?

A. No, sir.

Q. Was it suggested to Mrs. Cox in any way that Deveau was the person she was looking for?

A. No to my knowledge, Sir.

Q. Do you know why only one ward was inspected?

A. I do not, Sir.

Q. Mrs. Cox was positive about the identification?

A. Yes, sir. She was very definite.

Questioned by the Court

Q. Can you tell us what Deveau was doing at the time of identification?

A. Playing cribbage, Sir.

Q. That was on the 30th?

A. Yes, Sir.

Cross-examined by the Defending Officer

Q. Could you tell me what time Gnr. Deveau was under restriction and could not leave the hospital?

A. It must have been two or three days before the 29th, Sir.

Q. Had he been under restrxxtricted pass before then?

A. I am not certain, Sir.

Fourth Witness for the Prosecution

Lieut. R. G. McKinnon, Ass't Records Officer, No. 3 C.A.H.U., having been duly sworn, is examined by the Prosecutor.

Q. I want you to produce evidence as Assistant Records Officer at No. 3 C.A.H.U., that Gnr. Deveau was present in this Unit when an extract of C.A.M.C. (Overseas) was published in our daily Orders.

Can you give us proof that he was on th strength of this Unit at that time, and that the Order was duly published, and on what date?

A. As Ass't Records Officer at this Unit I made a search of the records and found that Gnr. Deveau was taken on the strength of No. 3 C.A.R.U. on the 14th Day of October 1941, and was present until going A.W.L. on or about the 18th day of December 1941. The section dealing with the sale of cigarettes was published on November 7th 1941. Therefore Gnr. Deveau must have been present in this Unit as he was on the strength of No. 3 C.A.R.U. on that date.

Questioned by the Court

Q. Do you identify this extract?

A. That is an extract of the Part I Order which was published on November 7th 1941. This is marked "D", signed by the President and attached to the proceedings.

By the Court to the Defending Officer

Q. Does the accused [illegible] witness[illegible] oath?

A. Yes, Sir.

Q. Do you intend to call any other witnesses on your behalf?

A. Yes, Sir.

Q. Are they witness as to facts or as to character, or both?

A. As to facts, Sir.

First Witness for the Defence

F-86714, Gnr. Deveau, J. C., No. 3 C.A.R.U., having been duly sworn, is examined by the Defending Officer.

Q. Do you recall going to the Welcome Inn at Wokingham about the 22nd July with a parcel of cigarettes?

A. No, sir. I did not take a parcel of cigarettes to the Welcome Inn.

Q. You did not take cigarettes?

A. No, sir.

Q. Did you at any other time?

A. Not exactly a parcel of cigarettes. I was there with about 7 or 8 packs of cigarettes.

Q. Were you alone at the time?

A. No, sir.

Q. Who was with you?

A. Spr. Charlton, sir.

Q. So you had a few packets of cigarettes and canned goods.

Q. What did you do with them.

A. We gave 7 packets of cigarettes to Mrs. Cox, also one can of peaches and one can of meat.

Q. Was any bargain made for them or where they offered for sale?

A. They were not offered for sale, and were given entirely free of heart.

Q. Was any payment made for them.

A. There was no payment made to me for any cigarettes.

Q. Mrs. Cox claims that she paid you Four Pounds. Did she give you any money?

A. She did not give me any money.

Q. Did she give Charlton any money?

A. No, sir.

Q. You did not go back to the Welcome Inn since then?

A. Only once on the Summary of Evidence.

Cross examined by the Prosecutor.

Q. When you went into the Welcome Inn you had some cigarettes with you.

A. Yes, sir.

Q. Mrs. Cox gave you some money?

A. She did not.

Q. When the Summary of Evidence was being taken on this case, why did you ask her this question "Did you give me Four Pounds".

A. I wanted to make sure that she had made a definite statement to that effect.

Q. When she said "yes", you made no further comment on that?

A. I asked her is it was for cigarettes, as I wanted a definite statement.

Second Witness for the Defence

M-9533, Spr. Charlton, C. C., No. 1 C.E.R.U., having been duly sworn, is examined by the Defending Officer.

Q. Do you remember going to the Welcome Inn at Wokingham with Gnr. Deveau?

A. Yes.

Q. Did he have a parcel with him.

A. Yes

Q. When you were at the Welcome Inn did Deveau make any attempt to sell any cigarettes to Mrs. Cox?

A. He never made any attempt to sell cigarettes.

Q. The parcel was left there ~~xxx~~ with Mrs. Cox?

A. Yes.

The witness is disciplined by the President as regards his manner of answering questions, and told to say Sir when answering questions.

Q. No mention was made as to price?

A. No, Sir.

Q. Did you see any money being passed to Gnr. Deveau?

A. No, Sir.

Q. You were present all the time?

A. Yes, Sir.

Cross-examined by the Prosecutor

Q. Have you often gone to the Welcome Inn with Gnr. Deveau.

A. Yes

Q; Was he in the habit of carrying cigarettes with him?

A. No, sir.

Q. Did he happen to take a large quantity of cigarettes there that night and other articles?

A. There was no large quantity of cigarettes to speak of.

Q. What do you mean?

A. There was only about 10 packets or so.

Q. What made Gnr. Deveau give those cigarettes to the pub keeper?

A. They seemed to be quite nice people.

Q. Did Mrs. Cox, after she had received the cigarettes, go out of the room you were in?

A. Yes.

Q. Did she come back?

A. She came back and went behind the bar.

Q. Did she thank you for the cigarettes?

A. Yes, sir.

Questioned by the Court.

Q. Could you remember the date on which you were in the pub with the accused?

A. No, sir.

Q. Have you any idea of the approximate date? The day of the week?

A. No, sir. Except that it was in the middle of July.

Q. What time o day was it?

A. In the evening.

Q. Before supper?

A. After supper.

Q. Were you a patient at No. 6 C.C.S. at that time.

A. Yes, sir.

Re-examined by the Prosecutor.

Q. Did Mrs. Cox know either your name or Gnr. Deveau's name?

A. Not to my knowledge, sir.

Q. Yet you were very ~~friendly~~ friendly with Mrs. Cox. Deveau was so friendly that he gave her cigarettes and canned goods, and yet she did not even know his name?

The following witnesses were jointly recalled by the Court

Mrs. Cox
Spr. Carlton.

Questioned by the Court.

Q. Mrs. Cox, do you recognize this chap (Charlton)

A. Yes, he used to come in with the other young man.

Q. Was he present at the time in question?

A. Yes.

Q. Was he there when you gave over the Four Pounds?

A. He was in the room.

STATEMENT BY DEFENDING OFFICER

There are one or two little points I would like to bring to the attention of the Court.

The accused is charge with committing the offence on the 23rd July. The accused admits being there about that time, and leaving cigarettes with Mrs. Cox, but that no sale was made.

Mrs. Cox in her evidence stated that she had these cigarettes for a couple of days. They were confiscated on the 29th which would place the time she got them about the 27th. Sgt. Major Todd stated that Deveau was under restriction several days before the 29th, and thought that it would be two or 3 days anyway.

There was many other patients going out ~~from~~ from other wards, and they all look very much the same in their hospital clothes, and Mrs. Cox should have been given the opportunity of going through the entire hospital. She passed Deveau the first time she passed through the ward.

As regards the giving of a gift to a pub keeper who did not even know their names this is quite possible because I myself am friendly with a few pub keepers who do not know my name.

I think that there is nothing to prove that Mrs. Cox who admitted having cigarettes and a large quantity at that for a couple of days, that the transaction was made by Deveau, or if it was from Deveau that he received as he is charged with Four Pounds for selling these cigarettes on the 23rd day of July 1941.

STATEMENT BY PROSECUTOR

We definitely know, Gentlemen, that Deveau admitted giving cigarettes away, and the mention was made of about 10 packets a statement made by his witness.

We definitely have 26 of the packets here as evidence. In speaking of the indentification parade the slight difficulty that Mrs. Cox had in identifying the accused is really in favor of the Prosecution as this shows she did not know him very well, and I believe the number of packets of cigarettes mentioned is a very large amount to give away, and Mrs. Cox is definite in her statement that Four Pounds was given to Cpr. Deveau and that he accepted the money.

The Court is closed for examination of the findings.

The Court is re-opened and the accused is again brought in.

Lieut. G. F. Boyer, R.C.A., No. 3 C.A.R.U., having been duly sworn, produces AFB 296 and certified true copy of NFN 6, and

upon being questioned by the Court states that the accused is the person named in these documents which have been compared with the Regimental records, and are true extracts of the same. No cross-examination. Above documents read, signed by the President, and attached to the Proceedings.

The Court is not addressed in regard to mitigation of punishment.

Certified correct, and dated at Huron Camp, Bramshott, Hants., this 13th Day of August 1942

R.D. Mackergher

(R.D. Mackergher) Sgt.,
D-114808, "F" Training Wing,
No. 3 C.A.N.U.
Court Stenographer.

[illegible] Major R.C.A.
President.

SUMMARY OF EVIDENCE IN THE CASE OF
F-86714, Gnr. DEVEAU, J.C., "A" Bty.,
"P" TRAINING WING, No. 3 C.A.R.U.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for Prosecution

D-109657 Sgt. Carey, E.F., No. 6 C.C.S. (Conv.Hosp) R.C.A.M.C., having been duly sworn, states:-

" At 1645 hrs. on 29 July 1942 it was reported to me that Gnr. Deveau was absent from the evening meal. I conducted a search of the grounds and the ward, and Gnr. Deveau could not be found. He remained absent until he was apprehended by Sgt. Major Todd and myself in Wokingham at 1715 hrs. on 30 July 1942."

Q Was there a compulsory parade at 1645 hrs?

A Yes, sir.

Q In what condition was Gnr. Deveau when apprehended?

A Sober and properly dressed, sir.

Q Was Gnr. Deveau before going absent under any restrictions?

A Yes, sir, he was under pass restriction which is a cancellation of his hospital privileges.

The accused declines to cross-examine this witness.

J.C. Deveau

Frank Carey Sgt.
D-109657

Second Witness for Prosecution

H-19007, Sgt. Major Todd, C.R., No. 6 C.C.S. (Conv.Hosp) R.C.A.M.C.,

I, G.F. Boyer, Lieut., R.C.A., the Officer taking this Summary of Evidence, certify that owing to the loss of time and expense involved, the attendance of this witness cannot, in my opinion, be readily procured.

G.F. Boyer Lieut R.C.A.

I now produce and read to you statements, dated at Pinewood, on the 3rd Day of August, 1942, marked "A" and "B" and attached hereto dealing with the Apprehension from A.W.L., and the identification parade at which Gnr. Deveau was recognized by Wgs. Cox respectively.

The accused does not require the presence of this witness for the purpose of cross-examination.

J.C. Deveau

Third Witness for Prosecution — Anthony C. Christopher, Det. Sgt., C.I.D. Branch, Wokingham Police, Wokingham, Burks.

I, G.F. Boyer, Lieut., R.C.A., the Officer taking this Summary of Evidence, certify that owing to the loss of time and expense involved, the attendance of this witness cannot, in my opinion, be readily procured.

G. F. Boyer, Lieut R.C.A.

I now produce and read to you a statement, dated at Pinewood, on the 3rd Day of August, 1942, purporting to be signed by the said Det. Sgt. Anthony C. Christopher, marked "C", and annexed hereto, indicating the finding of cigarettes bearing the stamp "Gifts to Canadian Soldiers on Active Service Only. Not for Resale" for sale at the Welcome Inn, Wokingham.

The accused does not require the presence of this witness for the purpose of cross-examination.

J. C Devau

Fourth Witness for Prosecution — Mrs. E.J. Cox, The Welcome Inn, Wokingham, Burks., having been duly sworn, states:-

" Gnr. Devenu told me that he had received several parcels of cigarettes and other things from friends at home and he had more cigarettes than he could smoke. He came in in the evening with a parcel. When I came in there were some cigarettes belonging to him on the table. I fetched him some money and gave him four pounds (£4:0:0). He thanked me and I took the cigarettes away."

Q You were called to go to the hospital to identify the soldier who gave you the cigarettes for which you gave him four pounds?

A Yes.

Q Did you have any trouble in identifying him?

A Yes, because he was playing cards and I had never seen him before except in hospital blues.

Q As soon as you could see his face you knew him?

A Yes.

Q It was the same fellow who gave you the cigarettes for which you gave him four pounds?

A Yes.

Q In what sort of packets were the cigarettes?

A In packets of 25 sealed.

Q How many packets were there?

A There were over twenty-six (26) packets, because the C.I.D. man took 25 packets away.

Cross-examined by the Accused.

Q Were they offered for sale?

A No, they were not.

Q Was there any money asked for the cigarettes?

A No.

Q Did you give me four pounds?

A Yes.

Q Was it for cigarettes?

A Yes, I gave it for the cigarettes because I did not want to take them for nothing.

The accused declines to further cross-examine this witness.

J. C. Dreadon

E J Cox

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E), reserves his defence.

Certified that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been complied with.

Taken down before me in the presence and hearing of the accused this 7th Day of August 1942 at No. 6 Cdn. C.C.S. (Conv. Hosp.), R.C.A.M.C., Wokingham, Berks.

H. F. Boyer

(G.F. Boyer) Lieut., R.C.A.,
No. 3 C.A.R.U.

C.R. Lucolano & D. Crawford

Fifth Witness for Prosecution

Lieut. H.G. MacKinnon, Assistant Records Officer, No. 3 C.A.R.U., having been duly sworn, states:-

" I, Lieut. R.G. MacKinnon, Assistant Records Officer, No. 3 C.A.R.U., find that on tracing records that Gnr. Deveau J.C., No. F-86714 was on the strength of this unit on the 7th Day of November 1941 when D.O. #41 d/7th Nov'41 containing the extract from C.A.(O).R.O. No. 635 was published. I wish to submit Part I Order No. 41 d/7th Nov'41, attached hereto and marked "D"."

Q Was Gnr. Deveau actually present in Unit?

A Yes, records show he was present from 14 Oct'41 until 17 Dec'41.

The accused declines to cross-examine this witness.

R MacKinnon Lieut

A

This is to certify that on the afternoon of the 30th July 1942 it was reported to me that F-86714 Gnr. Deveau, J.C. a patient A.W.L. from this Hospital had been seen on the streets of Wokingham. I immediately proceeded to Wokingham in a W.D. Vehicle accompanied by D-109657 Sgt. Carey,E.F. and a driver. After considerable search I found Gnr. Deveau walking along the street so I apprehended him. He did not want to come at first but finally he agreed to return; he did not offer any physical resistance. Upon returning to the Hospital I placed Gnr. Deveau under close arrest and posted a guard over him in his Ward.

Pinewood,
3rd August,1942.

O R Todd
H-19007 Sgt.Maj.O.R.Todd,
Wardmaster,
No.6.C.C.S.(Conv.Hosp)RCAMC,CA.

SWORN BEFORE ME:

Witness:- a/ Lt Colonel Maj
Registrar No.6 CCS

This is certify that on the evening of 29th July 1942 at 2030 hrs I was ordered by the Registrar; Major K.S. Ritchie to hold an identification parade for the patient who had sold Canadian Cigarettes to Mrs. Cox of the Welcome Inn, Wokingham. I prepared Ward "3" for this parade as ordered. Mrs Cox then proceeded around the Ward in the company of Major K.S.Ritchie, the Registrar, Capt.F.A.Jennings the Quartermaster and myself. She finally stopped at the bed of F-86714 Gnr.Deveau, J.C. and positively identified Gnr. Deveau as the patient from whom she had bought the Canadian Cigarettes.

O R Todd

Finewood,
3rd August,1942.

H-19007 Sgt.Maj.O.R.Todd,
Wardmaster,
No.6,Cdn.C.C.S.(Conv.Hosp)RCAMC.CA.

SWORN BEFORE ME:

Witness:- A. S. Ritchie Maj
Registrar, No.6.C.C.S.

C

29th A.G.H.

This is to certify that on the night of the 28th July 1942 it was reported to the Wokingham Police that Canadian Cigarettes, Winchesters, were being sold over the counter of the Welcome Inn at Wokingham. We were requested to investigate this charge by Major K.S.Ritchie and Capt.F.A.Jennings of No.6.Cdn.C.C.S.,RCAMC who had sent H-16318 Sgt.Marples, W, into the Inn, to obtain the necessary evidence. The charge was therefore immediatly investigated by me in company with the above mentioned Officers. I found that Winchester cigarettes were for sale over the counter. After completing my investigation I confiscated a considerable number of packages of 25 Winchester cigarettes. The seal bearing the statement "Gifts to Canadian Soldiers on Active Service Only. Not for Resale" had been covered with a gummed sticker on the two packages which had been found on the counter. Mrs Cox of the Welcome Inn agreed to go to No.6.C.C.S. Hospital at any time to identify the patient who had sold the cigarettes to her.

Anthony F. C. Christopher

Pinewood,
3rd August,1942.

Det.Sgt.A.C.Christopher,
C.I.D.Branch,Wokingham Pol.

Witness:- K. S. Ritchie Maj.
Registrar No. 6 CCS

"D"

EXTRACT FROM DAILY ORDERS PART I d/7 Nov.41.

Para.6. ILLEGAL SALE OF GIFTS FROM CANADA.

The British Government agreed to allow gifts for the Canadian Army to enter the United Kingdom free of duty, on the distinct understanding that these gifts were for personnel use and not for resale.

The number of cases of re-sale of gifts, particularly cigarettes and tobacco, are increasing to such an extent that the British Treasury have made representations that unless the practice is discontinued, they may have to reconsider their decision regarding duty-free entry.

The effect of a decision of this nature is obvious and officers commanding will take immediate steps to call to the attention of all ranks the fact that they are liable to lose this privilege, which is now enjoyed through courtesy of the Government of the United Kingdom and to see that Appropriate disciplinary action is taken immediately any cases are reported or come to their notice.

No. F86714 Name DEVEAU, J.C. Sqn., Battery or Company 68 Bty Corps 5 LAA R.C.A. Date of enlistment 4-6-41 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 27-11-41 No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. Character

H.F.M. 6 (A.F.B. 133)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishments awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original sheet destroyed 4-12-41 on completion of 6 months service.					
U.K.	18-12-41	Gnr.		A.A. Sec. 15 (1) A.A. Sec. 40		6 months detention	3 Mar'42	F.G.C.M.	Forfeits 259 days pay & Stoppage of pay £5:3:5

(P.T.O.)

Place	Date of offence	Rank	Cases of previous offences	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of punishment (or date upon which tried)	By whom awarded	Remarks
Pinetown	20-7-42	Gnr		A.A. Sec. 15 (1)	Documentary	To forfeit 5 days pay	22-7-42	O.C.	Forfeits 2 days pay PR&I 149 (1)(a) Forfeits 5 days pay PR&I 149 (2) Total forfeiture: 7 days pay.
Pine wood	4-7-42	Gnr		A.A. Sec. 15 (1) A.A. Sec. 11	Sgt. Carey	To forfeit 20 days pay	25-7-42	O.C.	Forfeits 3 days pay PR&I 149 (1) (a) Forfeits 20 days pay PR&I 149 (2) Total forfeiture: 23 days pay

Certified true copy
8 August 1942

O.C. "F" WING
3 CARU

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
F-86714	Gunner	DEVEAU, J. C.	3 C. A. R. U.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheet[†] of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	* Within last 12 months.	*Since completion of 6 Months Service
For	times	times.
For A.W.L.	2 times	2 times.
For Neglecting to obey Std'g Orders	1 time	1 times.
For	times	times.
For	times	times.

Note.—As a trial by field general court-martial the summary must be excluded from the said conduct sheet.

The number shown must be confirmed closely to accord with this statement but not necessarily to the pro-rata.

† See Army Act, s.s. 1(2).

* The numbers to be stated should correspond with entries in the conduct sheets, plus additional entries which by the Army Act section 76 (3) carry and to be recognized as special acts of gallantry, &c., or distinguished conduct.

Instructions.—In the charge to be framed upon the system i.e. circumstances must be stated accurately and fully.

2. Previous convictions[†] of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 72 of the Army Act, are set out in the schedule annexed to this statement.

3. [illegible]

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 9 days in military custody, making a total of 9 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 26 yrs 24 days on [illegible]

6. The date of his attestation specified in his attestation paper is 4 June 1941

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr 65 days

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr 65 days service.

9. The accused is entitled to reckon 1 yr 65 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award [illegible]

11. [illegible]

12. [illegible]

(P.T.O.)

W.13892-144 125,000 8/41 A.&E.W.Ltd. Gp.488

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. F-86714 Rank Gunner Name DEVEAU, J. C. of 3 C.A.R.U. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	3 March 1942 Huron Camp Bramshott, Hants	A. A. Sec. 15 (1) A. A. Sec. 40	6 Months Detention	30 Days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd day of August 1942

W. S. Huckvale) Colonel,
Commanding,
No. 3 C.A.R.U.

No. 3 C.A.R.U.

8 Aug 42

Commanding Officer,
No. 3 C.A.R.U.

Sir:

Reference my pending trial by F.G.C.M., please be advised that I do not require Counsel to be appointed to defend me, as I shall act on my own behalf.

Respectfully submitted.

(J. C. Deveau) Gnr.
F-86714

J. C. Deveau

78 U. (3rd Case)

Gen. Dewean, J. C.

See 83 F for 1st Case.

" 78 N " 2nd "

Correspondence to be PINNED here.

78-U

M. W. Waugh Capt
15 Jul 43

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this FOURTEENTH day of DECEMBER, 1942.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CDN. REINFORCEMENT UNITS, CANADIAN ARMY, OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *and that it is not practicable to delay the trial for reference to a superior qualified officer;

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[I am unable to appoint—

*(1. Three Officers to form the Court;)

*(2. A Field Officer as President;)

*(3. Three Officers having more than one year's service;)

for the following reasons, namely:—]

President.

Rank.	Name.	Regiment.
LT./COL.	D.L. REDMAN	Calg. Highrs.

Members.

Rank.	Name.	Regiment.
LIEUT.	E.A. GREEN, RCA	3 C.A.R.U.
LIEUT.	J.J. TAUCHER, RCA	3 C.A.R.U.
LIEUT.	J.F. AGAR, RCA (Waiting Member)	3 C.A.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed "J.C. STEWART" Brigadier

(Sgd) D.L. REDMAN Lt Col Commanding "C" Group, Cdn. Reinf. Units

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F.26771A Gnr. DEVEAU, John Clayton (R.C.A.) 3 C.A.H.U.	FIRST CHARGE A.A. Sec. 41	not guilty	Guilty	Confirmed (Intd.) J.C.S.
	SECOND CHARGE A.A. Sec. 18 (3)	not guilty	Guilty	
	THIRD CHARGE A.A. Sec 15 (3)	guilty	Guilty sentence to undergo detention for a period of fifteen (15) months 25 Dec 42 (Intd.) D.L.T.	
	See Charge Sheet Attached.			

* Question to be asked of accused, if he pleads not guilty (*R. of P.* 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) "J.C. Stewart" (Signed) "D.L. Redman" Lt Col

(J.C. Stewart) Brigadier
Commanding Commanding 4th Group
C&n.Reinforcement Unit
Confirming Officer, (e) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16th day of December 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
(Intd) DLR *3. ~~The interpreters~~ The shorthand writer
*4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 16th day of December 19 42.

D. L. REDMAN, Lt.Col.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (f) on page 791 M.M.L. 1939

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

(Intd.) D.L.T.

~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or has not such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

Signed this 19th day of December 19 42.

(Sgd) J.C. Stewart
Confirming Officer.
J.C.Stewart, Brigadier
Commanding 4th Group
C&n. Reinforcement Unit

Promulgated and extracts taken in the case of F.26771A Gnr.Deveau John Clayton

(a) (Dated) D.O. 250, Dated 21 Dec 42 (Signed) D.S.MacKinnon, Lieut.
Asst. Records Officer
No.3 C&n.Artillery
Holding Unit.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

SECRET

CHARGE SHEET

The accused, F 86714, Gunner John Clayton DEVEAU "B" Training Wing, No.3 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

1st Charge
Section 40
Army Act

WHEN ON ACTIVE SERVICE
COMMITTING A CIVIL OFFENCE,
that is to say SELLING TOBACCO,
CONTRARY TO SECTION 13 of the
TOBACCO ACT 1842

In that he

at Wokingham, Berks, on or about the 23rd day of July 1942, did sell a quantity of tobacco to wit: cigarettes to Mrs. E. J. COX at the Welcome Inn, Wokingham, a place not his untered premises within the meaning of Section 13 of the Tobacco Act 1842

2nd Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE
BEING WILFULLY GUILTY OF MISCONDUCT
BY REASON OF WHICH MISCONDUCT HE
DELAYED THE CURE OF DISEASE

In that he

at Huron Camp, Bramshott, Hants, between 24 Aug 1942 and 3 September 1942 and at No.1 Plastic and Jaw Surgery Hospital between 4 September 1942 and 13 October 1942 while under treatment for a Linear Ulcer, interfered with the dressings, thereby delaying the cure of his disease.

3rd Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

In that he

while under Close Arrest at No.1 Plastic and Jaw Surgery Hospital absented himself without leave from 0800 hrs 3 November 1942 until surrendering himself to Sgt. Grace of the Wokingham Police at 1250 hrs on the 22th of November 1942. Total absence 24 days, 4 hrs, 50 minutes.

Huron Camp
Bramshott, Hants.
this 12th day of Dec, 1942.

"B.R.Ker"
(B.R.Ker) Colonel
Commanding Officer
No.3 Cdn.Arty. Rein. Unit.

To be tried by Field General Court Martial

(Signed) J. C. STEWART Brigadier
Commanding 10th Group, Cdn. Reinf. Units.
(Convening Officer)

BORDON, Hants.
14 Dec. 42

(Signed) D. L. BERNAU, Lt.Col.

COPY

Huron Camp
No.3 C.A.P.U. 15 Dec. 1942.

I certify that I have examined F 86714 Gnr. Deveau, J. C. on this 15th day of December 1942, and find him fit to undergo trial by Field General Court Matrial

(Signed T. Dalrymple, Capt.
Medical Officer
No.3 Cdn Arty. Regn. Unit.

(Signed) D. L. REDMAN Lt.Col.

COPY

(Rough transcript of notes)

TRIAL OF:- F-86714, Gnr. Deveau, J. C. HPH Training Wing, No.3 Cdn Arty Reinf Unit, held on the 15th day of December, 1943, at Huron Camp, Brawshott, Hants.

The Order convening the Court, charge sheet, Summary of Evidence, and Medical Certificate are laid before the Court.

The Court satisfy themselves as provided by R.'s P. 22 and 23.

The Accused is brought before the Court.

Prosecutor: Major J. N. McLeod, R.C.A., 3 C.A.R.U.
Defending Officer: Major J.M.B. Thompson RCA., 3 C.A.R.U.

At 14.30 hrs the Trial commences.

The order convening the Court is read, signed by the President, and attached to the Proceedings.

The names of the President and Members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q. Do you object to be tried by me as President or by any of the Officers whose names you have heard read over?

A. No, Sir.

The President, Members are duly sworn. ~~in~~

The following constitute the Court:

President: Lt.-Col D.L. Redman, Cal. Highrs.
Members: Lieut. B. A. Green, R.C.A., 3 C.A.R.U.
Lieut. J. P. Agar, R.C.A., 3 C.A.R.U.

The Officers under instruction are duly sworn (having been sworn in on previous cases)

Q. Do you object to D-114608 S/Sgt. MacKercher, R. D. acting as shorthand writer?

A. No, Sir.

The shorthdn writer is duly sworn.

The charge sheet is signed by the President, and annexed to the Proceedings.

Q. Are you guilty or not guilty of the first charge which you have heard read?

Not guilty, Sir.

R.P. ~~XXXX~~ complied with. ~~XXXXXXXX~~ A. No, Sir
39(a)

Q. Are you guilty or not guilty of the second charge which you have heard read?

A. Not guilty, Sir.

R.P. 39 (a) complied with. A. No, Sir.

Q. Are you guilty or not guilty of the third charge which you have heard read?

A. Guilty, Sir.

R.P. ~~XXX~~ 39(a) complied with

Q. Does the Prosecutor wish to make an Opening Address?

A. No, Sir, the Prosecution will proceed by calling the first witness.

Initd.
D.L.R.

The evidence regarding the second charge will be heard first

First Witness for the Prosecution.

Lt.-Col. D. Stuart Gordon, R.C.A.M.C., No.1 Plastic Surgery, having been duly sworn is examined by the Prosecutor.

Q. I believe that during the period May to October 1942 you had a patient, one Gnr. Deveau.

A. Yes.

Q. Is her here?

A. Yes, there (pointing)

Q. During the time that Deveau was in your Unit, did you have reason to observe him particularly?

A. On his last admission to us he came in for the treatment of an ulcer in his left groin.

Q. In your opinion did it heal properly?

A. It did not heal properly, and nithing we did seemed to help it in any way. We used three different types of graft none of which took.

Q. Is that usual?

A. Very unusual. The type of graft we used in the last case was one which takes in a very high percentage of cases, and consists of taking bits of skin about the size of a little finger, and putting about 4 to the square inch to the wound, and this type of graft takes almost always, yet when the dressing was removed from the wound none of the bits of skin were alive.

Q. Could you give any reason for this.

A. All grafts have to have lack of movement or interference will upset the graft and prevent its taking.

Q. Had the dressings been disturbed.

A. The dressing on his graft as far as we know had not been disturbed.

Q. Could you give any reason for the graft not taking?

A. It could be disturned without my knowing it, or if the patient moved around in bed a lot or turned his leg he could prevent the graft from taking.

Q. Was the accused warned not to move his leg.

A. Yes.

Q. Had you any reason to suspect that he moved his leg.

A. Only because three different types of grafts had not lived, and I have never seen this happen before, and have never seen a case of a pinch graft being used and that at least one of them did not take.

Q. In your opinion was the bandage or dressing interfered with?

A. That was the conclusion I arrived at after his pinch graft failed to take.

Cross-examined by the Defending Officer

Q. Is it not the case that a man might move in his sleep if this were paining him, and disarrange the dressing?

A. It is possible.

Q. You say that a high percentage of pinch grafts take, but you do not say that 100% take. You have known of pinch grafts and other types which have failed to take?

A. Yes.

Q. You did not at any time see the accused interfere with his dressings?

A. No.

Q. You were the surgeon in charge of the entire hospital, and you visited one a day.

A. Yes.

Q. You would see this patient.

A. Yes.

Q. Although you saw evidence that he had moved his leg or had disturbed the bandage you did not see him do it at any time.

A. No, I did not.

Examined by the Court

Q. Would you say that this particular case of graft on an ulcer is what is called a serious operation.

A. No.

Q. The although you would not call it a serious operation would you call it a case difficult to cure.

A. No.

Second Witness for the Prosecution.

Nursing Sister N. J. Blackler, R.C.A.M.C. No.1 Plastic Surgery, having been duly sworn is examined by the Prosecutor.

I am general duty nurse at this hospital.

Q. Did you have a patient at any time called Gnr. Deveau?

A. Yes.

Q. Would you recognize him?

A. Yes.

Q. Is her here.

A. There (pointing)

Q. Would you tell the court what your experience was when you were nursing Gnr. Deaveu?

A. I found that his dressings at times had a peculiar appearance not usually found in such dressings. Once when I did his dressing I found blood on the dressing which should not have been there, judging from the appearance of the wound when I dressed it.

Q. Would you say that with the normal restlessness of the patient, and the moving about in a bed, that the dressing would be in the condition in which you found it?

A. Not usually. Sometimes if a pateint is very restless, they would, but I do not consider Gnr. Deveau a very restless patient.

(Initd.)
D.L.R.

Q. Did you find this condition of sufficient importance to report it.

A. Yes.

Q. To whom?

A. Col. Gordon.

Q. Did this condition continue.

A. At times. When I did his dressings I noticed it several time, though not all times.

Cross-examined by the Defending Officer.

Q. You say that it is not usual for a patient suffering from an ulcer of the type of Deveau's to disturb his dressing while asleep, but you say it is done sometimes. You also say that on occasions the dressing was not disturbed. Did you at any time watch Gnr. Deveau to see whether he was moving about unnecessarily?

A. I have never seen him move about unnecessarily.

Q. May I take it that you have never seen him also deliberately attempt to interfere with his dressing.

A. Yes.

Q. You were in and about the ward all the time Gnr. Deveau was there during your tour of duty, and being suspicious as you were, you would find time to cast an eye in his direction and having done this you cannot recollect at any time seeing him make an attempt.

A. I have never seen him make an attempt to interfere.

Third Witness for the Prosecution

Capt. W. S. Kittle, R.C.A.M.C., Medical Officer, No.3 C.A.F.U. having been duly sworn is examined by the Prosecutor.

Q. Did you have as a patient, one Gnr. Deveau?

A. Yes.

Q. Would you recognize him?

A. Yes.

Q. Is he here?

A. There (pointing)

Q. What was the reason for Gnr. Deveau reporting to you on sick parade?

A. He had at the time he reported a small ulcer at the edge of a skin graft in his groin.

Q. What was the history of this ulcer in your experience.

A. There was a skin graft some time previous, since he was in the army, which had taken very well except at one spot which at that time was an open wound or ulcer.

Q. Will you give the Court your experience with this ulcer while Gnr. Deveau was reporting to you.

(Initd.) D.L.R.

A. This ulcer behaved in a stra ge manner. I could never on any occasion keep a dressing on it. These were always so rumpled up that I could but conclude that ~~there~~ they were being interfered with, and I told Gnr. Deveau that he was interfering with them. On some occasions he was dressed two or more times a day, and despite the fact that there was but a short interval between dressings, these would always be crumpled up.

Q. The dressings continued in your opinion to be disturbed.

A. They did.

Cross-examined b the Defending Officer

Q. You dressed Gnr. Deveau once or twice a day.

A. It varied.

A. Is it not the truth that a dressing on the groin held in place by adhesive tape is likely to be disturbed when the patient walks? and might be said that it is a very difficult thing to avoid disturbing it in some way.

A. It is very difficult.

Q. Having been cautioned by you to avoid disturbing it, a normal person would not walk any oftener than necessary.

A. Not only that, but this disturbance did not have the appearance of having been disturbed merely by walking.

Q. Are you an expect in this type of skin treatment.

A. No, I am not.

Q. Did you at any time see Gnr. Deveau disturb his dressing.

A. I did not.

Q. Your conclusions are drawn from the appearance of the dressing.

A. Yes.

Q. But the graft when you first saw it was doing well.

A. It was an area at the edge of the graft that did not take. It was the first time in September that I treated this would.

Q. Did he seem very worried about it?

A. He seemed quite unconcerned about it generally, and yet made a great deal of fuss about it at other times.

Q. He was excused duty.

A. He was in detention.

Fourth Witness for the Prosecution.

Capt. T. Dalrymple, R.C.A.M.C., Medical Officer, No.3 Corps, having been duly sworn is examined by the Prosecutor.

Discussion took place as to the admissability of evidence having regard to the date of the charge, and it was decided that this Witness' evidence should not ben taken.

The case for the Prosecution on the 2nd charge being finished, the Prosecutor now calls witnesses on the first charge.

(Initd.)
D.L.R.

Fifth Witness for the Prosecution.

Detective Sergeant A. C. Christopher, C.I.D. Branch, Wokingham Police, having been duly sworn, is examined by the Prosecutor, and states:-

S. During the evening of the 29th July 1942, in consequence of information received I went with Major Ritchie, Capt. Jennings and Sgt. Marples of the Cdn Army to the Welcome Inn, Wokingham.

On a shelf behind the bar I saw two packages of Cdn Winchester cigarettes. The words "gift to Cdn troops on active service - not for resale" were covered with brown paper.

Mrs. Cox then handed me a further 24 packets of Winchester cigarettes, and I took possession of these 26 packets, and marked them with the letter "A" in the top left hand corner of each package.

Q. Would you recognize the cigarettes if you saw them.

A. Yes.

Q. Will you examine these cigarettes.

A. I have examined the cigarettes and recognise the letter "A" written by me in the upper left hand corner of each package, and also the brown paper on two of the packets which were on ~~xxxxxxxifx~~ are when I saw them on the shelf.

Cross-examined by the Defending Officer.

Q. Those are all the cigarettes.

A. Yes, Sir.

Q. There were no Sweet Caporal cigarettes.

A. Only Winchesters.

Sixth Witness for the Prosecution

M-19007 R.S.M. Todd, C.R., R.C.A.M.C., No.6 C.C.S., having been duly sworn is examined by the Prosecution.

Q. Do you remember a certain identification parade in July 1942?

A. I remeber an identification parade but cannot remember whether it was in July or August. It was a parade for the purpose of identifying a man accused of selling cigarettes to civilians

Q, Was anone recognised?

A. The accused.

Examined by the Court

Q. Who identified the accused.

A. A civilian woman sir.

Re-examined by the Prosecutor.

Q. Do you remember her name?

A. I know her but not by name. She is the wife of a publican at the Welcome Inn, Wokingham.

Cross-examined by the Defending Officer.

Q. How many yards were gone through on this identification parade?

(Initd.) R.L.R.

A. Only one.

Q. Why?

A. Because on the completion of this one ward, she was absolutely certain of the identity of the man.

Q. How come they happened to pick on this one ward.

A. My instructions were to prepare a ward for an identification parade. I did this by confining one ward, and thought it would save time if this ward were used.

Q. Was the accused suspected?

A. Yes, sir, as he was under a charge of a.w.l. and was under open arrest.

Q. So that you made the inspection of this ward because you suspected Gnr. Deveau of being implicated.

A. Yes, sir.

Examined by the Court.

Q. How many patients of this ward were present at the parade?

A. Approximately 30, Sir.

Seventh Witness for the Prosecution

Mrs. E. J. Cox, The Welcome Inn, Wokingham, having been duly sworn, is examined by the Prosecutor.

Q. Do you remember any difficulties you had with the Police in July 1942. Did they report to your place of business?

A. They came to see us.

Q. What about?

A. About buying cigarettes from a soldier.

Q. What did they find?

A. I had 26 packages which I gave them.

Q. How did you come to be in possession of these?

A. They were given to me by this young man (pointing to Deveau) the accused.

Q. Did you in return give him anything?

A. Yes I gave him some money.

Q. How much?

A. £4.

Q. Was there anything else involved. Did you receive anything but cigarettes from him?

A. Nothing else.

Q. That is according to your statement, you received 26 packages of cigarettes from him, and you in return gave him £4.

(Initd.) D.L.R.

Q. Did you go to an identification parade at the hospital following this?

A. I did.

Q. Did you identify anyone there?

A. Yes (pointing to Deveau) that young man.

Cross-examined by the Defending Officer.

Q. Did any other Canadians frequent your Inn?

A. Yes.

Q. Do you know them well?

A. Not very well.

Q. You did not know the accused by name?

A. I did not.

Q. Have you a good memory for faces.

A. I think so.

Q. Did Deveau at any time produce a C.P.R. money order which he asked you to cash?

A. No.

Q. Did you give him any credit on drinks at any time.

A. Certainly not. He did not ask for credit.

Q. Did Deveau ask you to give him some credit on a Ronson lighter?

A. That had nothing to do with me - but my husband.

Q. You treated him well.

A. Yes.

Q. He always behaved well.

A. Yes.

Q. Did he come in alone on this particular occasion?

A. No he had a pal with him.

Q. Was this pal with him all the time.

A. They were not together all the time but most times.

Q. Was he with Deveau when the transaction took place.

A. He was in the room.

Q. Was there ever any question of a parcel being carried in?

A. I did not see this carried in.

Q. Were you in the room when they procuded the cigarettes?

A. They were on the table.

Q. Were there any other cigarettes besides Winchesters.

(Initd.) D.L.R.

A. I never saw any but those.

Q. Do you smoke yourself?

A. I used to.

Q. Going back to the lighter, you do not know how much credit was given on it?

A. I don't know. I think my husband still has the lighter.

Q. Does your husband smoke cigarettes.

A. No, a pipe.

Q. Did you ever get any cigarettes from any other Canadian?

A. No.

Examined by the Court

Q. Why did you give the accused £4.

A. To be frank I knew somebody had paid for cigarettes, and did not want them for nothing.

BY THE COURT TO THE DEFENDING OFFICER

Q. Does the accused wish to give evidence himself under oath?

A. Yes sir.

Q. Do you intend to call any other witnesses on your behalf?

A. Yes, sir.

Q. Are they witnesses as to facts or as to character, or both?

A. As to facts, sir.

First Witness for the Defence

P-86714 Gnr. Deveau, J.C., No.3 C.A.T.U. having been duly sworn, is examined by the Defending Officer.

(On the first charge)

Q. Do you remember coming into the Welcome Inn on a late day in July while a patient at the Plastic hospital.

A. I do.

Q. And you had with you a companion?

A. Spr. Charlton, C.C.

Q. He was a patient in your ward?

A. Yes sir.

Q. Were you carrying a parcel.

A. No sir.

Q. Did you have some cigarettes in your pockets?

A. I had a few packs, sir.

Q. How many did you have?

A. Possibly five to seven.

(Initd.) R.L.R.

Q. Did Charlton have any?

A. Yes.

Q. Who did they belong to.

A. To the both of us.

Q. Did you get many cigarettes when in hospital.

A. I only had cigarettes come through the mail once.

Q. What kind.

A. Two brands - Sweet Caps and Winchesters.

Q. When you went to the Inn, did you have Sweets or Winchesters or both kinds with you.

A. Both kinds.

Q. You had been advanced credit on this lighter I spoke about before by the proprietor.

A. Yes I had.

Q. How much?

A. From 10 shillings to thirty shillings.

Q. This time.

A. About 30 shillings.

Q. Did he ask you for the money?

A. No.

Q. At no time.

A. At no time.

Q. When you and Charlton went into the pub, what did you do with the cigarettes?

A. Nothing we kept them in our pockets.

Q. Did Mrs. Cox ask you for cigarettes?

A. No she did not.

Q. How long did you keep these cigarettes in your pocket.

A. About an hour, and before going out we decided to give her a few packets.

Q. Why

A. Because they had used us very well.

Q. They were mixed?

A. Yes, Sweet Caps and Winchesters

Q. Did you receive any money?

A. No.

Q. On the identification parade did you recognize Mrs. Cox?

A. Immediately. (Initd.) D.L.B.

Q. Did you nod to her?

A. No I just looked up.

Q. You did not try to conceal yourself?

A. That would have been impossible.

Q. What did she do with the cigarettes?

A. We did not pay any attention to that as were were on our way out.

Cross-examined by the Prosecutor.

Q. You claim to have been advanced sums of money on a cigarette lighter?

A. Yes.

Q. How much?

A. From 10 shillings to thirty shillings.

Q. What kind of lighter was it?

A. Ronson lighter.

Q. Which you never redeemde.

A. No.

Q. On the night in question you left some cigarettes ~~for~~ at the Welcome Inn.

A. I gave Mrs. Cox some cigarettes at the Inn.

Q. Did you receive anything in return?

A. Nothing, Sir.

Examined by the Court.

Q. Mrs. Cox has sworn that she gave you £4 that evening. Is that true?

A. No sir.

Q. Did she give you any money that evening?

A. No sir.

Q. She swore that when she gave you the money you thanked her for it. Is that true?

A. No, sir.

Q. Did she give you £4 at any time after you left the cigarettes?

A. No sir she never gave us any money, before or after.

Q. Did you see her give £4 to anybody else?

A. No, sir.

Q. You heard Mrs. Cox give that evidence?

A. I did, sir.

(Intd) D.L.B. Q. Is she telling an untruth?

A. She is telling an untruth, sir.

Q. You said that she had always used you well, and that you had left her a present of cigarettes.

A. We gave her a few packages of cigarettes, because she had used us well.

Q. You say that is the same woman who today come into this Court and told an untruth?

A. Yes, sir.

Second Witness for the Defence.

M-59533, Spr. Charlton, C.C., 10th Fd. Squadron, R.C.E., having been duly sworn is examined bythe Defending Officer.

Q. Do you know the accused.

A. Yes, sir.

Q. Were you present on any occasion in the Welcome Inn, Wokingham with Gnr. Deveau?

A. Yes sir.

Q. Were you in the same ward in hospital.

A. Yes sir.

Q. Do you remember being in Wokingham on or about the 23rd July 1943.

A. Yes sir.

Q. During the latter part of July were you in the Welcome Inn with Gnr. Deveau.

A. Yes, sir.

Q. At any time did you or yourself and Deveau offer cigarettes for sale ~~xx~~ to the proprietor of the Welcome Inn or his wife?

A. No, sir.

Q. Did Mrs. Cox give either one of you £4.or any money whatever at any time?

A. No, sir.

Q. Did you or Deveau carry cigarettes down to the Inn on the July evening in question.

A. Yes, sir.

Q. What did you do with them?

A. Seeing as how kind they were to us we gave them some cigarettes as a gift for their kindness.

Q. Do you remember what kind of cigarettes you had.

A. Sweet Caps and Winchesters.

Q. Do you remember how many packages you had between you?

A. From 5 to 20.

Q. Did Deveau ask Mrs. Cox for money.

A. No.

(Initd.) E.I.R.

Q. Did she offer to give either Deveau or you some money?

A. No, sir.

Q. Do you remember pledging between you a lighter at odd times for money.

A. Yes.

Q. Did you go away before the lighter was redeemed or do you remember redeeming it?

A. No, sir.

Q. Whose lighter was it?

A. 50. Deveau's, sir.

Q. You say that the cigarettes were given to Mrs. Cox as an appreciation of the way she treated you in the pub.

A. Yes, sir.

Q. At any time during your association with Deveau at this hospital did you carry a parcel of any kind the Welcome Inn and gave it to Mrs. Cox.

A. Yes, sir.

Q. What kind of parcel.

A. Canned goods, sir.

Q. Did you get payment for them.

A. No sir.

Q. Did Deveau have plenty of cigarettes around the hospital?

A. Yes, sir.

Q. What types.

A. All mixed.

Q. Did he have Sweet Caps and Winchesters.

A. Yes sir.

Q. Did you carry the parcel there the same day as the cigrettes

A. No sir.

Q. Were you present on the identification parade?

A. No, sir.

Cross-examined by the Prosecutor

Q. Can you tell me what you did on the night of the 24th August?

A. No, sir.

Q. Do you remember what you did on the night of the 25th July?

A. That was when I left the hospital.

(Initd.)
D.I.D.

Q. You states that neither you nor the accused had sold any cigarettes.

A. Yes sir.

Q. Did you ever leave the hospital without the accused being with you?

A. Yes, sir.

Q. And vice versa.

A. Yes sir.

Q. Then can you say what he did when you were not with him?

A. No, sir.

Q. Then can you say on oath that he did not sell any cigarettes?

A. No, sir.

Examined by the Court.

Q. Did you or Gnr. Deveau ever offer for sale any cigarettes to anyone connected with the Welcome Inn?

A. No, sir.

Q. Do you know anything about Mrs. Cox giving Gnr. Deveau some money.

A. No, sir.

Re-examined by the Prosecution.

Q. You stated that the accused had a large number of cigarettes when in hospital. Would you give the Court about the number he would have?

A. I could not say.

Q. Approximately how many.

A. A little more than one thousand.

Q. How long were you in hospital while he was there?

A. About a month.

The second charge is now taken on.

Gnr. Deveau as witness for the Defence.

Q. How long have you been under treatment for this ulcer?

A. For a long time. Since last May.

Q. You had no ulcer then.

A. I had a tear then, not where the ulcer is now.

Q. What happened?

A. I had kept going to the M.O. at Headley Detention Brks. and was travelling very day with this tear and the M.O. was not paying any attention to it. I kept on going to him until he got tired and had me sent to No.15 Gen.Hosp.

Q. Was he discouraged. Did he not raise the question of you being at fault?

A. He seemed to think it odd how the bandage worked around, but I was working.

(Initd) D.L.B.

Q. You explained this?

A. Yes. I was placed on light duty, and the wound was still not healing up, and I was then sent to No.15 Gen. Hops. for examination, and then sent on to No.1 Plastic. During the time I was in the hospital I was bandaged practically from the ankle to the groin in such a way as making it practically impossible to bend the knee without the badage stretching. I was then sent back to Headley where I was discharged and immediately sendt back to the Plastic Hospital where I was for about a week and then sent to 6 C.GS.

Q. Was the ulser as big as it is now.

A. It is now in a different spot to where it was then. I was discharged from 6 C.G.S. and brought beraunder close arrest pending my Court Matrial for the sale of cigarettes.

Q. Did you disarrange your bandages purposely at any time?

A. No, sir.

Q. Do you consider that your bandages have been properly applied.

A. No sir.

Q. Who applied them.

A. The medical orderly and occassionally the doctor.

Q. Do you consider you were properly looked after at the Plastic Surgery Hospital.

A. Yes, sir.

Q. But you do not consider that you have bee properly looked after since.

A. No, sir.

Q. Did you ever try to do anything about it?

A. I did, sir.

Q. Have you since been looked after better?.

A. A few days later I was sent to No.15 Gen. Hops.

Q. At no time have you ever disarranged your bandages?

A. No sir.

Examined by the Court

Q. How long all together were you at No.1 Plastic Hosp.

A. From the 28th May to 3 July; from 4 July for a week and from the latter part of Aug/first part of Sept to the 3 Nov.

STATEMENT BY D. C.

I will disregard the evidence of the doctors as I know nothing about these matters, but itdoes look as though this man, who has a bad record, has been pushed around. Nobody has ever seen him make any effort to disarrange his bandages. These doctors are going by effect rather than evidence of which there is none, and I consider there is no case whatever, Sir, on the 2nd charge.

(Initd.)
D.L.B.

On charge one there is a confliction of evidence between Charlton and Mrs. Cox.

There has been no evidence brought into the case except Mrs. Cox's regarding the transaction of cigarettes, and I there was any, and here again I submit that if cigarettes changed hands, and that possibly to the extent of 10 packages, they were a gift xxxx, and as a gift do not come under this charge which is one of committing a civil offence, that is to say selling tobacco. I contend, Sir, that no tobacco was sold, and that therefore Gnr. Deveau is not guilty of the first charge.

Statement by Prosecutor.

On the second charge, that of interfering with bandages, I am not qualified to make any statement. Insofar as the statement of the Defending Officer that the accused, who has had a bad record, has been pushed around, we have the same evidence given by both the local Medical Officer and the specialist at the Hospital, and therefore think that this can be discounted. It was agreed by all professional witnesses that there was indication of irritation to the wound beyond what would normally be expected from a patient, and I consider with the unanimous opinion of the witnesses that this evidence should be given due weight.

As far as the first charge is concerned, the witness for the defence states quite glibly that the accused at no time had sold cigarettes nor received any money. He was in no position to know whther the accused had sold cigarettes or received money, and I therefore submit, Sir, that this evidence should be discounted.

Statement by Defending Officer

In this case the point at issue was whether Deveau had sold cigarettes to Mrs. Cox in the presence of this man (Charlton), and I should have said to your knowledge do you know whether Deveau had ever sold cigarettes.

Continuation by the Prosecutor.

The evidence is conflicting. We have the definite identification of the accused by Mrs. Cox that he was the individual who sold her cigarettes and to whom she paid £4.

The Court is closed for consideration.

The Court re-opens.

Major J. H. McLeod, R.C.A., No.3 C.A.R.U. duly sworn, produces A.F.B. 296 and N.F.N. 6, and upon being question by the Court states that the accused is the person names in these documents which though not compared by him, have been compared with the Regimental Records, and are true extracts of the same.

The Prosecutor then brought out that AFB 296 was made up on the 12 December and the number of days in confinemtn therefore should be increased from 15 to 18 days.

No cross-examination. Above documents read, signed by the President and attached to the proceedings.

(Initd.) D.L.R.

Q. Do you wish to make any statement in mitigation of punishment?

D.O. This soldier enlisted after several attempts. He first joined up on 1 Sep 39 and was discharged as medically unfit. He again enlisted in March 41 and on discharged for medical grounds rejoined on 4 June 41 being passed by the Medical Board with "A" Category despite the burn on his leg which is nothing but skin tissue, and which two previous Board had refused to consider. The third Board took him in as "A" category which shows that he was not trying to avoid service, but wanted to do what he could. He has suffered considerably from this knee injury, and there is no doubt in my mind that his conduct, especially the A.W.L.'s, have been brought about by his injury, which we must admit has not been good, but I think I am right in saying that he has always given himself up except twice when going absent, and he never had any intention of deserting, and it is my opinion that he feels himself being unfairly treated.

He is a native of Halifax and had tried to join up in the Navy, on many occasions without result, and being familiar with the sea and boats thought he would make good in the merchant navy, but they had no vacancies at the time, so he went into the army. His record is bad, but I think it is due in great measure to this injury, and I would ask the Court to bear this in mind when considering sentence.

Certified correct, and dated at Huron Camp, Bramshott, Hants, this 16th Dayx of December, 1942.

(R.D. MacKercher) S/Sgt.
D-114808
No.3 C.A.P.U.
Court Stenographer.

(Signed) D. L. REDMAN Lt.Col.

COPY

SUMMARY OF EVIDENCE IN THE CASE OF
F 86714 Gnr. DEVEAU, J.C., "A" Bty.,
8pr Training Wng, No.3 C.A.P.U.

The Commanding Officer directs that the evidence be taken on oath.

1st Witness for Prosecution

Det. Sgt. A. C. Christopher, C.I.D. Branch, Wokingham Police, having been duly sworn, states:-

"On the night of the 29th July 1942 it was reported to the Wokingham Police that Canadian Cigarettes, Winchesters, were being sold over the counter of the Welcome Inn at Wokingham. We were requested to investigate this charge by Major W. S. Ritchie and Capt. P. A. Jennings of No.6 Cdn. C.C.S., R.C.A.M.C. who had sent M-16318 Sgt. Warples, W. into the Inn to obtain the necessary evidence. The charge was therefore immediately investigated by me in company with the above mentioned officers. I found that Winchester Cigarettes were for sale over the counter. After completing my investigation I confiscated twenty six packets of twenty five Winchester Cigarettes. The seal bearing the statement "Gifts to Canadian Soldiers on Active Service Only. Not for Resale" had been covered with a gummed sticker on the two packages which had been found on the shelf behind the counter. Mrs. Cox of the Welcome Inn agreed to go to No.6 C.C.S. Hospital at any time to identify the patient who had sold the cigarettes to her. These twenty six packets od cigarettes I marked with the letter "A" in the top right hand corner. As a result of instructions I received from the Customs and Excise 7 Castle Street, Reading. These cigarettes were handed over to them on the 2nd of November 1942 for which I obtained a receipt."

(Signed) Anthony C. Christopher.

The accused declines to cross-examine this witness.

2nd Witness for Prosecution

W 19007 Sgt. Major B. B. Todd, Wardmaster, No.6 Cdn.C.C.S. (Conv. Hosp) R.C.A.M.C.

I, J.A. Biggar, Capt., R.C.A., the officer taking this Summary of Evidence, certify that owing to the loss of time and expense involved, the attendance of this witness cannot, in my opinion, be readily procured.

I now produce and read to you a statement, purporting to be signed by the said Sgt. Major Todd, dated at Pinewood, on the 3rd of August 1942 stating that on an identification parade at No.6 C.C.S. Hospital on the 29th July 1942, Mrs. E. J. Cox, of the Welcome Inn, Wokingham, identified you as the patient from whom she bought Canadian Cigarettes. This statement is marked "A" and annexed hereto.

(Signed) J. A. Biggar, Capt.

The accused does not require the presence of this witness for the purpose of cross-examination.

(Initd.) D.I.R.

3rd Witness for Prosecution. Mrs. E.J.Cox, The Welcome Inn, Wokingham, Burks, having been duly sworn, states:-

"Gnr. Deveau came into the Welcome Inn, Walingham, on the 23rd of July 1942. He had visited the Inn on several occasions previous to that date and had mentioned that he had received several parcels of cigarettes and other things from friend at home and that he had more cigarettes than he could smoke.

On the evening of the 23rd of July 42, he came in with a parcel. When I came in there were some cigarettes belonging to him on the table. I fetched him some money and gave him four pounds (£4. 0. 0). He thanked me and I took the cigarettes away. The cigarettes were in packets of twenty five (25) and there were twenty six (26) packets, all of which were sealed.

On the evening of the 29th July 1942 I was called to No.6 C.C.S. Hospital and asked to identify Gnr. Deveau as the soldier to whom I had given four pounds (£4. 0. 0) for cigarettes. I had trouble identifying him at first as he was playing cards and dressed in pyjamas and I had never seen him before dressed in other than hospital blues. When I saw his face I recognised him as the same soldier to whom I had given the four pounds (£4. 0. 0) for cigarettes."

Cross-examined by the Accused.

Q. "Mrs. Cox. When I came into the Welcome Inn, did I offer to sell you any cigarettes?"

A. "No. Nothing was mentioned about money."

Q. "Did I sell you any cigarettes?".

A. "No. You didn't sell me any".

Q. "Then the cigarettes that you received were given to you free of charge?".

A. "Yes."

(Signed) J.C. Deveau Gnr. H.36714. (Signed) E. J. Cox

The accused declines to further cross-examine this witness.

4th Witness for Prosecution. Lieut. Col. D. Stuart Gordon, C.O. #1 Plastic and Jaw Surgery Unit, having been duly sworn, states:-

"Gnr. Deveau was admitted to this hospital on 30 May 42 with a scar deformity on the left thigh as a result of an old burn. The scar was excised and the defect grafted on 2 June 42. He was discharged on 27 June 42 with a graft well taken. He was re-admitted on 4 Sep 42 with a linear ulcer between the upper end of his graft on the skin above. On 7 Sep 42, a "Paddle graft" was done. This failed to take. On 18 Sep 42 a graft such as he had had before was done. This also failed to take. On 6 Oct 42, the area was covered with small "Pinch grafts". The dressing was done on 13 Oct 42 at which time not one of the grafts was alive.

One is not surprised to lose one graft, but losing three in succession makes one suspicious that some local interference had been done. The type of graft done on the third occasion, 6 Oct. 42, is the easiest type to take and a high percentage of take is seen even in badly infected wounds.

It is, therefore, my opinion, that there had been local interference with the grafts between the time of their application and the first dressing."

(Signed) Stuart Gordon. Lt.Col.
(Indte) D.S.M.

The accused declines to cross-examine this witness.

5th Witness for Prosecution

Lieut. M.J. Blackler (N/S) #1 Plastic and Jaw Surgery Unit, having been duly sworn, states:-

"On doing Gnr. Deveau's dressing on the morning of 1 Nov. 42, its appearance suggested that it had been tampered with by him. There was fresh blood on the dressings and in the ordinary course of events this should be hen seen. His dressings never had the usual characteristics of such dressings. They were almost always free from the wound."

(Signed) Marian I. Blackler Lt. (N/S)

The accused declines to cross-examine this witness.

6th Witness for Prosecution

Capt. W.R.Little, RCAMC, Medical Officer, No.3 C.A.A.U., having been duly sworn, states:-

"I was treating Gnr. Deveau at the R.A.P., No.3 C.A.A.U., for more than ten days previous to 3 Sep 1942. During this period of time, Gnr. Deveau's wound in the groin was dressed on many occasions, sometimes by myself. The dressings were invariably in such a crumpled condition and were pulled from the wound and the wound was irritated in such a manner that I can only conclude that the would was being irritated from an outside source. I told Gnr. Deveau on one or more occasions that I knew he was interfering with the wound, and I thought, maliciously."

(Signed) W.R.Little.

The accused declines to cross-examine this witness.

7th Witness for Prosecution

Capt. T. Dalrymple RCAMC, Asst. Medical Officer, No.3 CAAU, having been duly sworn, states:-

"On Saturday evening on 28 Nov 1942 at about 2200 hrs. the Medical Sgt., Sgt. Eveleigh called at the Ontario Camp Officers Mess and asked me to come over to the R.A.P. to see Gnr. Deveau. I went with him immediately and there examined the patient. I removed the dirty dressing from his left groin which exposed a red granulating ulcer four inches long and one inch wide. He was placed in the sick bay under escort and I prescribed treatment consisting of daily change of dressing to the ulcer. The next four consecutive mornings while making Sick Bay rounds I examined Gnr. Deveau and invariably found a loose dressing exposing part of the ulcer. I brought it to the attention of the Medical Orderly and told him to put on a more secure bandage but in spite of this the condition remained the same there appearing to be some interference. It is my opinion that the bandage had been tampered with.

Cross-examined by the accused.

Q. "I will now show you the wound and the dressing on my groin. Do you think that it has been tampered with?"

A. "The ulcer is exposed. The dressing has slipped."

Q. "Would a small dressing on a wound such as I have on the groin slip if I was walking around?".

A. "Not if properly applied."

Q. "Would you consider that the dressing I have on now was applied properly?"

A. "As this dressing was applied yesterday morning, I cannot state now whether or not it was properly applied."

(Signed) J.C.Deveau Gnr.F56714 (Signed) T. Dalrymple Capt.

(Init'd) D.L.R.

The accused declines to further cross-examine this witness.

8th Witness for Prosecution

B.1012 Gnr. Lesieux, J.T., "A" Battery, No.3 C.A.P.U., having been duly sworn, states:-

"On the 3rd of Nov 1942 I was at Park Prewitt Hospital guarding Gnr. Deveau. At around 0800 hrs. Gnr. Deveau left his ward and went into the hall leading to the next ward. There I could see him speaking to some of the other patients. We then went on down the hall to another ward and I followed him. When I came to the next ward, where I expected to see him, I couldn't find him. There was only one other door in the ward other than the one by which I had entered. I asked a patient if he had seen the prisoner, Gnr. Deveau, and he told me he had just gone through the ward. I then crossed the ward to the door leading out of the ward into another hall, but could find no trace of him. After reporting his escape to the Sister in charge, Gnr. DeMulling, my relief escort, and myself searched the grounds for about ten or fifteen minutes but could still find no trace of him."

(Signed) J. T. Lesieux, Gnr. B. 1012.

The accused declines to cross-examine this witness.

9th Witness for Prosecution

No.1 Cdn. Plastic and Jaw Surgery Unit Part II Order No.42 dated 27 Nov 42.

I, J.A. Biggar, Capt., RCA., the Officer taking this Summary of Evidence, now produce and read to you No.1 Cdn Plastic and Jaw Surgery Unit Part II Order # 42 dated 27 Nov 42, which same stated you to be A.W.L. from 0800 hrs. 3 Nov 42. Still absent 2359 hrs. 23 Nov 42 (21st day). This order is marked "B" and appended hereto.

(Signed) J.A. Biggar, Capt.

10th Witness for Prosecution.

Inspector C.Bennett, Wokingham Police Station.

I, J. A. Biggar, Capt., R.C.A. the officer taking this Summary of Evidence, certify that owing to the loss of time and expense involved, the attendance of this witness cannot, in my opinion, be readily procured.

(Signed) J. A. Biggar, Capt.

I now produce and read to you a statement, purporting to be signed by the said Inspector Bennett, at Wokingham on the 27th of Nov 1942, stating the time of your surrender to Sgt. Grace of the Wokingham Police as being 1250 hrs on the 27th Nov 1942. This statement is marked "C" and annexed hereto.

The accused does not require the presence of this witness for the purpose of cross-examination.

11th Witness for Prosecution

F.89056 A/Bdr. Hill R.F. "C" Battery, No.3 C.A.P.U. having been duly sworn, states:-

"On the 27th of November 1942 I was 2 i/c Main Gate Guard, Huron Camp, No.3 C.A.P.U. At approx. 2130 hrs on that date, Gnr. Deveau, who had surrendered himself to the civil police at Wokingham as an absentee, was brought back to this Unit by L/Bdr. Reeve of the Wokingham Police and handed over to Sgt. Ellis, i/c guard and myself to be detained in close arrest."

(Signed) A.F. Hill, A/Bdr. F.89056

(Initd.) J.A.B.

The accused declines to cross-examine this witness.

The accused having been cautioned in accordance with Rule of Procedure 4 (e), reserves his defence.

Certified that Rules of Procedure 4 (c), (d), (e) (f) and (g) have been complied with.

Taken down before me in the presence and hearing of the accused this 3rd day of December 1942 at RPB Training Wing, No.3 Cdn Arty. Regn. Unit.

(Signed) T. A. Biggar, Capt.

(T.A.Biggar) Capt. R.C.A.
RPB Training Wing.
No.3 Cdn. Arty. Regn. Unit.

(Signed) D. I. REDMAN, Lt.Col.

COPY

LIST OF EXHIBITS.

1. Twenty six (26) packets of Winchester 25s cigarettes, each packet marked "A" in the upper right hand corner.

COPY

No. F-86741 Name DEVEAU, J.C. Sqn., Battery, or Company — Corps R.C.A. — Date of enlistment 4-6-41 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet 27-11-42 — No. and date of last drunk Nil. — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. Capt. Hamilton

M.F.M. 6
A.F.B. 122)
1755M—7-41 (1319-20)
H.Q. 1772-39-1602

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original sheet destroyed on completion of six months service		4-12-41			
Fld.A.	12-41	Gnr.		A.A.Sec. 12(1): AWL 0700 hrs 10-12-41 to 10.30 hrs 15-3-42 Total abs. 95 dys 3 hrs 30 min A.A.Sec 40.		6 months Det.	3-3-42	F.O.C.M.C.	Pts 20 A.P. FRI 149(1)(a) Pts 46 A.P. FRI 149(1)(a)(i) Pts 184 A.P. FRI 149(1) (b) 76 dys remis sion 4-7-42 Stoppages of Rs. 2-5 Pts 190 A.P. FRI 149(1) (a) Total 7 days Pay
Fld.A.	2-42	Gnr.		A.A. Sec.12(1): AWL 2130 hrs 20-2-42 to 2-3-42 hrs 21-2-42. Total absence 1 day 1 hr 30 min.		Documentary pay FRI 149(2)	22-7-42	C.O.	

P.T.O.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24-7-42	Gnr.		A.A. Sec. 15(1); AWL 1645 hrs 24-7-42 to 2250 hrs 31-7-42 Total 3 days 4 hrs 15 min. A.A. Sec. 40	Sgt.Carey	Fts 20 days Pay FRI 149(2)	28-7-42	C.O.	Fts. 3 D.F. FRI 149(1)(a) Tot Forfeiture 23 days Pay.
Field	29-7-42	Gnr		A.A.Sec. 15(1); AWL from 1645 hrs 29-7-42 till apprehended at 17.15 hrs 30-7-42 Abs. 1 day 30 min		45 days Det.		F.G.C.M.	Fts 2 D.F. FRI 149(1)(a) Fts 12 D.F. FRI 149(1)(c)(1) Fts 45 D.F. FRI 149(1)(h) Total 59 days Pay
				CERTIFIED TRUE COPY 12 Dec 42 (Signed) J.A.Biggar Capt.					

COPY

M.F.B. 155
225M—5-41 (573-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F.86714	Gunner	DEVEAU J.C.	No.3 C.A.A.U.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental and Squadron, Battery Conduct sheets ~~of Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since completion of six months service	Since enlistment or appointment
For A.A.Sec. 15(2)	Three times		Five times
For A.A.Sec. 40	One time		One time
For	times		times
For	times		times

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ A.F.A. 78 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for XXXXXXX beginning on the~~ day of

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and Fifteen (15) days in ~~Air Force~~ military custody, making a total of Fifteen (15) days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~proof of age~~ attestation paper is 26 years 150 days

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 4 June 1941

7. The service which the accused is allowed to reckon towards discharge is 295 days

8. The accused is entitled to reckon 295 days service for the purpose of determining his pension, etc.

9. ~~The accused is in possession of or entitled to an air force decoration, or air force reward (or is in possession of or entitled to).~~ ~~State any air force decoration or reward.~~ military military

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer (on 1st~~ Air Force the regimental rank of

(Signed) D.L.REDMAN LA.,Col

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated ..., and in his regiment (or corps), the rank of ... dated ....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

... Date of promotion

In the rank of ... years.

In the rank of ... years.

In the rank of ... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number R66734 Rank Gunner Unit Name BROWN J.C. of No. 3 C.A.E.U. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	3 March 1942 Huron Camp Bramshott, Hants.	A.A. Sec.15(1) A.A. Sec.40	6 months detention	30 days
F.G.C.M.	12 August 1942 Huron Camp Bramshott Hants	A.A. Sec.15(1)	45 days detention	--

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12th day of December 1942

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked (A.V. Parker) Capt. signed by the president, and annexed to the proceedings. Records Officer No.3 CAEU

COPY

Huron Camp
No.3 C.A.P.U. 12 Dec 42.

Commanding Officer
No.3 C.A.P.U.

R.C.A.M.

1. It is respectfully requested that an officer be appointed to defend me at my forthcoming trial by Field General Court Martial.

(Signed) J.C. Devaux Gnr. F.86714

F.86714 (Devaux J.C.) Gnr.

SQ-34

Pt Deveaux Light

HH-2
PTE DEVEAUX L.

B-88234 Pte Deveaux, L. HH-2
1 Bn. 1 C.B.R.D.

Correspondence to be PINNED here.

NO. 1 BN. ORDERLY ROOM RECEIVED 19 JUN 1943 1 Cdn. Base Reinforcement Depot

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this FOURTEENTH day of JUNE, 19 ,FORTY-THREE

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[redacted]

*Omit if not applicable.

Norr.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.S. Pettapiece,	H.Q. C.R.U.

Members.

Rank.	Name.	Regiment.
A Major	from	1 C.A.C.R.U.
A Captain	from	HQ 'E' Gp.C.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed J.H. Roberts) Maj-Gen.,
Commanding Cdn Reinforcement Units.
Convening Officer.

Arthur S. Pettapiece Major

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F-88234 Pte Deveaux, L. 1 Bn 1 C.B.R.D.	FIRST CHARGE Sec 15(1) A.A.	Guilty	Guilty	
	SECOND CHARGE Sec 22 A.A.	Guilty	Guilty	
	THIRD CHARGE Sec 40 A.A.	Guilty	Guilty	Confirmed. J.u.l.
	FOURTH CHARGE Sec 9(2) A.A.	Guilty	Guilty	
	FIFTH CHARGE Sec 40 A.A.	Guilty	Guilty	
	SIXTH CHARGE Sec 8(2) A.A.	Guilty	Guilty	
	SEVENTH CHARGE Sec 9(1) A.A.	Guilty	Guilty	
	See Charge Sheet Attached.		Sentenced to undergo detention for a period of six (6) months. 15 June 43 Arthur L. Pettypiece, Maj.	

*Here state whether accused, if he pleads not guilty (R. of P. 29 (a)) :—
(1) Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?
(2) [illegible]

(Signed) J.H. Roberts (J.H. Roberts) Maj-Gen., Commanding Cdn Rft Units. Commanding Officer (e)

(Signed) Arthur L. Pettypiece, Major President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 15th day of June 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
~~2. The witnesses~~
*(3. ~~The Interpreter~~)
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 15th day of June 1943.

Arthur L. Pettypiece Maj/a.
President of the Court Martial.

C. Certificate in case of confirmed sentences.

*See footnote (b) on page 762 M.M.L. 1929. ~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be ~~not~~ committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 18 day of June 1943.

J.H. Roberts
Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) 19 June 43 (Signed) [illegible]

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused No. F-80234 Private Dawson L. on strength of 4th Sub-Unit, No. 1 Battalion, No. 1 Canadian Base Reinforcement Depot, a soldier in the Canadian Army (overseas), is charged with:-

First Charge
Sec. 15 (1)
Army Act.

While on Active Service absenting himself without leave in that he at Short Siberia Range absented himself without leave from 1120 hrs 4 June 43 until 1610 hrs 4 June 43.
Total Absence:- 4 Hrs 50 mins.

Second Charge
Sec. 22
Army Act.

While on active service when in lawful custody escaping, in that he, at Short Siberia Range, on 4 June 43, whilst under open arrest did escape at 1120 hrs and remained at large until apprehended at 1200 hrs by Sgt. Haley.

Third Charge
Sec. 40
Army Act.

While on active service neglect to the prejudice of good order and military discipline in that he at Short Siberia Range, on 4 June 43 accidentally handled his rifle or to personal endanger the lives of his comrades on the range.

Fourth Charge
Sec. 9 ~~(1)~~ (2)
Army Act.

While on active service disobeying a lawful command given by his superior officer, in that he, at Short Siberia Range, on 4 June 43 refused to hand over a live round of live ammunition when ordered to do so by Sgt. Little.

Fifth Charge
Sec. 40
Army Act.

While on active service conduct to the prejudice of good order and military discipline in that he, at Short Siberia Range, on 4 June 43, after having in possession of a live round of ammunition was found with a live round on his person.

Sixth Charge
Sec. 6 (3)
Army Act.

While on active service using ~~xxxxxxxxxxx~~ insubordinate language in that he, at Short Siberia Range on 4 June 43, said to his Sgt, "You are yellow, I will push those stripes down your throat."

Seventh Charge
Sec. 9 (1)
Army Act.

While on active service disobeying in such a manner as to show a wilful defiance of authority, a lawful command given personally by his superior officer in the execution of his office, in that he at Short Siberia Range on 4 June 43, did refuse to march when ordered to do so.

(J.H. ROBERTS) Maj-Gen.,
Comd
Cdn Reinforcement Units.

Dated at the Field
this 14th day of June 43

To be tried by Field General Court-Martial.

(J.H. ROBERTS) Maj-Gen.,
Comd
Cdn Reinforcement Units.

In the Field,
14 Jun 43.

Seventh Charge
Sec. 9 (1)
Army Act.

While on Active Service disobeying in such a manner as to show a wilful defiance of authority, a lawful command given personally by his superior officer in the execution of his office,

In that he, at Short Siberia Range on the 4 Jun 43 persistently refused to obey a lawful command given to him verbally personally by his A/Company HCO F54685 Cpl.McClusky,G.L. to march from the Short Siberia Range to Chobham Camp, and despite the command being repeated did not obey, and was therefore transported under arrest in a truck to Chobham Camp.

G. Hedley Basher .....Col.
(G.Hedley Basher)
Commandant, 1 Cdn Base Rft Depot

Dated in the Field
this 16th day of June 43.

To be tried by Field General Court Martial.

J.H. Roberts
(J.H. ROBERTS) Maj-Gen,,
Comd
Cdn Reinforcement Units

In the Field,
14 Jun 43.

Witness to Sig. Maj

MEDICAL CERTIFICATE (K.R.(Can) 557)

I certify that I have this morning examined No. F. 88237 Pte Brown J.
of ...L.S.B.R.R.D..... and in my opinion he is fit to undergo trial
by Court Martial.

Station A1 Det. #1 CBRD

Date June 15 1943 Medical Officer Lt. Duckworth
Capt Robbins
Arthur S. Pettapiece, Major

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT HQ. 1 Bn. 1 C.B.R.D.
ON THE 15 DAY OF June 1943

The accused. F.88734 Rfn. Devaux L. Unit. HQ 1 Bn. 1 C.B.R.D.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. Maj. A.S. Pettapiece ..... Unit. HQ C.R.M. .....

Members. Maj. D.H. Campbell ..... Unit. 1 C.A.C.R.M. .....

Capt. R. Trennie ..... Unit. HQ E. Gp. C.R.M. ..

The officers under instruction are duly sworn:-

..... Unit. .....

..... Unit. .....

Prosecutor. Lt. R.M. Bell ..... Unit. HQ 1 Bn. 1 C.B.R.D. ..

Defending Officer. Lt. W.D. Wood ... Unit. HQ. 1 Bn. 1 C.B.R.D. ..

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, [redacted] and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
~~(b) Calls witnesses to character.~~
~~(c) Calls witness in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Statement by accused and Plea in mitigation by Defending Officer attached.

A.S. Pettapiece
Major

Re Deveaux L.

Statement in Mitigation.

In spite of the long list of charges to which the accused has pleaded guilty, his excellent record in the army so far serves to verify his sworn statement - and his sworn statement has this effect - that his excessive drinking that day released his control over himself - which he normally had - and resulted in his crimes.

When a man has proved himself to be a soldier, a good one, it would seem a pity to destroy his possibilities at a time like this by giving him a long period in detention. Detention serves, as often as not, to take the good out of the soldier - the contact with habitual defaulters makes of the newcomer a potential defaulter. Men like Deveaux should not be locked away but should be kept for service - that was what he joined for two years ago - and given the opportunity now he should prove his record prior.

to his offences of the 4th to be sounded.

Lt Blyford Lieut.

In the case of Pte. [redacted] Deveaux, L.

The accused, having been duly sworn states —

On the morning we went to the Ranges I wasn't feeling so good. When I got there most of the boys were laying around. There was a tea shop quite close. I decided to go there. An officer turned me back, but I went through the woods and went down to the pub — I stayed for quite a while. When I got back the usual parade was on, but I didn't wait for dinner, and went back to the Pub. The other fellows — 4 of us — came with me. We drank until it closed. We came back & Sgt. Mackay marked us where we had been, and we told him we had been asleep. We denied we had been in the pub. He took us to Lt. Liptrot who placed us under open arrest. Later we were placed under close arrest after we had fired.

They told us we were going back in the trucks. We didn't think we had to walk. I just wouldn't walk and refused to do so.

Summary of Evidence
in the case of

No. F88234 Private Sergeant in Strength of A Sub-Unit 1 Battalion 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken as read.

First Witness for the prosecution — Lieutenant [illegible], 2nd i/c in Strength of No 1 Battalion A Sub-Unit 1 C.B.R.D. a officer of the Canadian Army Overseas, having been duly sworn, states as follows:—

On the 4th day of June 1943 this acting Company Commander at Aldershot Camp, Aldershot Range, and at about 1130 hours, having previously collected forward rolls from the platoon Commanders of the platoons of the Unit, found the name of the accused among those missing. At 1610 hours Sergeant McKay brought the accused to me with the report that he had found him outside the Range Limits. I placed the Accused under open arrest and informed him that a charge would be laid against him in the morning. Approximately twenty minutes later, Sergeant McKay reported to me that he had seen the accused drinking tea left at a tea cup and that when he ordered him to open his kit he saw the accused remove a Record from his [illegible] and place it in his pocket. During the time Sergeant McKay was making his above report to me, the accused escaped, while under open arrest and was recaptured at approximately 1700 hours by Sgt. McKay. When the accused was brought before me had questioned about the possession of his documents, he denied having any in his possession. However upon having him searched by Sgt McKay a record was found in his pocket. I then placed him under close arrest. At approximately 1700 hrs. before placing the accused under close arrest he used insulting language to Sgt McKay in my presence in that he said "Sergeant you are yellow, I will push this stripes down your throat". At approximately 1900 hrs. I ordered Corporal McCluskey who was in charge of the guard to fall the accused on and march him to the head of the column to head the Brigade back to camp, there being no transport available. After a few moments I personally McCluskey returned and informed me that the accused refused to obey his order

to prove it. I then approached the accused and ~~asked~~ him if he intended to move off, ~~but intended to report that~~ but he refused & marched back to camp. The accused was perfectly able & marched back but refused to do so. I thereupon took measures to secure transportation and having obtained same, had the accused transported back to camp.

The evidence was read to the witness.

Cross-examined by the accused

Question 1. Did you account for all the men missing?

Answer 1. Yes.

Lt. E. Lipsett
1st Bn H.L.I. (D.R.D.)

Second witness for the prosecution

Name C/17727

Sgt. [illegible] E.V. ~~Straight~~ D.A. Sub Unit, No 1 Battalion, C.B.R.D., a soldier in the Canadian Army Overseas, having been duly sworn states as follows:-

"On June 4, 1943, at Short Sibert Range, Lieut. Lipsett detailed me to take the men equipment back to the range and at approximately 1600 hours I saw the accused and three other soldiers coming along a foot path towards the range. I stopped them and asked them what company they belonged to. One of them replied "A Company". I then asked them, where they had been and they replied that they had fallen asleep. I then said "You had better come with me". And I turned them over to Mr. Lipsett when I saw the accused and the other three soldiers they were outside of the range area were on. Later on when reporting to Mr. Lipsett with the soldiers, Mr. Lipsett told me that the accused and other soldier were gone again. We then went with Mr. Lipsett and Sgt. Little to the main road and walked down to the foot path leading into the range. Mr. Lipsett and Sgt. Little went through the foot path to the range and I went back the road as far as the eastern entrance to the ground. I brought the accused back to the lipsett at about 1700 hrs and Mr. Lipsett asked me I found the accused in his possession. The accused was then ~~asked~~ searched his pockets and on ~~searching~~ his jacket I discovered one live round. I turned the round over to Mr. Lipsett. The accused became riled and stepped back and said "Sergeant, you are yellow. I will fund that stripes down your back".

C-17727 Sgt. E.V. [illegible]
A Sub Unit No 1 Bn C.B.R.D.

The evidence was read to the witness
The accused declines to cross-examine the witness

First Witness for the prosecution

Number G 20019 Sgt Little W.G. of Straight A Sub Unit No 1 Battalion 1 C.B.R.D. a Soldier in the Canadian Army Overseas, having been duly sworn states as follows:-

"On 4 June 1943, at Short Sebris Range, I was acting Platoon Commander and was coaching the men at the firing point. While at the back of the firing points, I saw the accused drawing his rifle out of a white enamelled drinking mug, the use of this would endanger many troops of civilians & the men of my platoon. There was a civilian about three hundred yards either to the right or left of the accused. I went to the accused drawing and I asked him to open the breech of his rifle and that I wished to examine it. On opening it he tried to hide the round which I saw staying out of the breech. He put it in his pocket and then handed me the rifle to examine. I ordered him to hand over the live round and he said he did not have any. I ordered him to do so again but he refused. I then went and searched the accused about the waistline."

The evidence was read to the witness
The accused declines to cross-examine the witness

W.G. Little Sgt
G 20019, Sgt Little W.G.
A Sub Unit, No 1 Battalion, 1 C.B.R.D.

Second Witness for the prosecution

Number G 50709 Pte Smith J.G. of Straight A Sub Unit, No 1 Battalion 1 C.B.R.D. a Soldier in the Canadian Army Overseas, having been duly sworn states as follows:-

"On 4 June 1943 at Short Sebris Range, I was a member of a platoon firing on the range. During the afternoon I happened to be standing near the accused, when Sgt Little walked over and looked to see what he was doing. The accused was down on one knee drinking out of a white mug. The accused said he wasn't doing anything. Sgt Little asked to see the rifle and the accused opened the breech and took a round out and put it in his pocket. Sgt Little asked the accused to hand the round over and the accused refused to do so."

J.G. Smith Pte
G 50709, Pte Smith J.G.
A Sub Unit, No 1 Battalion, 1 C.B.R.D.

The evidence was read to the witness
The accused declines to cross-examine the witness

Prosn Witness
for the prosecution

No. F54685 Corporal McCluskey G. J.
on strength of A Sub-Unit 1st Battalion, N.B.R.D.
a soldier of the Canadian Army Overseas having been
duly sworn, states as follows:

"On 7 June 1943, at East Sebena Range, I
was ~~ordering as a firing point~~ ~~corporal in charge of~~ instructor. After
the firing was over, I was requested to take charge
of the accused and three other soldiers and their
escorts. I was to take them back to camp by
truck. Shortly afterwards the order was changed and
I was ordered to send my party back to camp as
there was no room in the truck. I formed the party
up in single file telling them we were marching to camp
and would be in charge of the column. The accused
~~Private~~ the three others did not think they should
march back. I gave the order to move off and follow me
but the accused did not move. I asked if he intended to
march ~~back~~ the accused replied that as he was under close
arrest, he should not have to march. I notified the acting
Company Commander Lt. Lepin and he came and ~~told them they~~
~~would~~ ~~have~~ to march but the accused refused to do so stating
that he did not intend to march. In my opinion, the accused
was quite able to march. Mr. Lepin got transport and the
party was transported back to camp."

G.J. McCluskey. Cpl.
No F54685 - 1 Bn, N.B.R.D.

The evidence was read to the witness
The accused declines to cross examine the witness.

The accused was cautioned as follows: Do you wish to
~~make a statement~~ to make any statement or to give evidence ~~under oath~~? You
are not obliged to say anything or give evidence unless you
wish to do so, but whatever you say or any evidence you
give will be taken down in writing and may be given in
evidence.

The accused declines to make a statement and reserves his defence
stating " I do not wish to say anything at the present time"

J. Lepin Lt.
F66234 - Lt. Lepin.

The accused declines to call witnesses in his own behalf.

I certify that the foregoing Summary of Evidence
consisting of pages was taken down by me in the presence
and hearing of the accused, and the Rules of Procedure 44(1), (d),
(e), (f) and (g) have been complied with.

R. K. Bell, Lieut
Bde C.B.R.D.
Officer detailed to take the
Summary of Evidence

In the Field
June 8, 1943.

Additional Summary of Evidence
In the case of

F-88239 The Prisoner L.... of the Strength of A Sqdn. Hqrs
1 Battalion, Canadian Base Reinforcement Depot, a soldier of the
Canadian Army Overseas.
By direction of the Commanding Officer, the Summary of evidence
is taken on oath.

First Witness
For the prosecution — Lieut Lipin, SE of Strength of A Sqdn Hqrs
1 Battalion, Canadian Base Reinforcement Depot
an Officer of the Canadian Army Overseas,
having been duly sworn states as follows:—

"When we first came to march the troops back to camp I had the accused formed up and ordered Cpl McCluskey to lead the party to the head of the column where they would lead the march back to camp. When Corporal McCluskey reported to me that ~~I~~ the accused refused to obey my order I approached the group and individually questioned each man as to his intentions to which each replied that they absolutely refused to march back to camp. They insisted that being under close arrest they didn't have to obey the command to march back to camp and insisted that if I would change their close arrest to open arrest they would then march. When I refused to do this they maintained their contention in refusing to march upon which I was obliged to secure transportation for them.

~~The evidence was read to the witness~~
~~He assented thereto, & same was signed~~

On the 4th day June, 1943, before reaching Short Defence Range, during a short period for rest, I ordered the platoon Commanders of the Company to take the names of the men in their platoons. On reaching the range I called in the rolls of the platoon commanders and checked off the rolls of the men with those present on my orders. I discovered that some men were marked absent. This was at approximately 1120 hours. The accused all of them - were among those absent. On reaching the range I gave the order that no one was to leave the range area. I gave this order verbally to the platoon commanders & to some men who asked permission to leave the range area. The accused were not men who asked for such permission.

Cross-examined by the accused
Question 1. Did you or Officer who called us back when we were loaded [illegible] the car Shop

Answer 1 - No Answer.

The evidence was read to the witness

S/L Lipsi Lieut
1 Bn 11 BRD.

The accused was cautioned as follows: Do you wish to make any statement as to your evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

The accused declines to call witnesses in his own behalf.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and the Rules of Procedure 4(c), (d), (e), (f) and (g) have been complied with.

R. M. Bell Lt
Officer detailed to take the Summary of Evidence.

In the field.
June 14, 1943.

LIST OF EFFECTS

One Live Round .303 ammunition. R.A.B.

R.A. Bell
Bn. 1st B.K.D.

Summary of Evidence
in the case of

No. B88034 Private L. Deveaux on the strength of A Sub-Unit I Battalion I Canadian Base Reinforcement Depot, a soldier of the Canadian Army (Overseas)

By direction of the Commanding Officer, the Summary of Evidence is taken on Oath.

First witness: Lieutenant Lipin, S.E. on strength of No. 1 Battalion
For the prosecution A Sub-Unit 1 Canadian Base Reinforcement Depot an officer in the Canadian Army Overseas, having been duly sworn states as follows:-

"On the 4th day of June 1942, I was acting xxxxxxxxxx Company Commander at Short Siberia Range. And at about 1130 hours having previously collected required rolls from the platoon Commanders on the range, I found the name of the accused among those missing. At 1630 hours Sergeant McKay brought the accused to me with the report that he had found him outside the range limits. I placed the accused under open arrest and informed him that a charge would be laid against him in due course. Approximately twenty minutes later, Sergeant Little reported to me that he had seen the accused attempting rifle practice and that when he realized his error at his rifle, he saw the accused remove a round from the breech and place it in his pocket. During the time that Sergeant Little was making the above report to me, the accused escaped at about 1630 hours while under open arrest and was recaptured at approximately 1730 hrs. by Sgt. McKay. When the accused was brought before me and questioned about the possession of live ammunition, he denied having any in his possession. However upon having him searched by Sgt. McKay a live round was found in his pocket. I then placed him under close arrest. After placing the accused under close arrest he used threatening language to Sgt. McKay in my presence in that he said:"Sergeant you are yelling, I will push those strips down your throat." At approximately 1900 hours, I ordered Corporal McClusky who was in charge of the guard to call the accused in and march him to the head of the column to lead the parade back to camp, there being no transportation available. In a few minutes Corporal McClusky returned and informed me that the accused refused to obey his order to move off. I then approached the accused and asked him if he intended to move off, but he refused to march back to camp. The accused was physically able to march back to camp, but refused to do so. I thereupon took measures to secure transportation and having obtained same, had the accused transported back to camp."

The evidence was read to the witness.

Question 1. Did you account for all ammunition ?

Answer 1. Yes.

Cross-examined by the accused.

S.E. Lipin Lieut.
(S.E. Lipin) Lieut.
1 Bn 1 Cdn Base Rft Depot.

Second witness: Number R1 727 Sgt. McKay, E.V. on strength of A Sub-Unit No. 1 Battalion, 1 Cdn Base Rft Depot, a soldier
For the prosecution. in the Canadian Army Overseas, having been duly sworn states as follows:-

"On June 4, 1942, at Short Siberia Range, Lieut. Lipin detailed me to watch the men's equipment back of the range and at approximately 1600 hours I saw the accused and three other soldiers coming along a foot path towards the Range. I stopped them and asked them what company they belonged to. One of them replied "A Company." I then asked them where they had been and they replied that they had fallen asleep. I then told

SECOND WITNESS: (cont'd) "You had better come with me." and I turned them over to Mr. Lipin. When I saw the accused and the other three soldiers they were outside of the range we were on. Later on when reporting to Mr. Lipin with two soldiers, Mr. Lipin told me that the accused and an other soldier were gone again. I then went with Mr. Lipin and Sgt. Little to the main road and walked down to the footpath heading into the range. Mr. Lipin and Sgt. Little went through the footpath to the range and went back the road as far as the canteen where I met the accused. I brought the accused back to Mr. Lipin at about 1700 hrs. and Mr. Lipin asked me to search the accused for live ammunition. The accused emptied his pockets but on inspecting his I discovered one live round. I turned the round over to Mr. Lipin. The accused became riled and stepped back and said: "Sergeant you are yellow. I will pull those stripes down your throat."

Exhibit 'A'

Sgt. E V McKay
(C-[illegible] Sgt. E.V. McKay)
A Sub-Unit No. 1 Bn I Can Base Rft Depot.

The evidence was read to the witness.
The accused declines to cross-examine the witness.

THIRD WITNESS: For the prosecution

Number C22010 Sgt. Little, W.S. on strength of A Sub-Unit No. 1 Battalion No. 1 Canadian Base Reinforcement Depot, a soldier in the Canadian Army Overseas, having been duly sworn states as follows:-

"On 4 June 1942, at Short Siberia Range, I was acting Platoon Commander and was coaching the men at the firing point. While at the back of the firing points, I saw the accused aiming his rifle at a white enamelled drinking mug. The line of fire would endanger any troops or civilians in that area. Two or three men from the platoon were near by on the right at the time. There was a house about three hundred yards further on. I saw the accused aiming and I asked him to open the breech of his rifle and that I wished to examine it. On opening it he tried to hide the round which I saw coming out of the breech. He put it in his pocket and then handed me the rifle to examine. I ordered him to hand over the live round and he said he did not have any. I ordered him to do so again but he refused. I then went and advised Mr. Lipin about the incident.

W. S. Little Sgt
([illegible] Sgt. Little, W.S.)
A Sub-Unit
I Bn I Can Base Rft Depot.

The evidence was read to the witness.
The accused declines to cross-examine the witness.

FOURTH WITNESS: For the prosecution

Number G50706 Pte. Smith, J. G. on strength of A Sub-Unit, No. 1 Battalion I Canadian Base Reinforcement Depot, a soldier in the Canadian Army Overseas, having been duly sworn states as follows:-

"On June 4th 1942, at Short Siberia Range, I was a member of a platoon firing on the range. During the afternoon I happened to be standing near the accused, when Sgt. Little walked over and asked the accused what he was doing. The accused was down on one knee aiming at a white mug. The accused said he wasn't doing anything. Sgt. Little asked to see his rifle and the accused opened the breech and took a round out and put it in his pocket. Sgt. Little asked the accused to hand over the round but the accused refused to do so."

J. G. Smith
(G.50706 Pte. Smith, J. G.)
A Sub-Unit 1 Bn I Can Base Rft Depot.

FIFTH WITNESS: (cont'd)
For the prosecution

The evidence was read to the witness.
The accused declines to cross-examine the witness.

SIXTH WITNESS:
For the prosecution

Number F54685 Corporal McCluskey, G.J. on strength of A Sub-Unit No. 1 Battalion No. 1 Canadian Base Reinforcement Depot, a soldier in the Canadian Army Overseas, having been duly sworn states as follows:-
"On 4 June 1943, At Short Siberia Range, I was acting as a firingpoint instructor. After firing was over, I was requested to take charge of the accused and three other soldiers and their escorts. I was to take them back to camp by truck. Shortly afterwards the order was changed and I was ordered to march my party back to camp as there was no room in the truck. I formed the party up in single file telling them we were marching to camp and would be in the head of the column. The accused and the three others did not think they should march back. I gave the order to move off and follow me but the accused did not move. I asked if he intended to march back and the accused replied that as an overseas class arrest he should not have to march. I notified the acting Company Commander Lt. Lipin and he came and told them they would have to march but the accused refused and to do so stating that he did not intend to march. In my opinion the accused was quite able to march. Lt. Lipin got transport and the party was transported back to camp.

G J McCluskey
(F54685 G.J. McCluskey Cpl.)
1 Bn 1 Cdn Base Rft Depot

The evidence was read to the witness.
The accused declines to cross-examine the witness.

The accused was cautioned as follows: Do you wish to make any statement or to give evidence on Oath ? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.
The accused declines to make a statement and reserves his defence stating "I do not wish to say anything at the present time."

I Devaux
(F58234 I. Devaux Pte.)
1 Bn 1 Cdn Base Rft Depot.

The accused declines to call witnesses in his own behalf.

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence xxxxxx and hearing of the accused and the rules of procedure 4(c),(d),(e),(f),and (g) have been complied with.

R. M. Bell, Lieut
D.A.D.J.A.G.R.D.

Officer detailed to take the Summary of Evidence

Arthur S. Pettapiece
Major

In the Field.
June 8, 1943.

Additional Summary of Evidence

In the Case of

F-88234 Pte Deveaux, L. on the strength of A Sub-Unit, No 1 Battalion, 1 Canadian Base Reinforcement Depot, a Soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS for the Prosecution — Lieut S.E. Lipen, on strength of A Sub-Unit, No 1 Battalion, 1 Canadian Base Reinforcement Depot, an officer of the Canadian Army Overseas, having been duly sworn, states as follows:-

When the time came to march the Company back to camp I had all the accused formed up and ordered Cpl McCluskey to lead the party to the head of the column where they would lead the march back to camp. When Cpl McCluskey reported to me that all the accused refused to obey my order I approached the group and individually questioned each man as to his motives to which each replied that they absolutely refused to march back, to camp. They insisted that being under close arrest they didn't have to obey the command to march back to Camp, and insisted that if I would change their close arrest to open arrest they would then march. When I refused to do this, they maintained their contention in refusing to march, upon which I was obliged to secure transportation for them.

On the 4th day of June, 1943, before reaching Short Siberia Range, during a break period en route, I ordered the platoon commanders of the Company to take the names of the men in their platoons. On reaching the range I called in the rolls after the platoon commanders had checked off the rolls of the men with those present on my order. I discovered that some men were marked absent. This was at approximately 1120 hrs. The accused - all of them - were among those absent. On reaching the range I gave the order verbally to the platoon commanders and to several men who asked permission to leave the range area, that no one was to leave the range area. The accused were not men who asked for such permission.

CROSS-EXAMINED BY THE ACCUSED:

Q 1. Are you the officer who called us back when we were headed towards the tea shop?

A 1. No I wasn't.

The Evidence was read to the witness.

(Sgd) S.E. LIPIN, LIEUT.

1 Bn. 1 C.B.R.D.

The accused was cautioned as follows: Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

The accused declines to call witnesses on his own behalf.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and the Rules of Procedure 4(c)(d)(e)(f) and (g) have been complied with.

(Sgd) R.M. BELL, LIEUT.

Officer detailed to take the Summary of Evidence.

In the Field,
14 Jun 43.

No Record of original sheet No 1 on Taking over (Signature illegible) Capt

M.F.M. 6
(A.F.W. 122)
40/P & S/136 (2637)

No. F88234 Name DUEAUX L. Sqn., Battery, or Company Corps Inf Date of enlistment 3 Jun 41 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	4 Apr 42	Pte		A A 40 conduct to the prejudice of good order and military discipline in that he was absent from his barrack room without permission while clean-up was in progress	Sgt Power / Pte Warren	2 extra duties	6 Apr 42	Lt J K Anson	
FIELD	5 June 42	Pte		A A 15(1) absent from his duty	Sgt J C Barbour	7 days C B	6 Jun 42	Illegible	
FIELD	8 Sept 42	Pte		A A 40 Neglect to the prejudice of good order and military discipline negligently charging the magazine of a rifle in that it discharged	Sgt H W Macdonald	10 days C B	9 Sep 42	Lt Col Weir	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	15 Oct 42	Pte		A.A.40 Conduct to the prejudice of good order and military discipline Talking on parade	C.S.M. Fraser	3 days C.B.	24 Oct 42	Illegible	

I certify this to be a true copy of the document in my custody

Pte. W. Yeoman 1st 1 Bn. 1 C.B.R.D.
Officer having custody of document

Alastair J. Pettapiece Major

M.F.B. 355
22M-5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

NUMBER	RANK	NAME	REGIMENT (OR UNIT)
F.8.82.34	Pte.	Donovan. L.C.	18th A.A. Sub Unit 1 GEAD

1. The following is a fair and true summary of the entries in the Regimental & Squadron, Service and General Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which Air Force Act trial has been dispersed with.

	Within last 12 months	Since enlistment or appointment
For A.R. Sec 42 (1)	(1) times	A.B. 295.15 (d) 1 times
For A.R. Sec 42	(2) times	A.A. 24 1 times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

Note:- If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or, No

Previous convictions of the accused by a court-martial or a Civil Court, of summary awards under Section 47 of the Army Act and dispensations with trial under Air Force Act A.F.A.73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time,

or,

The accuse at the present time is under sentence for No beginning on the.....day of.....

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 6 11 days in military custody, making a total of 6 11 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 25 Years 5 Mons

6. The date of commission specified in his record of service is attestation attestation paper

7. The service which the accused is allowed to reckon towards discharged is 2 years 7 days.

8. The accused is entitled to reckon.....service for the purpose of determining his pension, etc.

9. The accused is in possession of ~~or entitled to~~ no air force military decoration, or air force reward (~~or is in possession of or entitled to~~). State any air force military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of..... Air Force

11. (In the case of officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
Unit
.....dated.....,and in his regiment(or corps
the rank of.....dated.....
12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date-

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

Note:- If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....Unit
Air Force
Name.....of.....Regiment

Note:-A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and place of trial	Charge upon which convicted.	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed.....Capt. A.C. A Sect. this 15 day of June 43.

The above statement(with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....
signed by the president, and annexed to the proceedings.

Major

ACKNOWLEDGEMENT BY THE ACCUSED

I certify having received free of charge, a copy of the Summary of Evidence, List of Witnesses, List of Exhibits and Charge Sheet. I desire the services of an Officer to represent me at the trial.

F. Dancey

F. 70294 Private L. Dancey

VVV-56

Pte. Durant L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : P96234 Pte Lee DOVEAUX, West NSR

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	See 40 AA	Not Guilty	Not Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for beginning 8th (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Thus in confinement awaiting pursuant trial a total of days, of which days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

~~Sentence A[illegible] by the Court~~ :

(Sgd) Judge-Advocate, if any. Date awarded. (Sgd) President (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Finding of Not Guilty is noted

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 2 July 44 (Sgd) [illegible] Lieut Col Commanding Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECEIVED 15 SEP 1944 JAG BRANCH CMHQ

K.38

RECORDED AT CMHQ IN AB 160

VVV-56

FIELD GENERAL COURT-MARTIAL

CFA96 (To Bell of APAB) 41/P.S.S./1608 (2464)

Convened by Order of [illegible] dated 15 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if given see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
P96234	Pte	Lee	DOVEAUX	West NSR

PROCEEDINGS REVIEWED 8 JUL 1944 REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 23 June 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for notes and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~were~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1515 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused ~~Do you object to~~ ~~the interpreter~~ ~~Ans~~

~~The interpreter is sworn.(1) Do you object to~~ ~~the shorthand writer~~ ~~Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	MAJOR	L.P. Trudeau	A 22nd R.
Member	Capt	A.J. Haining	Can't 1 York R
Member	Lieut	M.N. Budreski	West NS R
Judge-Advocate			
Prosecutor	Lieut	W.S.K. Jones	West NS R
Defending Offr	Lieut	M.A. Craig	West NS R

Questions by President : Is the Prosecutor a lawyer ? Ans ~~Nil~~. Is the Defending Offr a lawyer ? Ans ~~Nil~~ (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. ~~The accused~~ ~~before arraignment~~ ~~(or) (to) plea~~ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 27), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~were~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 30, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form P

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(C). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, or to altered, offence.* (*RP* 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(A). *As to plea when sentence may be death see RP* 35(D).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*); *oath of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence to be read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by completing with paras D6 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(1. *If "yes", see RP* 29(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete that para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *AFB* 253 *or AFB* 294. 2. *Name p.* 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 140*fn. One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 180; *RP* 46-50, 69, 118, 119(*A*); *KR Con* 308, 330, 563-566. *Overseas AO* 309, 2323. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*B*), 68(*C*), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

(5)

CHARGE SHEET

The Accused, F88234 Pte Leo DEVEAUX, West Nova Scotia Regiment, A soldier of the Canadian Army Overseas, AAI, when on Active Service, is charged with:

1st CHARGE
Sec 40
ARMY ACT

NEGLECT [illegible]

When on Active Service, [illegible] TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in the Field, at approx 1400 hrs 22 May 44, did so negligently handle his rifle as to cause it to discharge and wound himself in the thumb.

Katerman

In the Field
6 Jun 44.

(R C [illegible] Katerman) Lt col
Comd West NSR

"TO BE TRIED BY FIELD GENERAL COURT-MARTIAL"

E Snowball

In the Field
6 June 44

(J F E Berratchaw) Brigadier,
Commanding 3 Can Inf Bde.

HH/Pres

(6)

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of AF 7.5)
40/P&R/1697 (2nd ed)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F66234	Pte		Leo	DEVEAUX	West NSR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 Jun 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reason(s) I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereof the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F Trudeau	R 22e R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	H J Heining	Queen's Own R
Lieut	G H Dudrenet	West NSR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	A G Taylor	West NSR

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 16 Jun 44

Commanding 3 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE
(KR (CAN) PARA 557)

(4)

I certify that I have this morning examined

No F 88234 Rank Pte Name DEVEAUX, L.

of West NSR and in my opinion is

FIT/~~UNFIT~~ to undergo Trial by Court Martial.

Station Field

Date ~~20~~ 23 June 44

A.H. Jacobs Capt
(Medical Officer)

(8)

Note (1) To Record Form D.

At 1030hrs 30 Jun 44, the Court re-opened in the case of F 88234 Pte Bertaux L. As the prosecution cannot furnish necessary witnesses the Court recorded a finding of NOT GUILTY on the first & only charge and the accused is ~~ordered~~ released.

HH/Pres.

(9)

SUMMARY OF EVIDENCE IN THE CASE OF F86234 Pte Leo DEVEAUX, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas, AAI, stationed in the Field.

By Order of Lt col R S E Waterman, Officer Commanding, West Nova Scotia Regiment.

Evidence taken on oath.

1st Witness for Prosecution

Capt J H Jones, West Nova Scotia Regiment, having been duly sworn states:-

At approx 1400 hrs 22 May 44 there was a shot fired in number 10 platoon area. Someone called for a stretcher bearer, and a few minutes later F86234 Pte Deveaux L accompanied by a stretcher bearer walked past "B" Coy HQ. Pte Deveaux had been wounded in the hand. I asked him what had happened and he replied "My pull-through was stuck in the but of my rifle and I tried to shake it out and then I banged the butt of the rifle down on a rock, the rifle went off and wounded me in the thumb". Pte Deveaux was then evacuated.

Signed: J H Jones, Capt

The accused declines to cross-examine this witness.

2nd Witness for Prosecution

D82567 Cpl Aubry H, West NSR, having been duly sworn states: At approx 1400 hrs 22 May 44 I was awakened by F86234 Pte Deveaux L to help him put his equiptment on to go to the R A P. I asked him what happened and he replied "My pull-through was stuck in my rifle and I was trying to shake it out when my rifle went off hitting me in the thumb". Pte Deveaux L then went to the RAP."

Signed: H. Aubry Cpl

The accused declines to cross-examine this witness.

Certified that RP4 (c) (d) (e) & (f) has been complied with

The accused having been duly cautioned as follows:
"Do you wish to make any statement or to give evidence upon oath ? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence", declines to make any statement.
Taken down by me in the presence and hearing of the accused this 1st day of June 1944.

In the Field
1 Jun 44

W. J. Savage Lt
Offr taking Summary.

H/Bns

HC-141

PTE DEVEAUX L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F88734 Pte Leo Devereux WNSR.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st See 15(1) AA	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~———————~~ beginning on (date) ~~———————~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 2 8 days, of which ~~and~~ days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of one (1) year

(Sgd) ~~———————~~ Judge Advocate, if any. 10 Oct 44 Date awarded. (Sgd) B. Tellier Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ~~———————~~ (Sgd) ~~———————~~ Commanding ~~———————~~

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed.

I direct that the accused be not committed to prison or detention barracks until further orders.(1) BS

(1. AA 57A. Delete if not used.)

Date 30 Oct 44 (Sgd) ~~———————~~ Commanding Officer. Brig Comd 3 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F88734 Pte Leo Devereux WNSR	18 Oct 44	[illegible] Capt A/Adjt 3 Cdn Inf Bde

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ IN AB 160 4C-141

FIELD GENERAL COURT-MARTIAL

(CPA86 (1st Rev. of AFA2) 40-P & S-1608 (2864))

Convened by Order of Brig R E Bluestein Comd 3 Cdn Inf Bde dated 9 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F88734	Pte	Leo	Devereux	WNSR

PROCEEDINGS REVIEWED

JAG H. Am Matheson Lieut 14 NOV 44 REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (dates) 10 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1445 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO(1).~~

(1. KR Can 557. 2. AA 46(E), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to an interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2) ACCUSED OBJECTS TO CAPT JONES WHO WITHDRAWS AS A MEMBER OF THE COURT. LIEUT VINCENT THE WAITING MEMBER TAKES HIS PLACE AS A MEMBER OF THE COURT

(1. RP 110. 2. If no objection, waiting member retires. RP 68(E). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Brig	B. Tellier	Royal 22e Regt
Member	Lt.	P. E. Vincent	Royal 22e Regt
Member	Lt	R. M. Brown	C.I.R.
~~Judge Advocate~~			
Prosecutor	Capt	W. S. Mc Cullam	WNSR
Defending Offr	Lt	J. R. Reid	WNSR

~~Questions by President: Is the Prosecutor a lawyer? Ans~~ ~~Is the Defending Offr a lawyer? Ans~~ (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused F 8 8 7 3 4 Pte Leo Devereux before arraignment makes(s) ~~no~~ plea. NO

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 36, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A)* (*II*); *duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see P 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3. MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the ..... charge(s). The accused is (are) so informed, and he (they) (change(s) his (their) plea(s) on the ..... charge(s)). Part 3 of the Schedule is altered accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges taken with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans .....

Do you intend to call witnesses on your behalf? Ans .....

Are they witnesses as to character only? Ans .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(5)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 485. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(E).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (b), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A.A. 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or add anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him [and also JA, if any].(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found Guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 363-366, Overseas AO 309, 2323, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 96(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

16.T.

The Accused,
F88234 Pte Lno DEVEAUX, West Nova Scotia Regiment
a soldier of the Canadian Army Overseas, AAI , on Active Service is charged with.

1st Charge
Sec 15 (1) WENT ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE
Army Act

in that he,

in the Field, at approximately 0800 hrs 24 Aug 44 did absent himself without leave from his company and remained absent until surrendering himself to CSM Bennett R W at approximately 0930 hrs 4 Oct 44 (Total time absent 41 days 1 hr. 30 min)

In the Field
5 Oct 44

A L Saunders
(A L Saunders) Lt col
Commdg West NSR

" TO BE TRIED BY FIELD GENERAL COURT MARTIAL "

In the Field 7 Oct 44

E Swatridge Brig
Commanding 3 Can Inf Bde

A 98.

A.T.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1607 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F86234	Pte		Leo	DEVEAUX	WNSR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* 7 Oct 44 endorsed by me, (~~or by an offr of my staff (or HQ)~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereuntler.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereof the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	H Tellier	R22R
(Rank.)	*(Must be named. RP 106.)*	(Unit.)

MEMBERS.

Capt	J H Jones	WNSR
Lieut	R M Brown	CYR
(Rank.)	*(Named or detailed. RP 106.)*	(Unit.)

WAITING MEMBER.

Lieut	P E Vincent	R22R
(Rank.)	*(Named or detailed, if any. RP 106.)*	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	*(Must be named, if any. RP 106.)*	(Unit.)

On Active Service in the Fd

in Italy *(Country.)*

E.L.M. Burns *(Signed personally. RP 105 fn 2.)* Brigadier (Rank.)

Date 9 Oct 44

Commanding 3 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

61.

F.88234 Pte. Dawson L.

Field

10 Oct. 44

D R Dental Capt

B-2 Statement by the Accused. B-2

Before going to Field Punishment I requested to be paraded to the Commanding Officer and was refused. The day after I returned to the Unit, on the 22nd of August I requested permission to be paraded to the Commanding Officer, this permission was granted for that day (22nd August) then postponed until the next day (23rd August).

H.J.

Plea of Mitg. 7th

10 Oct 44

7th Remarks 2

The accused on his plea admits his guilt of absenting himself without leave. His claim in defence is that he has, since joining the 1st Nova Scotia Regiment, wanted a Transfer to the C.B.H., his original unit. By absenting himself from the 1st N.S. Regt he believes he could by some method return to the C.B.H., as 7th Remarks contention.

His period of absence starts back in June, 1941 when he enlisted with the C.B.H. & until the unit is subsequently came overseas. Although he did not arrive in Italy until the 5th Cdn. Division, he fully expects to reinforce his original unit until such a time as he joined the 1st Nova Scotia Regt. in February 1944. His visit from that time to date has been to return to the C.B.H.

H.J.

J. L. Dill

Exhibit A

SUMMARY OF EVIDENCE in the case of F88234 Pte Leo DEVEAUX, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas, AAI , on Active Service,

By the order of Lt col A L Saunders, Comd, West NSR

Evidence taken on oath.

1st Witness for Prosecution — F29641 Sgt Boutilier, A G , West Nova Scotia Regiment, having been duly sworn states :-

I am F29641 Sgt Boutilier A G , platoon Sgt of 11 platoon "B" Coy, West NSR. At approximately 0800 hrs on the morning of the 24 Aug 44 I was warned to have Pte Deveaux,L turn in his kit bag and pack to the Q M S. Pte Deveaux having just arrived the night before on a draft from the reinforcement camp. When I went to warn him about turning in his kit bag and pack I could not find him. I had warned Pte Deveaux, L ,early that morning that he was on 1 hours notice to move. On not being able to locate Pte Deveaux I marked him absent.

Signed A Boutilier Sgt

The accused declines to cross examine this witness.

2nd Witness for Prosecution — F40181 CSM Bennett R W, West Nova Scotia Regiment having been duly sworn states,

I am F40181 CSM Bennett R W of B Company West NSR. At approximately 0930 hrs 4 Oct 44 Pte Deveaux, L reported to me as an absentee. I detailed two escorts and placed him in the battalion detention.

Signed R W Bennett CSM

The accused declines to cross examine this witness.

The accused having been duly cautioned as follows, "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so , but, whatever you say or any evidence that you give will be taken down in writing and may be given in evidence," declines to make a statement or to give evidence upon oath.

Certified that Rule of Procedure 4 (a) (d) (e) & (f) have been complied with.

Taken down by me, in the Field, in the presence and hearing of the accused this 5th day of Oct 1944.

In the Field
5 Oct 44

.....
(Officer taking Summary)

Exhibit 'B'

F88234 Pte Deveaux, L

Dec 15 (1)	AA	3	entries	Dec 15 (1)	AA	3	entries
Dec 40	AA	2	entries	Dec 40	AA	6	entries
Dec 9 (2)	AA	2	entries	Dec 9 (2)	AA	2	entries
Dec 10(3)	AA	1	entry	Dec 10 (3)	AA	1	entry
Dec 19	AA	1	entry	Dec 19	AA	1	entry

38

27

F88234 Pte. Deveaux, L

nil

10 Oct 44

Capt.

Ex'C'

Ex'C'

MFM 6 (AFB 122) 40/PAS/186 (3438)

No F88234 Name DEVEAUX L | Sqn, Battery, or Company "B" Coy | Corps C I C | Date of enlistment 3-6-41 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order discontinuing with trial	By whom awarded	Remarks
Field	4-4-42	Pte		Conduct to the prejudice of good order and military discipline i.e. Absent from his barrack room without permission while cleaning up was in progress (A.A. Sec. 40)	Sgt Paver Cpl Warren	Two extra Duties	6-4-42	J H Senster	
Field	3-6-42	Pte		Absent from duty (A.A. Sec. 40)	Sgt J.Anderson	7 Days C B	6-6-42	J H Senster	
Field	8-7-42	Pte		Neglect to the prejudice of good order and military discipline i.e. Whilst clearing the magizine of his rifle in the guard room did negligently handle his rifle as to cause it to be discharged (A.A. Sec. 40)	Sgt McDonald M.	10 Days C B	9-9-42	J H Senster	

Certified true copy from Part II Records.

Officer i/c Records

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13-10-42	Pte		Conduct to the prejudice of g od order and military discipline i.e talked on parade (A.A.Sec. 40)	CSM Fraser	D J. 3 DaysCB	24-10-42	Capt Smith	
Field	14-6-43	Pte		Seven Charges. 15(1)27 AA 40 AA 15(1) AWL (2) 1 Hr 20 Hrs 4-6-43 Until 1610 hrs 4-6-43 Absent 4 hrs 30 mins. AA Sec. 15(1)					
Field	3-5-44	Pte	(1)	Drunkenness in that he at appr. 1000 hrs 3-5-44 was drunk Sec. 19	L/Cpl Falls T R	28 Days Pay	7- -44	Lt.Col. R S Waterman	
				(2) Registing an escort who's duty it was to have him in his charge Sec 10(3)					
Field	9-7-44	Pte		Sec 9(2) WOAS Disobeying a lawful command given by his superior officer in that he did not put on his equipment when ordered to do so	Sgt J C Masterson	28 days FP 28 days Pay	10-7-44	Lt.Col. RS Waterman	
				Released from I Cdn Div F P Camp wef 3 Aug 44 Granted 4 Days Remission of Sentence				Lieut. Chandler	L C

165.

F88234 Pte Leo DEVEAUX,

F29641 Sgt Boutilier, A G - West NSR
F40181 WO Bennett, R W - West NSR

WIL

WIL

Form to be attached

L Deveaux

5 Oct 44

F88234 Pte Deveaux, L

L Deveaux

5 Oct 44

20-74

Gpl. Dever v. B.

RECORDED AT CMHQ IN AB 180

RECEIVED 8 AUG 1945 ADJ-GENERAL'S BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CPAMR (In lieu of AFAMR 40/P & B. Book 76) 4/38

Convened by Col. H.D. Moran Comd Canadian Sec 1 Corps dated 19 6 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit
G-32482	Cpl.		John Brian	Dicer	Can Sec 1 Corps H.Q.

PROCEEDINGS REVIEWED with [illegible] Capt. J. Kirkpatrick Capt. 9 Aug 45 at JAG's BRANCH C.M.H.Q.

REVIEW made for (summary) on (date(s))

PROCEEDINGS OF TRIAL.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, ~~and Offrs under instr, if any~~, assemble, and the Court is closed. K.Y.D.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevants from ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3) K.Y.D.

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1620 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) The Prosecutor informs ~~the Court that accused elected to be tried by court-martial instead of being dealt with~~ summarily by the CO.(2) K.Y.D.

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to~~ F.4610 S/Sgt. W. J. Crane as interpreter? Ans No. K.Y.D.

~~The interpreter is sworn.~~(1) Do you object to as shorthand writer? Ans No. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, ~~and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	C.M. Bethune Can Sec 1 Cdn HQ 21 A Gp
Member	Captain	J.A. Stiles Can Sec 1 Cdn HQ 21 A Gp
Member	Captain	F.J. Kearns Can Sec 1 Cdn HQ 21 A Gp
Judge-Advocate	Captain	K.Y. Dick 2 Cdn I(B) Office of JAG attd Can Sec 1 Cdn
Prosecutor	Captain	C.E. Kelly Can Sec 1 Cdn HQ 21 A Gp
Defending Offr	Captain	W.J. Gordon Can Sec 1 Cdn HQ 21 A Gp

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused G-32482 Cpl. Dicer, J.B. before arraignment make(s) (no) (a) plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule. K.Y.D.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A Vol 2 p 141

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G-32482 Cpl. Dicer, J.B.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	64. 15(1)	Guilty	Guilty	
2nd	64. 15(a)	Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 3.7 days, of which ~~one~~ days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be reduced to the ranks.

(Sgd) K.Y. Dick Capt. Judge-Advocate, if any. 23 Jul 45 Date awarded. (Sgd) C.M. Bethune Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1) (1. AA 57A. Delete if not used.)

(Sgd) H.D. Moran Col

Date 28 Jul 45 A/Commanding Can Sec 1 Cdn HQ 21 Army Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G-32482 Cpl. Dicer, J.B.	30 July 45	C.C. McDonald Major Officer Commanding Canadian Section, 2nd Echelon, HQ 21 Army Gp

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

I certify that there are no illegalities or irregularities to justify withholding confirmation of these proceedings.

Date 28 Jul 45

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)*

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Yes Sir.(5)

(1. *RP 27(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on 1st & 2nd charge(s). The accused is ~~(are)~~ so informed, ~~and he (they) change(s) his (their) pleas) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex P 1, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

(3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(E), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans.....Do you intend to call witnesses on your behalf ?

Ans.....Are they witnesses as to character only ? Ans.....

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans Yes Sir.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(2), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to [a] soldier[s] having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex P 2 and Ex P 3 respectively.(3)

(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES, SIR.(2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(E), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, G.32982 Cpl John Brian DEVER, Canadian Infantry Corps, Canadian Section 2nd Echelon Headquarters 21 Army Group, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field in Belgium absented himself without leave from 0130 hrs 22 June 45 until 0830 hrs 22 June 45 (absent 7 hrs).

SECOND CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field in Belgium when in lawful custody absented himself without leave from 0815 hrs 23 June 45 until 0745 hrs 25 June 45 (absent 1 day 23 hrs 30 min).

(C C McDermid) Major
Camp Commandant
Cdn Sec 2nd Echelon HQ 21 A Gp.

In the Field
17 July 1945.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

(W.G. Moran) Col
A/Comd
Cdn Sec 1 Ech - HQ 21 A Gp

In the Field
19 Jul 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
C-32982	Cpl		John Brian	DEVER	CIC, Cdn Sec 2 Ech HQ 21 Army Group

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (~~xxx~~) committed the offence(s) set forth in the Charge Sheet attached and on (*date*) 19 Jul 45 endorsed by me, "~~A true copy of my order~~", "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial or advisable to convene a separate general offr.~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) other offr to form the Court (or a 1st Offr or President for the accused's case) without hardship.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

Major (Rank.)	C.M. BETHUNE (*Must be named. RP 106.*)	Cdn Sec 1 Ech - HQ 21 Army Group (Unit.)

MEMBERS.

Captain	J.A. STILES	Cdn Sec 2 Ech - HQ 21 Army Group
Captain (Rank.)	T.J. KEARNS (*Named or detailed. RP 106.*)	Cdn Sec 1 Ech - HQ 21 Army Group (Unit.)

WAITING MEMBER.

Lieut (Rank.)	H.H. POPE (*Named or detailed, if any. RP 106.*)	Cdn Sec 2 Ech - HQ 21 Army Group (Unit.)

JUDGE-ADVOCATE.

Captain (Rank.)	K.Y. DICK (*Must be named, if any. RP 106.*)	2 Det (B) Office of JAG Overseas att Cdn Sec 1 Ech HQ 21 A Gp (Unit.)

On Active Service in the Fd

in GERMANY (*Country.*)

(*Signed personally. RP 105 fn 2.*) Colonel (Rank.)

(H.O. Moran)

Date 19 Jul 45

A/Commanding Cdn Sec 1 Ech HQ 21 Army Group
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPAMS (To Dupl of AFAS) 80 P & S 1667 (4/41)

(*See overleaf for oaths and notes for use on trial.*)

Approved:
ADJAG

Date ..23.Jul.45.....

CANADIAN SECTION 2ND ECHELON
HEADQUARTERS 21 ARMY GROUP

I hereby certify that I have this day examined;-

Reg No .J32982..... Rank CPL..... Name DEVER J.B.....
and in my opinion he is fit to undergo trial by court martial.

..... Capt RCAMC
MEDICAL OFFICER

B.2

Accused: On the evening of the 21st of June, I was attending a farewell party at the home of a friend in Belgium. Sometime during the evening the house was entered by RSM Humphrey and Sergeant Ewenson. I was not sure of the time. They took our names and numbers. If the RSM made a statement or told me to report to barracks, I don't recall it. I returned to barracks next morning at 8.15 and was placed under close arrest and taken up for office in front of the Camp Commandant at approximately 10 o'clock and was remanded to the OC the Unit. I returned to the Guard Room to get my shaving equipment. I asked the Sergeant when I would be going up and he told me I would not be up for office before getting to Germany in about five or six days time. The next morning I wasn't feeling well and went to the house and laid down. At two o'clock I reported to the MIR and left there at 2.30 in the afternoon. I then went back to the house and went to sleep. I had been accustomed to sleeping at this home and Sunday - the next day being Sunday, I didn't report back. On Monday morning when I reported back to barracks I was told by a fellow soldier that the Provost were looking for me and I reported in to the Guard Room and asked them if they had been looking for me and they placed me under close arrest.

E.1 The accused, C.32982, Corporal Dever, JB, having been duly sworn, is examined by the Defending Officer:

Q.1 Would you give the Court your story?

A.1 On the evening of 21 June, I was attending a farewell party at the home of friends in Belgium. Some time during the evening, Sergeant-Major Humphrey and the Provost Sergeant - Sergeant Swenson came into the house and took our names and number. If the Sergeant-Major or the Provost Sergeant told me to return to barracks I didn't hear them. I returned to barracks approximately 0815 hours the next morning and I was placed under close arrest. I was taken up for office tothe Camp Commandant approximately 10 o'clock and remanded for the OIC's orders. I returned to the Guard Room to pick up my shaving kit. I asked when I would be taken up for office and they told me not until we got to Germany in four or five days. The next morning, 23 June, I was feeling sick and went down to the house where I had been at the party, and went to bed. At approximately 1400 hours in the afternoon, I I went to the MIR. I left the MIR at 2.30 and went back to the house and went to sleep. The next day being Sunday, I didn't report to the billet. When I reported at approximately 7 o'clock Monday morning I was told by one of the fellows that they were looking for me. I went to the Guard Room and asked if they were looking for me and they said yes and placed me under close arrest.

Q.2 Is there any check at the billets at 1100 hours?

A.2 No sir.

The witness is cross-examined by the Prosecutor;

Q.3 Corporal, where did you sleep the night of the 20th - in Alost?

A.3 In barracks, sir.

Q.4 You slept in barracks?

A.4 Yes sir.

Q.5 And the night of the 19th, where did you sleep?

A.5 I couldn't be sure sir.

The Defending Officer declines to re-examine the Witness.

In the opinion of the Court and Judge Advocate, it is not necessary to comply with the provisions of NP 83(B).

The Witness stands down.

First Character Witness

M.50226, Sergeant Laing, JM, Canadian Section 2 Echelon, Headquarters, 21 Army Group, having been duly sworn, is examined by the Defending Officer:

Q.6 Sergeant Lain, do you recognize Corporal Devers in Court?

A.6 Yes sir (indicating accused)

Q.7 Could you tell the Court what associations you have had with Corporal Devers?

A.7 He works under me in X-List Records B. He has been with me for approximately three weeks. His work is very good. He is co-operative and willing in everything I give him to do.

Q.8 You have never had any trouble with him at all?

A.8 No sir, no trouble at all, sir.

Q.9 He has been with you for only three weeks?
A.9 Approximately three weeks.

Q.10 Where did he come from?
A.10 With the AAI boys, sir.

The Prosecutor declines to cross-examine the Witness.

In the opinion of the Court and Judge Advocate, it is not necessary to comply with the provisions of RP 83(B).

The Witness withdraws.

E.3

The Defending Officer makes the following plea in mitigation:

Sir, in plea in mitigation, I must apologize for only being able to call Sergeant Laing as character witness. As you heard him say, he came up from AAI and the officers who had anything to do with Corporal Dever in that theatre have all returned to Canada as have the majority of the supervisors. QMS Nadalin, one of the Prosecution witnesses, is at the moment absent. Corporal Dever does admit his guilt on this charge but I would like to bring your attention to the number of mitigating circumstances. First, in reference to the charge of being AWL. You will notice that the charge is laid as fr@ 0100 hours on the 22nd. It is not from 2300 hours the 21st. That means that there was a very loose check and that there was, in actual fact, no way of checkingif other ranks were in billets or not, that night. This all happened merely because two other Sergeants were walking the street at 0130 hours and through a window saw a great pile of beer and liquor. They entered this house, found the accused and one other soldier. Sergeant Edwards and Sergeant Svenson both admit that the accused was under the influence of liquor. It seems strange to me that they didn't check more closely and if they didn't feel, since they were senior NCOs, like acting as escorts, they could have sent other Provosts. The whole thing was very loose as far as this charge goes.

Now, the second charge, the action of the Provost Sergeant in informing Corporal Dever that this case would not be called before the Colonel until after the move. This was the morning they were making the final arrangments for the move. Corporal Dever had every right to believe this Sergeant. And you will notice that he states that he did leave the quarters and went to the house where he had been before. The Provost were sent for Dever before the OIC's orders and they didn't find him. They did not go to this house, which appears to me to be the logical place to go to look for him. Also, at Alost there were always Provost on duty at the gate and yet they made no attempt to stop Dever when he left the quarters when he was placed under arrest. Corporal Dever has admitted his guilt but I think I have pointed out that the whole charge is the result of a very loose system of checking.

We have given character evidence - the best that is available. He has a comparatively good record. There is nothing there that the average has not been charged with. And also I think it should be brought to the Court's attention that this Corporal has been under close arrest since the 25th June, which is nearly a month and I feel that that is punishment enough for this offence. I don't know whether I did stress the fact or not, the last nights before we left Alost we all had friends and a lot of us were invited to parties and I am sure that the majority of the other ranks accepted these invitations and were out after 2300 hours.

SUMMARY OF EVIDENCE

Summanry of evidence in the case of No. G.32982 CPL. DEVER, J. B., on strength Canadian Section 2 Echelon, Headquarters 21 Army Group, is charged with(1) absenting himself without leave (AA Sec 15(1)). (2) breaking out of camp (AA Sec 10(4)). (3) absenting himself without leave (AA Sec 15(1)).

By direction of the Commanding Officer the evidence is taken on oath.

First Witness

A.6160 RSM HUMPHRIES, A.C., Canadian Section 2nd Echelon Headquarters 21 Army Group, having been duly sworn, states:

I, Regimental Serjeant-Major, on the date and time stated, was visiting all the cafes in Alost. Upon nearing the railway station in Alost, I heard on one of the side streets, very loud singing. It was then approximately 0100 hours. In company with me was Sjt Edwards and the Provost Serjeant, Sjt Ewenson. We came to the house where the sound was coming from; the lights were all lit in the house; the cellar was observed to be lit up from the sidewalk, and showed to possess a very large quantity of beer. I rang the door-bell, and a lady opened the door. When she observed Serjeant Ewenson, my Provost Serjeant, she made an alarm and ran towards the inside of the house leaving the door open. I followed through with Serjeant Ewenson and Serjeant Edwards, and went to where the lady had gone. The Accused was sitting at a table, in company with another Canadian soldiers, and two other male civilians, drinking and singing. I asked one of these civilians, who appeared to be the host, and behind whom the woman placed herself, if the soldiers were not being entertained rather late. The woman replied that these soldiers were billeted there. I asked the Accused how long he had had these billets. The Accused then said that the lady had misunderstood what we were talking about, and that they were not billeted there, but were merely visiting. I informed him of the lateness of the hour, told him to report back to barracks and told Serjeant Ewenson, the Provost Serjeant, to take his name and number. Upon return to barracks, at approximately 0130 hours, the Accused had not reported in. Around 0830 hours that morning, I visited the guard-room and asked if the Accused had reported in. He had not. While I was inspecting the rest of the guard-room, the Accused reported to me properly dressed and sober. With him was the other soldier, Pte. MacDonald. I placed both of them under close arrest.

(The Accused declines to cross-examine the witness)

(The foregoing evidence haveing been read back to the witness, and the witness acknowledging that it is correct, signs the same.)

Arthur C. Humphries RSM

Second Witness — B.45619 SJT EDWARDS, W.C., Canadian Section 2nd Echelon Headquarters 21 Army Group, having been duly swonr, states:

On the night of 21st to 22nd June, RSM Humphries, Sjt Ewenson, and myself were walking along the street in Alost. I heard Canadian voices clearly on the street. I accompanied the RSM and Provost Serjeant to the door of this private house. As the RSM knocked on the door, a lady came to the door. When she saw us, she immediately ran to another room and spoke something in Flemish. Upon seeing that she was alarmed, the RSM, Provost Serjeant and myself followed her to the room where I saw the two soldiers, one of them being Cpl Dever, and the second soldier, a member of 2nd Canadian Echelon, whose name I'm not certain. As we entered the room, the man of the house invited us to have a drink, upon which I refused. I took a position outside the entrance to the room while the RSM instructed the two soldiers, Cpl Dever and the second soldier, to return to barracks. I then left the building with the RSM and Provost Serjeant to complete our rounds of the town of Alost. We returned to the guard-room, and I was told at the gate that the two soldiers had not yet returned. It was then approximately 0130 or 0200 hours. I then returned to my billets.

Q.1 Did you see any liquor bottles on the table at which I was seated?

A.1 There was a small table with many bottles on it. I did not notice as to whether any of them were liquor bottles, but I am sure the majority of them were beer bottles.

Q.2 Did I appear to be under the influence of liquor?

A.2 The Accused did appear to have drank a considerable amount.

(The foregoing evidence having been read back to the witness and the witness acknowledging that it is correct, signs the same.)

Edwards

Third Witness — D.86368 SJT EWENSON, B. F., Canadian Section 2nd Echelon Headquarters 21 Army Group, having been duly sworn, states:

On the night of 21st June, I went out with RSM Humphries and Serjeant Edwards, on a tour of duty.

At about 0130 hours we came to a civilian house with lights in the basement and I could see many cases of beer. We heard singing in English, so the RSM rang the door-bell. A woman opened the door. Upon seeing me, she tried to slam the door, and RSM Humphries pushed in the door, went inside, and Sjt Edwards and I followed. In a room we saw Cpl. Dever and Pte. MacDonald. As the RSM started to question the soldiers, the civilain, who appeared to be the head of the house, invited us to have a drink. We refused. He also stated that the Accused and Pte. MacDonald slept there. RSM Humphries told the two men to report back to the barracks. Before leaving, I also told the two men to report back. We left the house. We patrolled for a short time, and upon arriving back at barracks, about 0200 hours, we found no one had reported in. I then went, accompanied by the RSM and Serjeant Edwards, for a bite to eat. I then returned to the guard-room. RSM Humphries and Serjeant Edwards left. I stayed on duty until 0500 hours. The Accused and Pte. MacDonald had not reported in at that time. I went to bed at 0505 hours and got up at 0700 hours. At 0700 hours, I checked andfound that Cpl. Dever and Pte. MacDonald had not reported. The RSM was around the guard-room at 0745 hours and asked me if Cpl Dever and Pte. MacDonald had reported in. I told him they hadn't and he left. RSM Humphries returned at about 0830 hours. Just as RSM Humphries had come in, Cpl Dever and Pte MacDonald reported. RSM Humphries placed them under close arrest.

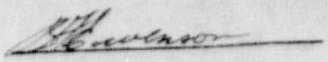
Q.1 Did you see any bottles on the table when you entered?

A.1 Yes, there was a number of glasses and bottles on the table. They appeared to contain liquor and beer.

Q.2 Did I appear to be under the influence of liquor, Sjt?

A.2 Yes, you appeared to be under the influence of liquor, but you appeared to recognize me.

(The foregoing evidence having been read back to the witness and the witness acknowledging that it is correct, signs the same.)



Fourth Witness B.111405 PTE MacDONALD, C.H., Canadian Section 2nd Echelon Headquarters 21 Army Group, having been duly sworn, states:

On the evening of 21st to 22nd June, in company with Cpl Dever, I was attending a farewell party given to us by friends in Alost. We were both pretty drunk, and sometime during the night, RSM Humphries and Sjt Ewenson entered the house. Our hostess answered the

door. She attempted to shut the door, but was apparently unable to do so. I remember Serjeant-Major Humphries, and Sjt Ewenson being in the dining-room. Everthing else that happened is a bit hazy. Next morning I awoke in the house and returned to barracks in company with Cpl Dever, and reported to the guard-room. RSM Humphries placed us both under close arrest.

Q.1 Pte. MacDonald, do you think that I was under the influence of liquor?

A.1 Yes, you were under the influence of liquor before I was. I remarked at 1030 hours that you were drunk.

(The foregoing evidence having been read back to the witness and the witness acknowledging that it is correct, signs the same.)

A MacDonald

First Witness (recalled)

A.6160 RSM HUMPHRIES, A.C., Canadian Section 2nd Echelon Headquarters 21 Army Group, having been duly sworn, states:

The Accused had been remanded for the OIC's Orders on the 23rd June. The OIC cancelled his Orders. I released the Accused under open arrest, asking him not to make the situation any worse and to report back to work. Later on in the day I was informed that the OIC would be holding orders and to have the Accused brought before him. I phoned his Section and got his Supervisor, QMS Nadalin, to have the Accused come to the OIC's Orders. QMS Nadalin replied that he had not seen the Accused that morning at all. I sent Serjeant Edwards in search of the Accused. Serjeant Edwards later reported back to me that he had made a thorough search and was unable to find the Accused.

(The Accused declines to cross-examine the witness)

(The foregoing evidence having been read back to the witness and the witness acknowledging that it is correct, signs the same.)

A.Sgt.Maj. RSM

Second Witness (recalled)

B.45619 SJT EDWARDS, W.C., Canadian Section 2nd Echelon, Headquarters 21 Army Group, having been duly sworn, states:

At the time and date stated, I was detailed by RSM Humphries of 2nd Echelon to locate the Accused. Upon phoning the Section where he works, I was informed that I would find him at the RAP. Upon seeing the Serjeant of the RAP, I found the Accused had never reported there. I went to the barrack room and called his name and no one whom I saw had seen him. I found

Cpl'Dever's bed, and the Accused was nowhere to be seen. I reported to the RSM that I could Not find the Accused.

(The Accused declines to cross-examine the witness)

(The foregoing evidence having been read back to the witness and the witness acknowledging that it is correct, signs the same.)

Fifth Witness

B.130188 L/CPL BEATTY, A.J., Canadian Section 2nd Echelon Headquarters 21 Army Group, having been duly swonn, states:

On the day of 23 June 45, I was advised by the Regimental Provost Serjeant, Serjeant Ewenson, that Cpl Dever could not be located in the Headquarters. We went out on a patrol in order to check all cafes and places of entertainment. We could not locate him. We then returned to Camp and informed the other Provost on duty, to be on the look-out for him.

(The Accused declines to cross-examine the witness)

(The foregoing evidence having been read back to the witness and the witness acknowledging that it is correct, signs the same.)

Third Witness (recalled)

D.86368 SJT EWENSON, B.F., Canadian Section 2nd Echelon Headquartes 21 Army Group, having been duly sworn, states:

On 23 Jun 45, Serjeant Edwards advised me that Cpl Dever was not available for the OIC's Orderly Room, and that he was missing. I immediately contacted L/Cpl Beatty, as he knew him personnally, and told him to check on the meal parade and advised him to instruct the guard at the gate to place Cpl Dever under close arrest as soon as he came in. Shortly afterwards, L/Cpl Beatty and I looked around the town for Cpl Dever, but we could not locate him.

(The Accused declines to cross-examine the witness)

(The foregoing evidence having been read back to the witness and the witness acknowledging that it is correct, signs the same.)

Sixth Witness

A.42160 QMS NADALIN, E.M., Canadian Section 2nd Echelon Headquarters 21 Army Group, having been duly sworn, states:

Cpl Dever is a member of my Section. I called the roll on parade on 23 Jun 45, at 0815 hours, and Cpl Dever was absent. I reported him AWL on my morning parade state. Later RSM Humphries called and enquired if Cpl Dever had reported back to the Section. I stated that he had not. It was then approximately 0900 hours on the 23 Jun 45.

The Accused declines to croxx-examine the Witness.

(The foregoing evidence having been read back to the witness and the witness acknowledging that it is correct, signs the same.)

E E Nadalin

Fifth Witness (recalled)

B.130188 L/CPL BEATTY, A.J., Canadian Section 2nd Echelon Headquarters 21 Army Group, having been duly sworn, states:

On the morning of the 25th June 45, Cpl Dever reported to me at 0745 hours -- sober and made the statement that we had been looking for him. My orders were if Cpl Dever returned to place him under close arrest, and put him in the guard-room. This I did.

The Accused declines to cross-examine the Witness.

(The foregoing evidence having been read back to the witness and the witness acknowledging that it is correct, signs the same.)

A J Beatty

The Accused was cautioned as follows:-

Q. Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I do not wish to make a statement, Sir.

The Accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of six pages, was taken down by me in the presence of the Accused and that R.P. 4(c), (d), (e) and (f) have been complied with.

G E Kelly Capt.

(C.E. KELLY) Captain
Canadian Section 2nd Echelon
Headquarters 21 Army Group

M.F.B. 355
22M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
G32982	Cpl	DEVER J B	Cdn Sec 2 Ech HQ 21 Army Gp

1. The following is a fair and true summary of the entries in the [redacted] Regimental [redacted] conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AA Sec 15 (1)	two	times	AA Sec 15 (1)	seven times
For AA Sec 40	one	times	AA Sec 40	one times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct nil

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

[redacted]

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 27 days in ~~Air Force~~ military custody, making a total of 27 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 29 yrs 7 mons

6. The date of his [redacted] attestation specified in his [redacted] attestation paper 2 Sep 40

7. The service which the accused is allowed to reckon towards discharge is 4 yrs 10 mons

8. [redacted]

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward. military military

10. [redacted]

11. [redacted] } C. & Nil

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Feb 44 Date of promotion.

In the rank of Cpl 1 years. 5 mons

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit Name ..... Regiment

C. & Nil D

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

C. & Nil D.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23 day of May 1944 C. C. M. Jermiah Major
Camp Commandant.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. G-32982 Name DEVER J.B. Sqn, Battery, or Company — Corps CIC — Date of enlistment — GC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 172) 40/FAS/136 (5413)*

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Pd	21 Aug 42	Pte		AA Sec 15(1) AWL 8 days		Forf 5 days pay & 7 Days CB			Forf 5 dys pay FRAI 149(2) Forf 8 dys pay FRAI 149(1)a
Pd	15 Dec 42	Pte		AA Sec 15(1) AWL from 2359 hrs 15 Dec 42 till 2210 hrs 23 Dec 42 (7 dys 22 hrs 11 min)		Forf 15 days pay & 14 days CB			Forf 15 dys pay FRAI 149(2) Forf 8 dys pay FRAI 149(1)a
Pd	21 Aug 43	Pte		AA Sec 15(1) AWL 1 day		Awd 3 days CB			Forf 1 dys pay FRAI 149(1)a
Pd	26 Aug 43	Pte		AA Sec 15(1) AWL 1 day		Forf 8 days pay			Forf 8 dys pay FRAI 149(2) Forf 1 dys pay FRAI 149(1)a

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Pd	4 Oct 43	Pte		AA Sec 15(1) AWL from 2359 hrs 4 Oct 43 till 2200 hrs 8 Oct 43 (Absent 3 days 22 hrs 12 mins)		Forf 10 days pay 149(2)			Forf 10 dys pay FRAI 149(2) Forf 4 dys pay FRAI 149(1)a
Pd	15 Oct 44	Cpl		AA Sec 15(1) AWL from 2145 hrs 15 Oct 44 till 2315 hrs 15 Oct 44 (Absent 1 hr 30 mins)		REPRIMAND			
Pd	1 Nov 44	Cpl		AA Sec 40 NEGLECT		SEVERE REPRIMAND			
Pd	20 Apr 45	Cpl		AA Sec 15(1) AWL from 2215 hrs 20 Apr 45 till 0715 hrs 21 Apr 45 (Absent 9 hrs)		REPRIMAND			Forf 1 dys pay FRAI 149(1)a

CERTIFIED A TRUE COPY OF THE DOCUMENT IN MY POSSESSION

C. A. MacDonald Major

Camp Commandant
Canadian Section, 2nd Echelon, HQ 1st Army, CA

SA-86

Lyle Devillers, R. A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D56410 Cpl. DEVILLERS A.A. Regt. No. 179415

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~[illegible]~~ beginning on (date) ~~[illegible]~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 49 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To ~~[illegible]~~ Detention for a ~~period of one year~~ To be reduced to the ranks and to undergo detention for a period of one years.

(Sgd) Judge-Advocate, if any. 22 Feb 45 Date awarded. (Sgd) F.H. Clarke Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Misuse of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 64. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

~~I confirm the finding~~ And Sentence of the Court but remit one years detention.

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) W.J. Megill Brig

Date 23 Feb 45 Commanding ~~[illegible]~~ Div Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

D56410 Cpl. Devillers A.A. 23 Feb 45 [signature] Judge Advocate

Rde Mais

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 168 * 5H-86

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFW3) 40 P & B (1088 A144) 4/38B

Convened by Order of Brigadier W.J. Megill Comd 2 C.I.B. dated 20 Feb 45

RECEIVED 21 APR 45 JAG BRANCH CMHQ

ACCUSED.

(For trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed appointment, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Permt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D56410	CPL.	ALFRED AIME	DEVILLERS	R de MAIS

~~ACCUSED'S~~ REVIEWED K.W.S. Clarke Major

REVIEWED JAG BRANCH CMHQ OFFICER

PROCEEDINGS OF TRIAL.

Held in (country) GERMANY on (date(s)) 22 February 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 22/136.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns from RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AFs, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted;(3) accused is (are) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 5. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~[illegible]~~ as interpreter? Ans ~~[illegible]~~

~~The Interpreter is sworn.~~ (1) Do you object to ~~[illegible]~~ as shorthand writer? Ans ~~[illegible]~~

~~The shorthand writer is sworn.~~ (1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	F.H. CLARKE	C.G.L.G. HIGHLRS
Member	CAPT	E.J. McKINSTRY	C.G.L.G. HIGHLRS
Member	CAPT	H.W. MOLE	H.Q.S. 1 Cdn Inf Bde
Judge-Advocate			
Prosecutor	CAPT	C.E. LAURENCELLE	R de MAIS
Defending Offr	LIEUT	L.J.A. WOOD	R de MAIS

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See D1, p 3.)

A8. The accused D56410 CPL DEVILLERS A.A. before arraignment make(s) (no) (1) plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 30, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and see separate copies of CF AFs to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Vol IV Fol 155

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 80, 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement~~(1) ~~The Court decides (not) to advise accused to change his~~ (their) plea(s) of Guilty to Not Guilty on ~~one~~ charge(s). The accused is (are) so informed, and he (they) ~~change(s)~~ his (their) plea(s) on ~~one~~ charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. B, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B4 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 80(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. .....
Do you intend to call witnesses on your behalf? Ans. .....
Are they witnesses as to character only? Ans. .....
(1. *RP 115.* 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*d*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, *117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 1(1)
Ans. NO
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 27(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. 1 and Ex. 2 respectively.(3)
(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 2. *RP* 46, *KR Can* 158. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment 1(1) Ans. YES (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*d*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 343-344, *Overseas HC* 309, 2323, *MML p* 80, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(*f*), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*f*) (*g*), 68(*1*), *KR Can* 504. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 367. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

JAC

CHARGE SHEET

The accused B-66410 Cpl. Bevillers, Alfred Aime "Le Regiment de Maisonneuve" a soldier of the Can Army (O) is charged with:

Sec 15 (1) Army Act.

WHEN ON ACTIVE SERVICE "ABSENTING HIMSELF WITHOUT LEAVE"

In that he,

in the field absented himself without leave from 2230 hrs 15 Dec 44 till he surrendered himself to the Orderly Officer at 11 Can Bn at 2155 hrs 4 Jan 45.

Time of absence 21 days, 23 hrs 25 mins.

J Bibeau

.....Lt-Col.,
(J.A. Bibeau) Commanding Officer
"Le Regiment de Maisonneuve"
Can Army (O).

Dated in the field,
15 Feb 45.

To be tried by F.G.C.M.

W Megill Brig
Comd 5 Can Inf Bde

20 Feb 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-56410	Cpl		Alfred Aime	DEVILLERS	R de Mais

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has [illegible] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 Feb 45 endorsed by me, "I do direct that he be tried," To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [illegible]

(Delete part in brackets when not required for compliance with KR 103(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Maj	F.H. Clarke		Calg Highrs

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	F.J. McKinstry		Calg Highrs
Capt	H.W. Wole		H & C Cdn Inf Bde

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	J.R. Beauchamin		R de Mais

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in GERMANY (Country.) (W.J. McClelland) Signed personally. RP 105 & 21 Brigadier (Rank.)

Date 20 Feb 45 Commanding 5 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (AFAAS) (To take place of AFAS) (See overleaf for oaths and notes for use at trial.)

MEDICAL CERTIFICATE (K.R.(Can) 557)

I certify that I have this morning examined No D-56410

Cpl. Devilliers A. of Regt de Mais and in my opinion he is

fit to undergo trial by Court-Martial.

Station in the Field

Date 22 February 1945

G Sabourin Capt
Medical Officer

D.A.C.

2 Inc.

To whom it may concern

Re/ D56410 Cpl Devilliers, A.

1. Herewith a letter of recommendation in the case of the a/m NCO.

2. This man has been with the unit since Sep 39, and has given this unit very good services and has always been considered as one of our best soldiers, highly recommendable.

3. Since the 25 May 44, he has received no news whatsoever or parcels from his wife, and no letters from his parents since 40.

4. For nearly a year he has complained with severe headaches, which could not be cured by medecines and his case not being serious enough, he was never evacuated.

5. In consideration of the facts mentioned, and the state of anxiety this NCO has been going through, I would ask the Court to be lenient in his case, so that he can be returned to our unit.

6. For your consideration, please.

6 Feb 45

(J. Bibeau) Lt-Col
Commanding Officer
Le Regiment de Maisonneuve CA(C)

22/2/45.

PLEA OF METIGATION
IN THE CASE of D-56410 - Cpl DEVILLERS A.

The case of Cpl DEVILLERS is a common one but a very unusual one too. His Commanding Officer highly recommends him on his very reliable efficiency and good conduct since 1939. His parents have not written to him since 1940 and his wife for over 9 months now. This man has faced the enemy many a time and has fulfilled his duties as a first class NCO. He did not go absent as a coward but upon circumstances beyond his control. No news from his home certainly did not improved or

encouraged him in his line of duty.

A severe punishment will not remediate his situation but will aggravate it.

This man needs help, ~~and~~ careful consideration and special attention.

Capt D. Bourcier R. de mais sent epl Dwitter for a medical examination for his hood. at NO 3 CCS. at the end of Jan 45. no report yet has been received from his examination.

Louis J. Woods Lieut
R. de Mais.

SUMMARY OF EVIDENCE

IN THE CASE OF:

D-50410 Cpl. Devillers Alfred A ims "Le Regiment de Maisonneuve" a soldier of the Can Army (O) while on active service is charged with:

Short statement of the charge:

ABSENTING HIMSELF WITHOUT LEAVE (A.A. Sec 15 (1).

The Commanding Officer has directed thattne evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION:

D-50477 Sgt. Ratelle, M. "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn, states:

We were at Mook Holland on a reserve position on the 13 Dec 44. At 2230 hrs I made the tatoo of my Platoon and the accused did not answered his name when call off. I searched the Company and Unit Area and he could not be found. I then reported his absence to my Platoon Commander and since that time I had not seen him.

.....
(D-50477 Sgt. Ratelle, M.)
Regt de Mais. C.A. (O).

THE ACCUSED DOES NOT WISH TO CROSS EXAMINED THE WITNESS.

The Certificate under Army Act Section 163 (i) (j), produced as documentary evidence, was read overto the accused, marked exhibit "A" signed by me and attached hereto.

.....Capt.
(C.E. Laurencelle) Regt de Mais
Officer detailedito take the Summary.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

Q.1 Do you wish to make any statement or to give evidence on oath? Your are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A.1 I do not wish to make any statement.

.....
(D-50410 Cpl. Devillers, A.A)
Regt de Mais. C.A. (O).

THE ACCUSED DOES NOT CALL ANY WITNESSES.

I CERTIFY that the foregoing Summary of evidence, consisting of one (1) page, was taken down by me in the presence of the accused and that R.P. 4 (c) (d) (e) (f) have been complied with:

.....Capt
(C.E. Laurencelle)Regt de Mais
Officer detailed to take the Summary.

Dated in the field,
15 Feb 45.

Exhibit "A"

CERTIFICATE UNDER ARMY ACT SECTION [illegible] (1) (i)

Certified that No. D.56410 Rank Cpl Name De Villiers A.

of the R. R. Mus. Rgt, ~~surrendered to~~ ~~apprehended by~~ No. Documentary

Rank Lt Name Orderly Officer of the H.C.B.R.

at Leopold Lake at 21.55 hrs, on the 4 Jan 45

day of as an absentee without leave.

He was wearing Military Uniform at time of his ~~Arrest~~ Surrender.

Place ~~Leopold Lake~~

Date 4 Jan 45

[illegible] Lt-Col
A/C.C., 10 C.R.A. Bn.

This is Exhibit "A" referred to in the Summary of Evidence in the case of D 86410 Cpl. Devillers. C.A. Regt de Mais. C.A. (●) taken before me this 15 Feb 45

.....Capt.
(C.E. Laurencelle) Regt de Mais.
Officer detailed to take the Summary.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
[illegible]b0410	Cpl.	Devillers, Alfred Aime "Regt de Mais"	

NOTE.—The Field Conduct Sheet is to be produced at Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For .... times.

For .... times.

For .... times.

For .... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for nil

beginning on the n-a day of .....

4. The accused has been awaiting trial on the present charges for nil

days in civil custody; and for ..... days in military custody, *i.e.*, ...

..... days in open arrest, ... days in close arrest; of

which nil days were spent in hospital.

5. The present age of the accused is 21

6. The date of his attestation [illegible] is 13 Sept 3.

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of† C.V.S.M. & Cl.

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

Date of Promotion.

In the substantive rank of ....

In the war substantive rank of ....

In the acting rank of ....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 50969/5602 20,000 3/44 S1-4731. Forms/B.296/War/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N/A		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 15 Sep 45 day of

(G. Leclerc) Capt.
O i/c Records Regt de Mais.

No B-50410 Name Devillers, A. Sqn, Battery, or Company — Corps C.I.C. — Date of enlistment — GC Badges — Service or Proficiency Pay — MFM 6 (AFB 122) 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Nov 44.	Pte.		WOAS. AWL from 1000 hrs. 1 Nov 44 until 2100 hrs. 1 Nov 44. (Abs 0 days 11 hrs.) A.A. Sec 1b (1)	Sgt. Waddell, FF Documentary.	Reprimand	1 Nov 44	Capt. Wood,	Fo. For. days pay. (1) (a).

CERTIFIED TRUE COPY OF THE ORIGINAL BOOK HELD IN MY CUSTODY

.....Capt
(C. Declare) O i/c Records.
Regt de Mais. C.A. (O).

2 NC

5 B 90

Cpl Devine S.P.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C 2511 Cpl SAMUEL ROBERT DEVINE

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 37 (1)	NOT GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ~~3 yrs~~ beginning on (date) ~~7 Feb 45~~ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial: a total of ~~2~~ days, of which ~~days~~ days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
(1) To be reduced to the ranks
~~(2) To be severely reprimanded~~

(Sgd) ~~7 Feb 45~~ (Sgd) A Smith Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, A46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm

I direct that the accused be ~~not committed to prison or detention barracks~~ until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) J D Christian Lt Col
Date 9 Feb 45 Commanding CRE 5 Con Armd Div
Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
C 2511 Cpl Samuel Robert Devine	9 Feb 45	J. D. Christian Lt Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 165 5B-90

RECEIVED 7th MAR 1945 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL (CFA26 (To lieu of AFA2) 41/P & R/1808 (12/44))

Convened by Order of J. D. CHRISTIAN Lt. Col. Comd CRE 5 Con Armd Div dated 5 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, this, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 2511	PROCEEDINGS REVIEWED 28 Mar 45 John A Spence Capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q.	SAMUEL ROBERT	DEVINE	1 Con Fd Sqn RCE

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 7 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order; CF A95, for wattle and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1405 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~the interpreter~~ ~~a shorthand writer~~ ? Ans

~~The interpreter is sworn.~~(1) Do you object to ~~the shorthand writer be sworn.~~(1) ~~a shorthand writer~~ ? Ans
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	A J E SMITH	HQ 1 Con Corps
Member	CAPT	L G MacDONALD	HQ 5 Cdn Armd Div
Member	LIEUT	H F McGILL	5 Con Armd Div Sig Tp RE
~~Judge-Advocate~~			
Prosecutor	LIEUT	J D TAGGART	1 Con Fd Sqn RCE
Defending Offr	LIEUT	R M MACFARLANE	1 Con Fd Sqn RCE

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused C/Cpl SAMUEL ROBERT DEVINE before arraignment makes(s) (~~no~~) plea.
~~NOT GUILTY~~
(1. If a special plea is made for separate trial on one or more charges (RP 62(2), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or as to bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Award p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A66 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(4).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*b*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 85(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 4 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*D*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No (1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the~~ charge(s).(2) The Court is closed, and ~~considers the submission~~.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the ~~charge(s), and that, accordingly, the trial will proceed on the former, but the accused is~~ (are) found ~~Not Guilty on the latter~~ charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans YES Do you intend to call witnesses on your behalf?

Ans YES Are they witnesses as to character only? Ans NO

(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(X) of the Court is (as) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(X), if any, of Not Guilty, and states to the accused that the finding(X) of the Court on the ..... charge(X) being subject to confirmation, will be promulgated later.(1) Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (*b*), *RP* 45, *120*(*A*). 2. *AA* 54(3), *RP* 45, *117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans YES

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(X) as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(X)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that those documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(3) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *MFB* 255 *or AFB* 299. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(X) and Conduct Sheet(X), and in mitigation of punishment?(1) Ans YES

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 45. *As to sentences see AA* 44, 138, 182. *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 563-564, *Overseas* (*K*) 329, 1323, *MML p* 90, 757-759. *As to sentences consequent on civil offences by the law of England see AA* 41(3), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, C 2511 Cpl. Samuel Robert DEVINE, 1 Cdn Field Squadron, R C E, a soldier of the Canadian Army C M F is charged with:

First Charge
Sec 37 (1)
Army Act

WHEN ON ACTIVE SERVICE STRIKING A SOLDIER

In that he

In The Field on 3 Feb 1945 did strike C 30217 L-Cpl. Cheney E J, in the face.

F E Ladner A/Capt

(F E Ladner) A-Capt
A/Officer Commanding
1 Cdn Field Sqn RCE

In The Field
4 Feb 1945

To be tried by Field General Court Martial

J D Christian Lt Col.

In The Field
5 Feb 45

(J D CHRISTIAN) Lt Col
CRE 5 Cdn Armd Div

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 106. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C 2511	Cpl		Samuel Robert	DEVINE	1 Cdn Fd Sqn RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~xxx~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 Feb 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	A J E Smith	HQ 1 Cdn Corps

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	L G MacDonald	HQ 5 Cdn Armd Div
Lt	H F McGill	5 Cdn Armd Div Sr Wg RCE

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	R A Forrester	14 Fd Coy RCE

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

J D Christian (Signed personally. RP 105 fn 2.) — Lt Col (Rank.)

Date 5 Feb 45

(J D Christian) Commanding CRE 5 Cdn Armd Div Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (Para 11(b) Secn of AFA) (C.F. & G. 1940) (6852)

7 Feb 45

C 2511 - Cpl Devine SR

I hereby certify that I have medically inspected the marginally noted N C O and that he is physically fit to undergo a F.G.C.M.

(signed) E. Feldman Capt
R.C.A.M.C.

(1) a/Cpl

d.2 Prosecutor's opening address.
No remarks.

d.3 Evidence for prosecution - C-30217 L/Cpl Cheney E.J. sworn, states:

I am C-30217 L/Cpl Cheney E.J. Same acting Tpt Cpl for the ~~Tpt Cpl~~ in place Tpt Cpl who is in hospital. It is my duty to instruct drivers, with instructions that have been passed down to me from HQs & provide vehicles whenever they are req'd. I recognized the accused Cpl Devine on the 2 Feb. I was sitting in my room when Spr Looker came in with the verbal statement from Major Cameron saying a half-track was required at the CRE's for the purpose of pulling a caravan out of the ditch. I refused to take it out without a written statement from Sqn HQs. Spr Looker proceeded to Sqn HQs to get the necessary work sheet to release grounded vehicles the note being signed by Capt Badnell. When he returned I went out & started the vehicle Cpl Devine asked me who gave me authority & I told him Capt Badnell. I didn't have the message on me so I sent Spr Looker to return to my room & bring back the message to the vehicle. As soon as he returned the message was shown to Cpl Devine After he read the message we had trouble with the headlights. I went around to the opposite

"EXHIBIT "D"

side of the vehicle (2) to check the steering diagram
Cpl Devine ordered me out of the vehicle. I
refused to get out & then he struck me in
the face. I immediately reported it to
Sgt Skinner who returned with me to where
the vehicle was parked. I took the veh then
& proceeded to the CRTs.

Questions by Pros.

Q-1 Who sect was half track in.

A-1 Ans. 4 Sect.

Q-2 Who was in charge of Sect at time

A-2 Ans Cpl Devine Sir.

Q-3 Did you ~~ask~~ tell Cpl Devine that you had orders to take half track out

A-3 Ans No Sir.

Q-4 Why didn't you tell him you had sent.

A-A Ans. The order I thought that the written message was sufficient

Q-5 Why did you not get regular driver.

A-5 Ans. He was not available.

Question by defence

Q- where are these veh kept

Ans. 4

(3) Cross exam by Off

Q: Direct x° How many trucks in Tp.

A-1 Ans 2

Q-2 (6) Where are they kept?

A-2 Ans Outside of Tp # 9 Sect'n rooms.

Q-3 (6) Did you say you heard the lights weren't working.

A-3 Yes sir.

Q-4 Were they working when you observed Devine the message

A-4 Ans just side lights & panel lights.

Q-5 Was it after dark then?

A-5 Yes sir.

Q-6 Did Cpl Devine read that message

A-6 Ans Yes sir

Q-7 How?

A-7 Ans By the dash light sir.

Q-8 Did he get in the truck

A-8 Ans. No sir

Q-9 Did Cpl Devine try to force you out of the truck before he hit you.

A-9 Ans. Yes sir he grabbed me by the arm.

No recross by prosecution.

Direct by court.

RP 83(8) complied with

a/Cpl

Evt. for Prose

Witn # 2 - B 4517 Spr Looker AA - Sworn, States:

Sam B-4517 Spr Looker A.A. HQs Tp 1 Cdn Fd Sqn.
R.C.E. I recognize Cpl Devine as the accused.
On 3 Feb I received orders from Major Cameron
to proceed to 1 Fd Sqn lines & get a ½ track
to tow his caravan out of the mud, at
the CRE's. When I came to #3 Tp Cpl Cheney
refused me the vehicle because it was grounded.
I came down to HQs & had an order typed out
to release the veh. The order was signed by
Capt Ladner. I went back to 3 Tp & gave
the order to Cpl Cheney. I then went out to the
½ track & started the motor. The lights were
not working as I was using them. Cpl Devine
came along & asked us if we had authority to
move the vehicle and we said we had.
Cpl Cheney said he had left the order in
his room so I went back for it. It was
then shown to Cpl Devine. Cpl Cheney
proceeded to find the trouble with the lights
while Cpl Devine read the order. Cpl Cheney
got out of the Cpl hand side of the vehicle
& walked around to the right side so that
he could see better with the panel lights.

It was then that Cpl Devine struck Cpl Cheney. We then went back up to Cpl Cheneys room, he washed his face then we went downy to see Sgt Skinner who came back with us. He then told us to take the white ½ track & proceed on to the CRE's & complete the detail which we did.

Prosecution 3/8

Questions

Q-1 (C) Do you recognize this message (Exhibit A')

A-1 Ans. Yes

Q-2 (C) What message is that?

A-2 Ans. It is about the ½ track being released to go to the CRE's on duty.

Q-3 (C) Did you see Cpl Devine strike Cpl Cheney?

A-3 Ans. Yes Sir

Q-4 (C) Where was Cpl Cheney when he was struck

A-4 Ans. He was sitting on the right side of the vehicle leaning to the steering column.

Q-5 (C) Where were you standing at this time

A-5 Ans. I just moved around from the headlights when I saw Cpl Devine strike Cpl Cheney.

Q-6 (C) which side of the vehicle were you on.

A-6 ans. the spare drivers side.

It was then that Cpl Devine struck Cpl Cheney. We then went back up to Cpl Cheneys room, he washed his face then we went down to see Sgt Skinner who came back with us. He then told us to take the white ½ track & proceed on to the CRT's & complete the detail which we did.

Prosecution

Questions

Q-1 (Cl) Do you recognize this message (Exhibit A')

A-1 Ans. Yes

Q-2 (Cl) What message is that?

A-2 Ans. It is about the ½ track being released to Pfc & the CRT's on duty.

Q-3 (C) Did you see Cpl Devine strike Cpl Cheney?

A-3 Ans. Yes Sir

Q-4 (Cl) Where was Cpl Cheney when he was struck

A-4 Ans. He was sitting on the right side of the cab leaning toward the steering column.

Q-5 (C) Where were you standing at this time

A-5 Ans. I just moved around from the headlights when I saw Cpl Devine strike Cpl Cheney.

Q-6 (Cl) which side of the cab were you on.

A-6 ans the opposite drivers side.

X-examined by defe

Q-1 Did you actually see Pvt Cpl Cheney all devines fist hit

A-1 Yes sir I was just by the angle of the door

No Re-examn

R.P. 83(B) complied with.

3rd Witness M-102760 Spr Regamy J.F. sworn. States

I am M-102760 Spr Regamy J.F. #3 Tp 1 Fd Sqn R.C.E. I recognize the accused Pl. Devine Sam in #9 Sect of #3 Tp.

Q-1 Where were you on evening of 3 Feb

A-1 I was down in the kitchen in the house where #9 Sect live.

Q-2 Did you see Cpl Cheney that nite.

A-2 Yes sir.

Q-3 What was he doing when you saw him?

A-3 He was in a ½ track when I saw him.

Q-4 Did you speak to him?

A-4 Yes sir.

Q-5 What did you say?

A-5 I asked him what he was doing in the ½ track because I knew the track was grounded.

Q-6 What was his reply

A-6 He said he had orders to take it out.

Q-7 Was anyone else present at the time
A-7 I couldn't say because it was dark.

Q-8 Did anyone else approach the ½ track
A-8 I heard Sgt Looker on the other side of the ½ track I didn't see him

Q-9 Was there anyone else besides Sgt Looker
A-9 Yes. Cpl Devine came out

Q-10 What did Cpl Devine say to A/Cpl Cheney
A-10 He said no ½ track was going out of the yard because they were grounded

Q-11 Did Cpl Cheney reply to this
A-11 Yes Sir

Q-12 What was his answer
A-12 He said he had orders to take it out

Q-13 Did you see Cpl Cheney hand Cpl Devine a message?
A-13 No sir

Q-14 After Cpl Devine had told A/Cpl Cheney that no ½ track was to leave the yard what did A/Cpl Cheney do
A-14 He was sitting in the truck reading a book of instructions on the lighting system

Q-15 What side of veh was Cpl Cheney sitting on
A-15 On the right hand side of the veh

(6)

Q-16 What side was Cpl Devine standing on
A-16 The same side, the right hand side.

Q-17 Did you see Cpl Devine strick L/Cpl Cleary
A-17 No sir

Q-18 Did you hear any noise or scuffle

A-18 No sir.

X. exam by defence.

Q-1 Why did you leave the house
A-1 I knew the tracks were grounded and I heard one running

Q-2 Was Cpl Devine drinking that evening.
A-2 Yes he was drinking

Q-3 In your opinion what was his condition
A-3 His condition was as drunk as any man and still stay on his feet

Q-4 Were there any other effects of his drinking
A-4 Yes sir, by his walk and his talk

No Re-ex am

R.P. 83(8) complied with

Defence 9

Defending Off.

I intend to show to the court that Cpl Devine struck Sgt Cheney while under the influence of liquor and doing as he thought was his duty in preventing a vehicle which had been grounded from being moved.

1st Defdn Witness

Cpl Devine, the accused, duly sworn, states:

On noon of 8 Feb I started to drink when off duty. I had already been told that the ½ tracks couldn't move because they were grounded. Then when I heard the motor running I went down stairs and I told them the ½ tracks were grounded and they weren't to leave the yard. They produced a work ticket or what they said was a work ticket which I never read and I never remember seeing until Sunday morning when the summary of evidence was taken. I looked at the work ticket Sunday morning, I never read it, I looked at the marking on it. I seen some pencils marks on it which I couldn't make out.

Q. Do you remember if you gave Sgt Cheney an order to get out of the Veh

A-1 I think I did.

Q-2 Was it obeyed.
A-2 No.

Q-3 Did you take any further steps to have him carry out your order.
A-3. I tried to pull him out.

Q-4. Did you realize that the paper shown to you was proper authority for the vehicle to be moved.
A-4. No.

Q-5 Did the message make any impression on you at the time
A-5 No.

Q-6 How many glasses of wine had you drunk.
A-6 About half a demijohn.

Q-7. What was the reason that you tried to get L/Cpl Cheney out of the veh.
A-7 Mr Clendenning had told me they were grounded & it was my job to see they stayed in.

(11)

X-examination by prosec.

Q-1. Did you recognize the person in the truck

A-1. Yes sir.

Q-2. Who was it?

A-2. L/Cpl Cheney & I think Spr Looker was there.

Q-3. After you pulled L/Cpl Cheney out of the vehicle did you take any further steps to prevent the vehicle from leaving the yard

A-3. I don't think I did.

CMO Reneram RP. 8 3(B) complied with

Witness for Defence (as to fact)

F. 87635 Spr Baton S.W. sworn states.

I am F 87635 Spr Baton S.W. 1 Fd Sqn. R.C.E #9 Sect of #3 Tp. I recognize the accused Cpl Devine.

Q-1. On the afternoon & evening of 3 Feb were you drinking

A-1. No I was not.

Q-2. Did you see Cpl Devine drinking during that period

A-2. Yes sir.

Q-3. Was he drinking much.

A-3. Yes quite heavily.

Q-4. At time the incident occurred what was Cpl Devines condition

A-4. In my opinion he was very drunk.

Q-5. What do you base that on

A-5. The amount he had taken and the way he was walking.

Q-6 How long a period of time were you with him.

A-6- From about 5.30 to around 8.30 - 9 o'clock.

Q-1 Do you know if he had been drinking before then

A-1 Yes. He had been drinking at dinner time before I went to the show.

X-examination by prosec

N/L R.P. & S (8) complied with

Closing address

~~Statement~~ from defending Officer (in lieu) Sec 8.12B

At defending officers request the ~~statement~~ ~~is~~ is

Refer to page 35 M.M.L on Drunkenness. "Drunkenness is no excuse etc"

See Case 12A for written statement from accused's ~~Case~~ officer when defending officer stated was not available

Summary of Prosec

All the evidence has been brought forward to show that L/Cpl Cheney knew Cpl Devine was drunk I believe that this in fact was the case. When L/Cpl Cheney received written instructions from Capt Ladner releasing the track boated on those instructions immediately and without referring them to Cpl Devine because he knew

Evidence of:-
Lieut. T.G. Clendenning
Offr i/c 3 tp 1 Fd Sqn RCE

12 A 2 pgs

I am Lieut. T.G.Clendenning, Offr i/c 3 Tp 1 Cdn Fd Sqn RCE and I wish to make the following statement .

On or about the fourteenth of January 1945 I strongly stressed to the accused the importance of the grounding of the half-track vehicles of No.2 Section . This was done to save wear on the tracks and bogies. The vehicles were to be released only by a written order from the Officer Commanding . At the time the incident occurred , both half-track drivers were absent from the troop on duty .

As Officer i/c 3 troop I have found Corporal Devine is an N.C.O. who sees that orders are carried out, and has been a very efficient section commander.

T.G. Clendenning Lt
(T.G.Clendenning) Lieut.
Offr i/c 3 Troop
1 Cdn Fd Sqn RCE

2 pgs

Statement from defending officer (to go on page 62 B)

Cpl Devine came out of the house under the impression that someone was interfering with the half tracks which he was responsible for, a logical conclusion, and one shared by at least one other member of the section. If L/Cpl Cheney had advised Cpl Devine that he had orders from HQ to take the half track, before starting it up, as I believe he should have done, the incident would have never occurred. But due to circumstances the impression he had gained, the darkness, and his condition he never grasped that L/Cpl Cheney had proper authority. It is true he scribbled something on the message, but he did not read it or comprehend it. Even at this stage if L/Cpl Cheney had shown a little patience with a man in his condition and made certain that Cpl Devine understood the message the incident could have been avoided. L/Cpl Cheney was struck by Cpl Devine only after he refused to obey the order Devine gave him to get out of the vehicle. Cpl Devine's intention thereof was to prevent the unauthorized use of his, and other vehs. Two things were uppermost in his mind, the drivers were absent and the vehs were grounded, and he wished to prevent their misuse. I ask the Court that he be found not guilty of this charge.

Ref P. 253 481

Note 1.

S 253 Note 9

Intention Ref Page 253 &
Page 481 unless 53 Note 9.

the latter was drunk and that an argument might possibly have ensued. Secondly I submit that no NCO of the rank of Corporal should never become so intoxicated as to impair his reasoning powers. In the case Cpl Devine pursued a course of action which he knew was wrong therefore Cpl Devine should be found guilty of the charge as laid.

Witnesses as to character

#1 - B-92455 S.S.M. Gordon I. duly sworn. States:

I am B-92455 SSM GORDON I. 1st Sqn RCE.

I have been Cpl Devine's troop Sgt & SSM for nearly four years and I can rely on him to do a good job and carry out an order. He can also be relied upon not to drink during operations, and only after parade hours when in rest and drinking is permitted.

R.P. 83(8) complied with

2nd Witness: B-78539 Sgt McCrae AA, Sworn States:

1st Sqn RCE.

#2. I am B-78539 Sgt McCrae A.A. I was for 3 mos. beginning about Sept 1st Tp Sgt of 3 Tp During all that time Cpl Devine was a sect leader of 3 Tp I found him to be industrious, intelligent, and with a great interest for the welfare of his men. They in turn respected him for his ability as an engineer, his leadership and his courage. During that time I have never known Cpl Devine to have been under the influence of liquor except in a recognized restarea. Because of those facts I regard him as an especially good N.C.O.

R.P. 83(8) complied with

Address by Defence in Mitigation & Punishment.

Cpl Devine has acted as an NCO in all the engagements with the enemy that this unit has had since coming to Italy. He served with credit and is rightly regarded as a valuable & efficient N.C.O. His conduct since he joined the army has been excellent. I submit that the offence with which he is charged occurred because he was under the influence of liquor and was obeying his orders that the vehicle was not to move. I would ask the court therefore in determining sentence to consider his value & service he has given & the fact that I believe his intentions were sincere tho' influenced by liquor

ARMY FORM C2136 (Small)

MESSAGE FORM

Cat | Srl No. | Priority | Transmission Instructions | Register No.

ABOVE THIS LINE FOR SIGNALS USE ONLY

FROM (A) Originator | Date-Time of Origin | Office Date Stamp

Officer Commanding 1 Fd Sqn RCE C31830A
For Action

TO Transport NCO, 2 Tp 1 Fd Sqn RCE
(...) For Information (INFO)

EXHIBIT "D"

ajs

Authority is hereby granted to use one White Half-track for purpose of proceeding to CRE's for duty (.)

THIS IS EXHIBIT A REFERRED TO IN THE SUMMARY OF EVIDENCE IN THE CASE OF C2311 CPL. DEVINE J.E. TAKEN BEFORE ME THIS 4th DAY OF FEB 1945

J.D. Taggart Lt.

AS WRITTEN

Corp

IN CIPHER

ajs

THIS TOR

Time Originated

STATEMENT OF CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

No: C 2511 RANK: CPL NAME: Samuel Robert DEVINE UNIT: 1 Cdn Field Squadron R C E

AGE: 34 SINGLE. No of dependents: nil

Date of Attestation: 24 Jun 1940

Number of days in close arrest awaiting trial.

Civil: nil Military - / Hospital nil Total: - /

Dates of appointments, promotions etc (if any) ~~nil~~

To be L-Cpl.	22 Jan 1942
To be A-Cpl.	10 May 1943
Conf'd Cpl	10 Aug 1943
To be L-Sgt.	9 Dec 1944
Reverted to Cpl.	21 Dec 1944

Decorations: C V S M and clasp.

(W E Ladner) A-Capt
A/Offr Commanding
1 Cdn Field Sqn RCE

In The Field
4 Feb 1945

Exhibit "B"
afd

MFM 6
(AFB 122)
40/P&S/136 (3438)

No C2511 Name DEVINE S R | Sqn, Battery, or Company | Corps R C E | Date of enlistment 24-6-40 GC | Badges 1 | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet: na | No and date of last drunk: na | Period not reckoning towards freedom from extra fine: na | Sheet No 1 | Signature OC Company, etc: TS Graham Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Nil entries after six months service 24 Dec 40 C J Birmingham. Major Certified true copy: (G H Spencer) Major OC 1st Field Squadron R.C.E.									
Field	24Dec 42	L-Cpl		AA Sec 15(1) AWL from 1330 hrs 24 Dec 42 until 1700 hrs 24 Dec 42(Absent 4 hrs 30 mins)	Sgt Dunlop WF	Reprimand nil entries after comp. 2 yrs service	29Dec42 24Jun42 (DW Cunnington)	DW Cunnington Major	
Field	31Dec	Cpl		AA 40, on 31 Dec 43 did appear on parade improperly dressed.	Maj RB Cameron.	Reprimand	1 Jan 44	RB Cameron. Major.	Major
	4 Feb 1945	Certified true copy: (FE Ladner) A-Capt A/Offr Commanding 1 Cdn Fd Sqn RCE							

Exhibit "C"

(PTO)

Summary of evidence in the case of C 2511 Cpl. Samuel Robert DEVINE, 1 Cdn Field Sqn RCE.

The Officer Commanding directs that the evidence be taken on oath.

FIRST WITNESS

C 30217 L-Cpl. Cheney E J, 1 Cdn Fd Sqn RCE, sworn states: -

I am C 30217 L-Cpl. Cheney E J, of 3 Troop, 1 Cdn Fd Sqn RCE. I am Tpt L-Cpl. in 3 Troop. At approximately 1900 hrs 3 Feb 45, Spr Looker came in and told me that Major Cameron's vehicle was in the ditch and that 3 Troop were to send a half track to pull it out. Since all half tracks had been grounded and could not move except on the written order of the O C I sent Spr Looker down to see Capt Ladner the acting O.C. to get permission to use the half track. Spr Looker returned about 1930 hrs with a written message from Capt Ladner giving me permission to use the half track. I went out to one of the two half tracks which are 9 section vehicles. I started the half track and was warming it up when Cpl. Devine came out and asked me where I was taking the vehicle. I told him I was taking it down to the CRA Hq. Cpl. Devine asked me whose authority I had for moving the vehicle and I told him Capt Ladner had given me authority. I had left Capt Ladner's message in the house so I sent Spr Looker in to the house to get the message. When Spr Looker returned with the message I showed it to Cpl. Devine. Cpl. Devine put a note on the message. The lights on the vehicle were not working properly so I got out and went around to the spare drivers side of the vehicle to check the wiring. Cpl. Devine ordered me not to take the vehicle out and ordered me out of the vehicle. I did not get out. Then Cpl. Devine grabbed me by the arm and hit me. I went down to Tp Hq and reported the incident to Sgt Skinner who returned to 9 section with me. Cpl. Devine was not around so I got into the half track and drove away.

I hereby produce the message from Capt Ladner giving me authority to move the half track.

Q 1 Did you tell Cpl. Devine that you had orders for the half track to go out before you started the vehicle?

A 1 No.

Q 2 Why did you not tell Cpl. Devine about the half track going out before starting it up?

A 2 I thought the authority from Capt Ladner was sufficient.

Q 3 Why did you not get the regular driver of the half track to drive the vehicle?

A 3 The driver of the half track was not available. Both half track drivers were away on another job.

The accused declines to cross examine the witness.

E. J. Cheney.
(C 30217 L-Cpl. Cheney E J)
1 Cdn Fd Sqn R C E

The document referred to by the witness produced, read over to the accused, marked exhibit "A", signed by me and attached hereto.

J. D. Taggart Lt
(J D Taggart) Lieut
R C E

SECOND WITNESS

B 4517 Spr Looker A, 1 Cdn Field Sqn RCE, sworn states: -

I am B 4517 Spr Looker, A A of Hq Tp, 1 Cdn Field Sqn RCE. At approximately 1700 hrs 3 Feb 45 I was at the CRE Hq. Major Cameron told me to spot his caravan. While moving the caravan into position it became stuck. I attempted to move it with an armd car but could not move it. I reported this to Major Cameron and he told me to go to 1 Fd Sqn and get a half track to move the caravan. I went to 3 Tp, 1 Fd Sqn and asked L-Cpl. Cheney for a half track. L-Cpl. Cheney told me all half tracks were grounded. He said I would have to get permission from Capt Ladner to use the half track. I went down to the orderly room and had Cpl. Thurston type out a message authorizing the use of the half track. I took the message down to the officers mess and had it signed by Capt Ladner. I returned to 3 Troop and gave the message to L-Cpl. Cheney. L-Cpl. Cheney and I then went to 9 section where the half tracks were parked. L-Cpl. Cheney got in one of the half tracks and started it. Spr Regimey came up and asked us what we were doing. He asked L-Cpl. Cheney if he had permission to move the half track and L-Cpl. Cheney said that he did. The lights on the half track were not working properly so we tried to fix them. Cpl. Devine came up and told L-Cpl. Cheney that the vehicles were grounded that they were section vehicles and were not to be moved. L-Cpl. Cheney told Cpl. Devine that he had written authority to move the vehicle. I went up to L-Cpl. Cheney's room, got the order, returned to the half track and gave it to L-Cpl. Cheney. L-Cpl. Cheney gave the order to Cpl. Devine who wrote something on it and handed it back. Cpl. Devine said the half tracks were not to be moved. L-Cpl. Cheney continued to try to fix the lights. He was leaning back in the vehicle in the spare drivers seat reading the maintenance manual and looking at the wiring diagram. It was then that I saw Cpl. Devine hit L-Cpl. Cheney in the face. L-Cpl. Cheney went up to his room and bathed his face and then L-Cpl. Cheney and I went down to see Sgt Skinner and brought Sgt Skinner back up to where the half track was. Sgt Skinner told us to take the half track and then went in to see Cpl. Devine. L-Cpl. Cheney and I took the half track and proceeded to the CRE Hq to do the job.

Q 1 Do you recognize this message? (showing witness exhibit A)
A 1 Yes, its the one typed out by Cpl. Thurston authorizing me to use the half track.

The accused declines to cross examine the witness.

A. A. Looker

(B 4517 Spr Looker A A)

THIRD WITNESS

M 102760 Spr Regamey J F, 1 Cdn Field Sqn RCE, sworn states: -

I am M 102760 Spr Regamey J F of 3 Troop, 1 Cdn Fd Sqn RCE. On the evening of 3 Feb 45,- I do not know the exact time - I heard a half track being started. I went out to investigate because I knew that the half-tracks were grounded. L-Cpl. Cheney was in the half track. I asked him what he was doing. He said he had an order to go out. L-Cpl Cheney stopped the engine. The lights were not working and L-Cpl. Cheney was reading the maintenance manual to try to locate the trouble. Cpl Devine came out and said that no body was taking the half track out because they were grounded. L-Cpl. Cheney said that he had an order to take the half track out. Cpl. Devine ordered L-Cpl. Cheney out of the vehicle . At this point I went around to the other side of the vehicle and did not see or hear anything further.

The accused declines to cross examine this witness.

J. F. Regamey.
(M102760 Spr Regamey J F)

The accused was warned as follows: -

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The accused: -

I have nothing to say at this time.

S A Devine
(C 2911 Cpl. Devine S A)

The accused declines to call witness on his own behalf.

I certify that RF 4 has been complied with.

Taken by me in the Field in the presence and hearing of the accused this 4th Day of Feb 1945.

J. D. Taggart
J D Taggart (Capt) Lieut
R C E

YYY-15 Case #3.

Pte. Durlin. H.

Case No. 1- J-29
" " 2- N-22

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.64413 Pte Hugh DEVLIN - CIC - 3 CIRU

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd	25 Sep HH		
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ____ beginning on (date) ____ (1) [illegible]

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 150 days, of which Nil days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for nine months and to be put under stoppages of pay which has made good the sum of £2-18-10 cost of apprehension.

(Sgd) N. A. — Judge-Advocate, if any. 25 Sep HH — Date awarded. (Sgd) J.M.Bowman Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ____ (Sgd) ____ Commanding ____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 25 Sep 44. (Sgd) [signature] Brigadier. Commanding ... Comdg "D" Gp Con Rft Units. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B64413, Pte. DEVLIN, H.	27 Sep 44 Part II D.O. #225 D/27 Sep 44	W.P.Moore Lieut (W.G.Moore) A/Adjt 3 C.I.R.U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 6 OCT 1944 JAG BRANCH G.H.Q.

RECORDED AT CMHQ IN AD .60. VVV-15

CPA96 (To lieu of AFA81) 40/P & B/1698 (E144) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier J.E. Ganong, ED Comd "D" Gp, CRU dated 24 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.64413	Pte	Hugh	DEVLIN	CIC 3 CIRU

PROCEEDINGS REVIEWED K. Lawrence Lt REVIEWING OFFICER, JAG BRANCH G.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) N.W.E. England on (date(s)) 25 Sep. HH

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Questions do NOT include all relevant fms RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for oaths and instrs on how to record addresses, evidence etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 26, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 45, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N.A. as interpreter? Ans N.A.

The Interpreter is sworn.(1) Do you object to N.A. as shorthand writer? Ans N.A.
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.M.Bowman	48th Highrs 3 CIRU
Member	Capt	J.P.Cox	R Regt of C 3 CIRU
Member	Lieut	D.H.Millard	48th Highrs 3 CIRU
Judge-Advocate			
Prosecutor	Lieut	W.G.A.Gillespie	Q.O.R. of C 3 CIRU
Defending Offr	Lieut	W. Oates	Regt of C 3 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. Lists of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment which RP 69 (B) and fn 2 were not followed. See Q11 p 3.)

A8. The accused B 64413 Pte Hugh Devlin before arraignment make(s) (no) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 496 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form Part II

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO.(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3; *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ~~1 of~~ charge(s). The accused is (~~are~~) so informed, and he (they) ~~does~~ change(s) his (their) plea(s) on ~~NIL~~ charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records findings of ~~Guilty~~ Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "D", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or ...re of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114*, *115*.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will be dealt with by the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....Do you intend to call witnesses on your behalf? Ans.....Are they witnesses as to character only? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 60(C).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(E).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (d), RP 45, 120(A).* 2. *AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(i) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "H" and Ex "I" respectively.(3)
(1. *MFB 353 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. My defending officer will make a plea in mitigation.
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 42. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 1323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 4(1)(i), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3), 98(1), KR Con 564.* 2. *RP 50. As to release from arrest on Confirming Offr see KR Con 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Ex. "A"

CHARGE SHEET

The accused B64413, Private Hugh DEVLIN, Canadian Infantry Corps, on the strength of 3 Canadian Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Army Act
Sec 15(1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

did absent himself without leave from 3 Canadian Infantry Reinforcement Unit from 1330 hours, the 7th day of August, 1944, until he was apprehended at Middlesborough, at 0100 hours, the 15th day of September, 1944, incurring costs of return to Unit of £2.18s.10d.

Total time absent - 38 days, 11 hours and 30 minutes.

A.B. Noble

(A.B. Noble) Lt.-Col.,
A/Commander,
3 Cdn Inf Rft Unit.

In the Field,
22nd day of September,
1944.

To be tried by Field General Court Martial.

(J.E. Banong) Brigadier
Commander
"D" Group, Cdn Rft Units
Convening Officer

In the Field
24 Sep 44

Ex. B.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.64413	Pte		Hugh	DEVLIN	CIC 3 CIRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 24 Sep 44 endorsed by me, (~~or by an offr of my staff for me~~)." To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(*Must be named. RP 106.*)	(Unit.)
Major	J.M. Bowman	48 Highrs - 3 CIRU

MEMBERS.

(Rank.)	(*Named or detailed. RP 106.*)	(Unit.)
A Captain	to be detailed by Commanding Officer	3 CIRU
A Lieutenant	to be detailed by Commanding Officer	3 CIRU

WAITING MEMBER.

(Rank.)	(*Named or detailed, if any. RP 106.*)	(Unit.)
A Lieutenant	to be detailed by Commanding Officer	3 CIRU

JUDGE-ADVOCATE.

(Rank.)	(*Must be named, if any. RP 106.*)	(Unit.)

On Active Service in the Fd

in England (*Country.*)

(*Signed personally. RP 105 fn 2.*) Brigadier (*Rank.*)

Date 24 Sep 44

Commanding "D" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (PARS 120 (2)(b) OF AFA2; SD/F & S/1597 (6/43).)

(*See overleaf for notes and notes for use on trial.*)

Ex. C.

Medical Officers' Certificate

KR (Can) para 557

I certify that I have this morning examined No B64413 Pte Leylin,H.
(rank) (name)
of W.C.J.U. and in my opinion he is fit to undergo
~~unfit~~

trial by Court Martial

Station Aldershot,Hants.

Date 25 Sept'44

Sdg W J Russell Capt
(Medical Officer)

Ex. "J"

Plea of Mitigation

Sir, I wish to submit the following plea of mitig
on behalf of the accused B 64413 Pte Devlin H.

"For the past two years this man has acted as an M
instructor at 4 Canadian Infantry Reinforcement Unit.
During that time he was "frozen" in the Instructional Staff
of that unit where he instructed on wheeled and tracke
vehicles. He also instructed on 3 inch and 4.2 inch mortar

In May 1944 he heard that his field unit was going
on to action on the near future. He had come overseas
in ~~October~~ August 1941 with the intention of fighting and now whe
the opportunity was at hand he found that he was to be
held as an instructor with no hope of being released. He
went AWL in May 1944 for a day and a half in the hope
that they would send him to the field unit ~~he~~ instead
he was reduced to the rank of Private for a period of
a week or so and then was given the rank once more
of A/Cpl, and still held as an instructor. He ~~again~~ tried
to get his release once more by going AWL again. This ti
for a period of seven and a half days approximately. He
succeeded and was transferred to 7 Canadian Infantry
Reinforcement Unit and placed on draft. Just before he
to leave he found himself taken off draft because he
had reached the age of ~~forty~~ one in June. He was so f
up with everything by this time that he went AWL a
more and remained AWL until apprehended. He n
realizes that he will be unable to go on draft on acc
of his age and he also realizes that he can be of more
value as an instructor. Let me point out at this
the period he served as an N.C.O. instructor he had a c
conduct sheet. He is willing to accept your punishme
but sir with the need for trained instructors being
what it is at the moment it would be a shame to w
his experience by awarding any time in a detention
barracks.

25 Sep 44

H. D. Oates Lieut
Defending Officer

H.D.O.

Ex. "D"

SUMMARY OF EVIDENCE

In the case of B64413, Private Hugh DEVLIN, Canadian Infantry Corps, on the strength of 3 Canadian Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

FIRST WITNESS FOR THE PROSECUTION

Lieut. J.H. Galloway, Canadian Infantry Corps, Assistant Records Officer, 3 Canadian Infantry Reinforcement Unit, having been duly sworn states:-

I am Lieut. J.H. Galloway, Canadian Infantry Corps, Assistant Records Officer, 3 Canadian Infantry Reinforcement Unit. I produce certified true extract from Part II Daily Order No. 186 d/9 Aug 1944, showing the accused, whom I now recognize, as absenting himself without leave from 1330 hours, the 7th day of August, 1944. This document purporting to be signed by Capt. W.E. Thorne, for Capt. M.R. Medland, Capt & A/Adjutant, 3 Canadian Infantry Reinforcement Unit, is marked Exhibit "A". I also produce Certificate of Arrest in accordance with Section 163 A.A.(1) (jj) showing the accused, whom I now recognize, as being apprehended at Middlesborough at 0100 hours, the 15th day of September, 1944. This document purporting to be signed by Lt.-Col. N. Douglas, General Staff, Middlesborough Garrison, is marked Exhibit "B". I also produce Expense Voucher relating to the accused, whom I now recognize, dated 19th day of September, 1944, showing cost of return to Unit, in the amount of £2.18.10. This document purporting to be signed by Capt. R.E. Birch, Admin Officer, D.P.M.'s Branch, C.M.H.Q., is marked Exhibit "C".

J.H. Galloway Lieut.
(J.H. Galloway) Lieut.

The accused declines to cross-examine this witness.

The accused having been warned according to Rules of Procedure 4(E) reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused, and that Rules of Procedure 4(c) (d) (e) (f) and (g) have been complied with.

A E Robinette Lieut.
(A.E. Robinette) Lieut.
Officer detailed to take Summary of Evidence.

In the Field
22nd day of September,
1944.

JHG

Ex. P 1.

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Aldershot, Hants, on the 22nd day of September, 1944, preliminary to my Court Martial.

I further acknowledge that I have been served with a true copy of the Charge under which I am being brought to Court Martial.

W Devlin
(B64413, Pte. Devlin, H.)

Dated at Aldershot, Hants
this 22nd day of September, 1944.

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.
I desire the services of Lieut R T O Birchall
if he is available.

W Devlin
(B64413, Pte. Devlin, H.)

Dated at Aldershot, Hants,
this 22nd day of September, 1944.

EXHIBIT "A" Ex. E

3 CANADIAN INFANTRY REINFORCEMENT UNIT
DAILY ORDERS PART II
issued by
COLONEL A.S. PEARSON, O.B.E., E.D.,
COMMANDER

No. 186
d/9 Aug 44

Last Order
No. 185
3/8 Aug 44

17. ABSENCE WITHOUT LEAVE

(a) The u/m are absent without leave from times shown:-

B64413, RFN DEVLIN H QOR of C 1330 hrs 7 Aug 44.

for "W.E. Thorne" Capt.
(M.R. Medland) Capt & A/Adjt
3 Cdn Inf Reinf Unit

CERTIFIED TRUE EXTRACT OF THE ORIGINAL DOCUMENT
WHICH IS IN MY POSSESSION.

(M.R. Medland) Capt & Adjt
3 Cdn Inf Rft Unit.

Ex. F

CERTIFICATE IN ACCORDANCE WITH ARMY ACT. SECTION.163 (1) J.J. EXHIBIT

I certify that No. B/044413 Rank. Pte. Name. DEVLIN. H.

3rd C.I.H.U. Unit, was arrested at CHURCH ARMY HOUSE

WELLINGTON ST. MIDDLESBROUGH at 01:00 hrs, on. 15th SEPTEMBER. 1944.

JWB

Signature of Provost Marshal)
A.P.M. or other Officer into)
whose custody the above-)
named was taken on arrest.) ..... Lt. Col. General Staff Northumbrian District Garrison.

EXHIBIT "C" Ex. "G"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No B64413 Rank Pte Name Herlin, H Unit 3 C I R U

The following expenses were incurred in apprehending and returning the M/N Subject to his Unit From London from Middlesbrough

Date	(2 escorts) Particulars (5 prisoners)		Amount		
29 Sept 44	Escorts return fare from LONDON To	Middlesbrough	1	4	6
	Prisoners single fare to LONDON From	Middlesbrough		18	4
	Prisoners fare from	To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			16	0
		Total £	2	18	10

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

F. E. Birch CAPT. Capt.

Officer Issuing Railway Warrant and Expense money F. E. BIRCH
No. 6 Area Provost Company, Canadian Provost Corps (C.A.S.F.) A/CER-D.P.M's BR.
C.M.H.Q.

C.M.H.Q. 1000-55
80(Y.R.)(455)(3207)

Ex. 'H'

M.F.B. 355
2251—5-41 (572-8)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B 64413	RIFLEMAN	DEVLIN H.	CIC 3 CIRU

1. The following is a fair and true summary of the entries in the Field Service and General ~~Regimental and Squadron Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Acts~~, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.A. 15(1)	4 times	A.A. 15(1)	6 times
For		times	A.A. 19	1 times
For		times	A.A. 40	3 times
For		times		times

Number of instances of gallantry or distinguished conduct NIL

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ... beginning on the ... day of ...~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 10 days in ~~Air Force~~ military custody, making a total of 10 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 41 years,

6. The date of his ~~enrolment~~ attestation specified in his record of service is 27 Jun 40

7. The service which the accused is allowed to reckon towards discharge is 4 Years,

8. The accused is entitled to reckon 4 years service for the purpose of determining his pension, etc.

9. ~~The accused is in possession of or entitled to an Air Force decoration, or an Air Force~~ ~~military~~ ~~military~~ (or is in possession of or entitled to). State any ~~Air Force~~ military decoration or reward. C.V.S.M. and Clasp.

10. ~~If the accused is a warrant officer.) The accused before he was made a warrant officer was held the regimental rank of~~ Air Force

JAG

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number E64413 Rank RFN Unit

Name DEVLIN H. of 3 Cdn. Inf. Rft. Unit. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	18 May 42 Field U.K.	AA 15(1) AWL 27 days 20 hrs 56 minutes.	60 days Detention.	Released from Detention Bks Headley Downs 25 Jun 42. Remission earned under rules for D.B. & M.F. 20 days.
F.G.C.M.	21 Aug 42 Field, U.K.	AA 15(1) AWL from 0600 hrs 31 Jul 42 to 1400 hrs 16 Aug 42 (16 days 8 hours)	180 days' Detention	Released from Detention Bks Headley Downs on 19 Dec 42. Remission earned under Rules for D.B. & M.F. 58 days.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~twenty-second~~ 25 day of September, 1944.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Ex 'H' signed by the president, and annexed to the proceedings.

(W.E. THORNE) CAPT.,
Records Officer,
3 Cdn Inf Rft Unit.

Ex. 1 First Sheet Destroyed 27 Dec 40. W.Maher Capt

MFM 6 (AFB 122) 40/PAS/136 (3438)

No B64413 Name DEVLIN H. | Bn. Battery or Company | Corps C.I.C. | Date of enlistment 27-6-40 | GC Badges | Service or Proficiency Pay | Character

Company Conduct Sheet Date of last entry in NIL | No and date of last drunk NIL | Period not reckoning towards freedom from extra fine N/A | Sheet No 1. | Signature OC Company, etc D.J.Lequesne Capt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sussex, N.B.	17-3-41	SGT	-	AA 40 Conduct to the prejudice etc in that he did absent himself from unit lines from 1300 hrs to 1800 hrs 17 Mar 41 while on excused duty.	C.S.M. Rowell C.S.M. Weir.	Reprimanded	20 Mar 41	Major R.M. Hudson	
Sussex, N.B.	15-6-41	L/SGT	1.	1st Charge: AA 19 DRUNKENNESS in that he was drunk at 1830 hrs 15 Jun 41 at Camp Sussex N.B. 2nd Charge: AA 40 Conduct to the prej etc in that he was negligent with gov. property causing damage to be done to Universal Carrier 41-1-688 and also to the ramp used for servicing carriers, on 15 Jun 41.	Sgt Freeman.	Admonished Reduced to his permanent grade (RFM	16 Jun 41	Major J.G. Sprague.	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17-10-41	RFN		AA 15(1) AWL from 2200 hrs 17-10-41 to 2100 hrs 21-10-41(Total time absent 3 days 23 hrs)	Rfn Foulkes A/Sgt Wilson	14 days Pay 14 days C.B.	22 Oct 41	Major Hayhurst	Forf 4 days pay FR&I 149(1)(a)
Field	14-11-41	RFN		AA 40 Conduct to the prej in that he was gambling at 1550 hours.	Cpl Mason L/C Hemmell.	1 days Pay.	15-11-41	Lt.Col.J.R. S. Lough	
Field	17-1-42	CPL		AA 15(1) AWL from 2359 hrs 17-1-42 to 0745 hrs 19-1-42 (Total time absent 1 day 7 hrs 46 minutes)	Cpl Danson Cpl Berry	Reduced to permanent grade of RFN.	19-1-42	Lt.Col.J.R. Sl. Lough	Forf 2 days pay FR&I 149(1)(a).
Field	4-4-42	RFN		AA 15(1) WOAS AWL 27 days 20 hours 56 minutes.		60 days Detention.	18-6-42	F.G.C.M.	Forf 28 days pay FR&I 149(1)(a),60 days FR&I 149(1b) Stopp.£3/0/8
RELEASED FROM DET'N BARRACKS HEADLEY DOWNS 25 Jun 42 SENTENCE HAVING EXPIRED. REMISSION EARNED UNDER RULES FOR D.B. & M.P. 20 DAYS									
Field	31-7-42	RFN		AA 15(1) AWL 0600 hrs 31-7-42 to 1400 hrs 16-8-42(16 days 8 hrs). Pun:Declared by FGCM 21 Aug 42		180 Days Detention.	21-8-42	F.G.C.M.	(App).,forf 180 days pay FR&I 149((1)(b),17 days FR&I 149(1a),4 days FR&I 149(1)(c).
RELEASED FROM DET'N BKS HEADLEY DOWNS ON 12 DEC 42, SENTENCE HAVING EXPIRED. REMISSION EARNED UNDER RULES FOR DETN BKS & M.P. 58 days.									

Ex. 1

No P64413 Name DEVLIN H. | Sqn, Battery or Company | Corps CIC | Date of enlistment 27-6-40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAM/136 (3438)

Company Conduct Sheet Date of last entry in NIL | No and date of last drunk ONE. 15-6-41 | Period not reckoning towards freedom from extra fine NA | Sheet No 2. | Signature OC Company, etc V.A.Gianelli Maj or. | Character

Place	Date of Offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under dispensing with trial	By whom awarded	Remarks
				Certified true copy. D.K.Hazzard Lieut for Officer Commanding, "E" Coy, 4 C.I.R.U.					
Field	29-4-44	A/CPL		AA 15(1)WCAS AWL from 2300 hrs 29-4-44 to 1100 hrs 1-5-44(Total Absence:- 1 days 12 hours) VOLUNTARY BLOOD DONOR -- 6 JUNE 44.	Sgt Rowe F.R.E.	Reduced to the Ranks.	2 May 44	Col.J.H. Christie.	Forf 2 days pay 149(1)(a)
Field	14-7-44	A/CPL		(1)AA 15(1)AWL from 1130 hrs 14-7-44 until 1600 hrs 14-7-44(4½ hours) 2.AA 15(1)AWL from 2300 hrs 15-7-44 until 0820 hrs 23-7-44(7 days 9 hours 20 minutes)	Major DJ MacDougall. Sgt FRE Rowe Documentary	Reduced to PTE	26-7-44	Col.J.Gavan Powers.	8 days pay FR&I 149(1)(a)
Field	30-7-44	RFN		AA 15(1) AWL from 2300 hrs 30-7-44 until 1650 hrs 4-8-44 (4 days 11 hrs 50 minutes)	Sgt Rowe F.R.E.	Forfeits 28 days Pay.	5 Aug 44	Col.J.Gavan Powers.	5 days pay FR&I 149(1)(a)

(OVER)

(P10)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	18-9-44	RFN		CERTIFIED TRUE COPY OF MFM 6 IN MY POSSESSION.					
				(W.E. THORNE) CAPT., Records Officer, 3 Cdn Inf Rft Unit.					
Field	7 Aug	Pte		W.O.A.S. WL from 1330 hrs 7 Aug 44 until apprehended at 0100 hrs 15 Sept 44 Cost of apprehension $2.18.10 Total time 38 dys, 11 hrs 30 mins	Dorey	Forfeit 9 mos Stoppage $2.18.10 cost of appreh	25 Sept 44	2 i/c	Confirming Officer "B" Sqn 22 Sept 44

22 N

Nfmm Devlin N.

O. H. M. S.

M. F. B. 270

F. Gilmour Major Pres.

B-64413 Rfn. Devlin. Hugh
Q.O.R. of C.
3 Cdn. Div. Inf. Reinf. Unit.

Army Form A.8.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this twentieth day of August, 1942.

Whereas it appears to me, the undersigned, an officer in Command of "D" Group, Canadian Reinforcement Units, Canadian Army, (Overseas), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~I am unable to appoint :—~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~

~~for the following reasons, namely :—]~~

* Omit words not applicable.

PROCEEDINGS REVIEWED.

H. Sqn. 42.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	F. J. Gilmour.	R.C.A.

Members.

Rank.	Name.	Regiment.
A Captain	from	1 C.M.G. R.U.
A Lieutenant	from	1 C.M.G.R.U.
A Lieutenant	WAITING MEMBER from	1 C.M.G.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in composition of the Court to be

*Signed, H. Elliot Brigadier

Commanding "D" Group, Cdn. Reinf. Units.

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-64413 Rfn. DEVLIN. Hugh, G.O.R. of C. #3 C.D.I.R.U.	First Charge A.A. Sec. 15 (1) See Charge Sheet	Not Guilty	Guilty. To undergo detention for 180 days and HB Aug 21/42 J Gilmour Major Pres. to be put under stoppages of pay until he has made good the sum of £3/0/8 in respect of expense of apprehension Aldershot Aug 21/42 J Gilmour Major Pres.	Finding and Sentence Confirmed. K Lefebvre Brigadier

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer to be recorded on a separate sheet if necessary:— A. No sir.

(Signed) K Lefebvre Brigadier. (Signed) J Gilmour Major RCA

Commanding "D" Group, C.R.U. Convening Officer (*e*) — President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21st day of August 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) HB.
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 21st day of August 1942.

J Gilmour Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have ~~been~~ complied with.

Signed this 21st day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ KL KL

Signed this 22nd day of August 1942,

K Lefebvre Brigadier
Confirming Officer. Commander "D" Group (Can. Reinforcement Units) C.A.

Promulgated and extracts taken in the case of B64413 RFN DEVLIN H. (GOR of C) 3 CDN.DIV.INF.REINF.UNIT.

(*a*) (Dated) 24 AUG 42 (Signed) (W.F.Wansbrough) Major. Administrative Officer. 3 CDN.DIV.INF.REINF.UNIT.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

O.S. 47867/1937 10 M. 3/40 K.L./536/22 Gp. 698/3

"G". J. Kilmour Major Pres.

CHARGE SHEET

The accused, Number B-64413, Rifleman, Hugh Devlin, Queen's Own Rifles of Canada, Reinforcement on the strength of 3rd Canadian Divisional Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas), is charged with

FIRST CHARGE
SEC. 15 A.A. When on Active Service, Absenting himself without leave

in that he

at Haig Lines, Church Crookham, Hants, on the 31st of July 1942, at 0600 hours, absented himself without leave until apprehended in Edinburgh, Scotland, at 1030 hours, on the 15th of August 1942, a total absence of 15 days, 4 hours and 30 minutes, thereby incurring cost for his apprehension to the amount of £ 3.0.8.

Lieut.-Col.
(W.E. MORGAN) R. 22e R.
Officer Commanding,
8th Cdn.Inf.Bde.Training Wing,
3rd Cdn.Div.Inf.Reinf. Unit.

Dated at Salamanca Barracks,
Aldershot, Hants, England,
this 19th day of August 1942.

To be tried by Field General Court Martial.

Ewshott. Hants.
20 August 1942.

(H. Lefebvre) Brigadier
Commander
"D" Group, Cdn. Reinf. Units.

J. Fulmour Major
Pres.

MEDICAL CERTIFICATE

I certify that No. B-64413, Rfn. Hugh Devlin, Queens Own Rifles of Canada, of 3rd Cdn.Div.Inf.Reinf.Unit, is fit to stand trial by Field General Court-Martial.

Unit Medical Officer.

Salacanca Barracks,
21 August 1942.

Statement of Capt White defending Officer in Mitigation.

The accused was granted permission to marry last December. When he came back from leave after marriage rumours circulated that he had a wife in Canada. These rumours were strong enough to stop any dependents allowance for his wife. He has given the name of the priest + chief of police of his town in Canada to his unit RC. Padre so that the fact that he was not married in Canada may be verified. It is over 8 months since his marriage + to date his wife has received no assigned pay or dependents allowances. It is submitted these facts have a decided effect on his actions. His wife is living with her mother in Aldershot in rather straightened circumstances.

The Court is closed to consider sentence.

The above record of evidence was taken down by me in writing

Aldershot Aug 21'42. H Gilmour, Major RCA

H Gilmour Major RCA

Proceedings of a F.G.C.M. at Aldershot on 21st Aug. 1942.

Trial of No. B.64413 Rfmn. Deakin, Hugh. Q.O.R. of C. #3 C.D.I.R.U.

The Order convening the Court, charge sheet, summary of evidence + medical certificate all laid before the Court.

The Court satisfy themselves as per R.P. 22 + 23.

The accused is brought before the Court.

Prosecutor - Capt J. H Chicoine R22eR Regt.

Defending Officer - Capt D.G. White J.C. SC&R

At 1010 hrs the trial begins. The convening order is read, signed by President + attached to proceedings.

R.P. 118(A) is complied with - Accused has no objection.

The President + Members of the Court are duly sworn and the officer under instruction is sworn. The following constitute the Ct.

President Major H Gilmour RCA - Members Capt F.B. Tessaca #1 CMGR (S.E.) Accused Pleads Not Guilty - R.P. 39a Complied with Lt. J.E. Rothwell #1 CMGR (S.E.)

Prosecution

1st Witness for Prosecution - Capt. J.H. Chicoine, Royal 22nd Regiment. duly sworn states.

I am Capt J.H. Chicoine Royal 22e R on the permanent establishment of #3 C.D.I.R.U. I am the Adjutant of #8 Brigade Wing + have custody of the regtl Books. Produce Part II Order (Ex #1).

AFB 252 with evidence of W.J. Forsey L/Cpl on reverse side thereof.

Expense Voucher submitted in accordance with K.R. Par. 539.

The defending officer declines to cross examine this witness. R.P. 93(b) complied with

2nd Witness for Prosecution - #B.64443, Cpl. Berry G.J. Q.O.R. of C. #3 C.D.I.R. duly sworn states:

I know the accused before the Court. On 31st July 1942 at Hairy Inlet I was Unit Corporal + called the roll

at 0600 hours. and I found the accused missing. I duly reported to the Orderly sergeant of the accuseds absence. I next saw the accused on the 18th of August 1942 and I did not see him in the interval. I called the roll each morning from the time of the accuseds absence as above ~~stated~~ and he was absent each day. I was but corporal until 13 Aug 42.

The defending officer declines to cross examine this witness.

~~The accuse~~ R.P. 83 B. complies with the witness withdraws.

The Prosecution is ~~closed~~ closes.

Defence.

R.P. 40A + R.P. 40B complies with. Accused does not desire to give evidence or make a statement nor to call any witnesses on his behalf. & no witnesses as to character.

The Prosecutor makes a feral address summing up and submitting that a ~~prima~~ facie case has been established that the accused were absent without leave + remained absent until apprehended.

The Defending Officer made a closing address and submitted as follows.

1. Accused may have been assigned to another unit in which case he would not come under the jurisdiction of unit Corporal Berry.
2. There is no evidence that he was ~~not~~ issued with a pass.
3. That there is no evidence that the accused was posted in unit orders as A.W.L.
4. No Later reports presented to show

that accused was absent each night.
5. On copy of charge sheet given to accused the Marginal note is "First charge Sec 15. A.A. does not specify which sub sec.

A Pointer out to Defending Officer that the Original charge sheet gives the section of the A.A. in margin as

First charge
Sec 15(1) A.A.

and that no adjournment was asked for a ground that accused was prejudiced in his defence.

Defending officer states he was relying on submission that no prima facie case had been established

Prosecutor makes a ~~final address~~ reply to submission ~~for submission~~ that there is no prima facie case.

A prima facie case has been established for A.F.B 252 there is evidence of an admission by accused that "he stated he was absent. He was A.W.L."

The Court is closed for consideration of the submission that no prima facie case has been established.

The submission is not allowed.

The court re-opens & accused advised that his submission is not allowed.

R.P. 40A & R.P. 40B. complies with. accused declines to give evidence or make a statement. and does not wish to call any character or other witnesses.

The court is closed to consider verdict.

Verdict of the court is entered.

Court re-opens.

The Prosecutor (previously sworn) produces A.F. 296 & F.M.F.6. declares they are true copies of the regimental records & identifies accused as the soldier therein described.

SUMMARY OF EVIDENCE

in the case of

Regimental No. B-64413, Rifleman, Hugh Devlin, Queen's Own Rifles of Canada, Reinforcement, on the strength of 3 Canadian Divisional Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas).

The evidence is taken under oath by direction of the Officer Commanding.

FIRST WITNESS
Prosecution

Regimental No. B-64443, Cpl G.F. Berry, Queen's Own Rifles of Canada, Reinforcement on the strength of 3rd Canadian Divisional Infantry Reinforcement Unit, having been duly sworn, states:

At Haig Hutments, Church Crookham, Hants, on the 31 July 1942, in my capacity of corporal in charge of the hut, I called the roll and found the accused absent. I duly reported his absence to the orderly sergeant. During the day I checked again but he was still absent and remained absent. I next saw him when he was brought up for office after his apprehension.

B-64443, Cpl. G.F. Berry

The accused declines to cross-examine the witness.

SECOND WITNESS
Prosecution
(Documentary)

The statement of Regimental No. H-12021, L/Cpl. W.J. Forsey, No. 6 Provost Company, Canadian Provost Corps, is read to the accused:

At Edinburgh at about 1030 hrs, on the 15 Aug. 42, I was on duty on Waterloo Place, in company with L/Cpl. Astrof, when I entered the Scottish Rest House, for the purpose of checking soldiers leave passes. I asked the s/m soldier for his pass, he could not produce one, and stated that he was absent. He was a.w.l. I placed him under arrest and escorted him to the Barrier Gate guard room, where I handed him over to the N.C.O. i/c guard to be detained.

Edinburgh
15-Aug-42

(Sgd) W.J. Forsey, L/Cpl
H-12021 Forsey, W.J.

The accused does not question the evidence of the witness nor does he require his presence for cross-examination.

THIRD WITNESS
Prosecution
(Documentary)

The statement of Regimental No. D-76757, L/Cpl. A. Astrof, No. 6 Provost Company, Canadian Provost Corps, (referring to evidence of L/Cpl W.J.Forsey) is read to the accused:

I have read over and corroborate the above statement.

Edinburgh
15-Aug-42

(Sgd) A. Astrof, L/Cpl
D-76757 Astrof, A.

The accused does not question the evidence of the witness nor does he require his presence for cross-examination.

The accused having been duly warned in accordance with Rule of Procedure 4(e) reserves his defence.

Taken down in the hearing and presence of the accused.

Certified that Rules of Procedure 4(c)(d)(e)(f)(g) have been complied with.

Certified that owing to the exigencies of the service, the expenses and loss of time involved, the attendance of the witnesses giving documentary evidence could not readily be procured. A written statement of their evidence have been read to the accused who does not question them nor require their attendance for cross-examination.

J.H.C. Lucas, Captain.
(J.H. CHICOINE) R. 22e R.,
Adjutant - 8th Brigade Wing,
3rd Cdn.Div.Inf.Reinf.Unit.

Dated at Salamanca Brks,
Aldershot, Hants,
England, this 19th day
of August 1942.

Certificate in accordance with the Army Act Section 163 (1) (JJ).

I certify that REG'T.No. R-6401[illegible] RANK. Rfn. NAME. Devlin, H.

UNIT. 3rd. Can. Div. Inf. Reinf. Unit. was arrested at PLACE. Edinburgh

at HOUR. 10.30 DATE. 15-Aug-42 and that at the time of his arrest

he was wearing military uniform.

Lieut
O. i/c Detention Room
No. 6 Provost Company

Signature of Provost Marshal, A.P.M. or other Officer into whose custody the above named person was taken in arrest

CHARGE

Army Form B 252
(See King's Regulations)

3rd.Cdn.Div.Inf.Reinf.Unit. Regiment

(C.O.R.of C.) Battery / Squadron / Troop or / Company

CHARGE against No. B-64413 Rank Rfn.

Name Devlin,H.

Place Edinburgh Date of Offence

OFFENCE W.O.A.S.Absent without leave from... ...until apprehended by the Cdn.Provost Corps, at the Scottish Rest House,on Waterloo Place at about 10.30 hrs,on the 15-Aug-42.

Lieut.
O. i/c Detention Room
No. 6 Provost Company.

Names of Witnesses:—

L/Cpl.Forsey,W.J. Cdn.Provost Corps.

L/Cpl.Astrof,A. Cdn.Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant

P.T.O.

Statement of **EVIDENCE** in the case of

B-64413 Rfn. Devlin, H.
R.C.R. of C. 3rd Cdn. Div. Inf. Reinf. Unit.

Sir:

At Edinburgh at about 10.30 hrs, on the 15-Aug-42, I was on duty on Waterloo Place, in company with L/Cpl. Astrof, when I entered the Scottish Rest House, for the purpose of checking soldiers leave passes. I asked the a/m soldier for his pass, he could not produce one, and stated that he was Absent. He was A.W.L.

I placed him under arrest and escorted him to the Barrier Gate guard room, where I handed him over to the N.C.O. i/c guard to be detained.

Edinburgh
15-Aug-42

W. J. Forsey ..... L/Cpl.
(H-17021 Forsey, W.J.)

Sir:

I have read over and corroborate the above statement.

Edinburgh
15-Aug-42

A. Astrof ..... L/Cpl.
(D-76757 Astref, A.)

REMARKS

Re Offences and Sentence

O. i/c Detention Room
No. 6 Provost Company

Expense Voucher Re— 7 Gilmour Major Pres.

Ref. K.R. & O. (Can) 539

Reg. No. B64413 Rank Rfm. Name Hoolin, H Unit 3 C.D.I.R.U.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit~~ From London from Edinburgh

Date	Particulars	Amount		
16 Aug 42	Escorts return fare from LONDON To Edinburgh	1	10	4
	Prisoners single fare to LONDON From Edinburgh	1	10	4
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	3	0	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

H S Beecroft Lieut.

Officer Issuing ~~Railway~~ Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.R.Q. 1000-42
40/P & S/483

Expense Voucher Re: Ref:K.R. & O.(Can) 539

Reg. No. B-64413 Rank Rfn Name Devlin, H. Unit 3 C.D.I.R.U.

The following expenses were incurred in apprehending and returning the m/n soldier to London from Edinburgh.

Date	Particulars	Amount
16 Aug 42	Escorts return fare from LONDON To EDINBURGH	1 10 4
	Prisoners single fare to LONDON from EDINBURGH	1 10 4
	Prisoners fare from To	
	Escorts & Prisoners expenses for Bed, Meals Bus fares	
	TOTAL	£ 3 0 8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

(Sgd) H.P. Bernier
.....Lieut.
Officer Issuing Railway Warrant and Expense monies
No.6 Provost Company, Canadian Provost Corps, London

CERTIFIED TRUE COPY

J.H. Chicoine Captain
(J.H. CHICOINE) A. 22e R.
Adjutant - 8th Bde Wing,
3 Cdn.Div.Inf.Reinf.Unit.

Certificate in accordance with the Army Act Section 163 (2) (ii)

I certify that Reg't No. 5-64413 RANK Rnf NAME Devlin,E.

UNIT 3rd Cdn.Div.Inf.Reinf.Unit was arrested at PLACE Edinburgh

at HOUR 10.30 DATE 15-Aug-42 and that at the time of his

arrest he was wearing military uniform.

Signature of Provost Marshal, A.P.M. or other Officer into whose custody the above named person was taken in arrest.

(Sgd) A. Haines Lieut.
O. i/c Detention Room
No.6 Provost Company

[illegible]

J. H. Clements

[illegible] Captain
Adjutant - 5th Bde. Engs;
3 Cdn.Div.Inf.Reinf.Unit.

LIST OF WITNESSES

PROSECUTION

1.	No. B-64443	Cpl.	G.F.	Berry	Queen's Own Rifles of Canada, 3rd Canadian Div.Inf.Reinf.Unit, Salamanca Barracks, Aldershot.
2.	No. M-12021	L/Cpl	W.J.	Forsey	No.6 Provost Company, Canadian Provost Corps, Edinburgh, Scotland.
3.	No. D-76757	L/Cpl	A.	Astrof	No.6 Provost Company, Canadian Provost Corps, Edinburgh, Scotland.

DEFENCE

N I L

CERTIFIED TRUE COPY

No. 864613 Name DEVLIN, H. Sqn., Battery or Company: Corps QOR of C. Date of enlistment: 27-6-40 G.C. Badges: Service or Proficiency Pay: Character:

Date of last entry in Company Conduct Sheet: No. and date of last drunk: Period not reckoning towards freedom from extra fine: Sheet No. Signature O.C. Company, etc.: D.J.Lesquesne Capt

MFM 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sussex H.B.	17-3-41	Sgt		Conduct to the prejudice etc., in that he did absent himself from unit lines from 1300 hrs to 1800 hrs 17-3-41 while on Exguse duty	CSM Weir CSM Rowell	Reprimanded	20-3-41	R.M.Hudson Major	
Sussex	15-6-41	L/Sgt	1	Drunkenness, in that he was drunk at 1830 hrs 15-6-41 at Sussex. (2) Conduct to the prejudice etc., in that he was negligent with Government property causing damage to be done to Universal Carrier 41-1-688, and also to the ramp used for serving carriers on 15-6-41	Sgt Freeman	Admonished (1st offence) Reduced to R/L permanent grade Rfn	16-6-41	L.S. Spragie Major	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon Camp	17-10-41	Rfn		A.A.Sec 15(1) AWL 2200 hrs 17-10-41 to 2100 hrs 21-10-41 Abs 3 days 23 hrs.	Rfn Foulkes A/Sgt Wilson	14 dys forf. pay-14 dys C.B. ~~Forf. 4 C.B. pay~~	22-10-41	T.Hayhust Major	Forfeit 4 days pay
Crookham	14-11-41	Rfn		A.A.S.40.Conduct to the prejudice etc. Gambling at 1550 hrs	Cpl Mason L/Cpl Hemmell	Forf. 1 dys pay 7 dys C.B.	15-11-41	Lt-Col Lough	
Crookham	17-1-42	Cpl		In that he was AWL from 2359 hrs 17-1-42 to 0745 19-1-42	Cpl Danson Cpl Berry	Reduced to permanent Grade	19-1-42	Lieut-Col McIntosh	
Field	4-4-42	Rfn		WOAS. AWL 27 dys 20 hrs. 56 mins A.A.15(1) (2) A.A. 24 (2)(In close arrest) Forf. 16 dys pay 149 (1)(c)(11)		FCCM-60 dys Detn.	18-5-42	FCCM	Forf.28 dys by FN&I 149(1)(a) Forf.60 dys p 149(1)(b)
						Release from Detn Brks Headley Down 25-5-42.Sentence having expired. Revision accrued under rules for detention Barracks and Military Prisons- 20 days.			

Certified true Copy
J.V. Cleeves Capt
Adjt.

Fillmore Major
Pers

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
B-64413	Rfn	Hugh DEVLIN	Queen's Own Rifles of Canada

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

† The conduct sheet(s) mentioned should be produced in court with this statement but not inserted in the proceedings.

‡ See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, precedence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Sec. 40 A.A.	1 times	3 times.
For Sec. 19 A.A.	times	1 times.
For Sec. 15 (1) A.A.	3 times	3 times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted.~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. ~~At the present time he is under sentence for~~ ~~imprisonment for the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for nil. days in civil custody, and 6 days days in military custody, making a total of 6 days days, of which nil. days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 39 years, 1 month, 21 days

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 27 June 1940.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 years.

8. The accused is entitled to deferred pay or gratuity in respect of nil service.

9. The accused is entitled to reckon 2 years service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (~~or is in possession of no~~ ~~accused is not entitled to wear any military decoration or award~~).

11. ~~(If the accused is a warrant officer.) The accused has to my knowledge & belief not been previously~~ ~~reduced~~

12. ~~(In case of an officer.) The accused has to the best of my knowledge & belief not been~~ ~~and is in the opinion of~~

(*18640) Wt.30248/502 75,000 12/40 A.& E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B 64413 Rank Rfn Name Devlin, H. of Q.O.R. of Can. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	In the field England, 18 May 1942.	Sec. 15 (1) A.A.	60 days detention	20 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21st day of Aug 1942

H C Lawrence Capt
Adjutant.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	, years,	
In the rank of	, years	
In the rank of	, years,	

(Instruction.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs corrected or amended accordingly.)

STATEMENT BY THE ACCUSED

I certify having received, free of charge, a copy of the charge sheet, summary of evidence, list of witnesses and list of exhibits.

I desire the services of an officer to represent me at my trial.

H Devlin

H-64413 Rfn. H. DEVLIN.

10 L.

Pte. Devlin, J.F.

O. H. M. S.

M. F. B. 270

B-68247 Pte. John Francis DEVLIN
R. Regt. C. 2 C.D.I.R.U.

10 L.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 29th day of OCTOBER, 1942.

Whereas it appears to me, the undersigned, an officer in T/Command of "A" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to superior military authority]

H.L. H.L.

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[Commanding Officer appoints]

H.L. H.L.

*(1. Three Officers to form the Court]

H.L.

*(2. A Field Officer as President]

*[or the following reasons, namely:—]

H.L.

* Omit if not applicable.

PROCEEDINGS REVIEWED

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	J.M. BOWMAN (48 Highrs.)	1 C.D.I.R.U.

Members.

Rank.	Name.	Regiment.
Captain	R.T. Bonnell (C.R. Highrs.)	5 C.I.R.U.(Arm'd Div.)
Lieutenant	T.M. Cantley (R.C.R.)	1 C.D.I.R.U.
Waiting Member Lieutenant	W.K. McLurg (48 Highrs.)	1 C.D.I.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier,

T/Commanding "A" Group Cdn. Reinf. Units,
Convening Officer. C.A.(O).

JWB

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-68247 Pte. John Francis DEVLIN R. Regt. C. 2 C.D.I.R.U.	First Charge A.A. Sec. 15(1)	guilty JWB	GUILTY To undergo Detention for a period of SIX (6) months and to forfeit ~~of pay at the rate of 1/- a day and the sum of £ s. d. for the cost of the~~ JWB 30 Oct 1942	I confirm the Finding and Sentence of the Court H. Lefebvre Brigadier

SEE CHARGE SHEET ATTACHED.

"I have satisfied myself that none of the Officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge (charges) before this Court Martial".

J.W. Bowman Major
President of the Court.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) H. Lefebvre Brigadier, (Signed) J.W. Bowman Major
"Commanding "A" Group Cdn. Reinf. Units, #1 C.D.I.R.U.
Convening Officer. President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

JWB

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 30 day of OCT. 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~) (Not D)
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 30 day of Oct. 19 42.

J.W. Bowman Major
President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

JWB
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 30th day of October, 1942.

H. Lefebvre
Confirming Officer.

Promulgated and extracts taken in the case of B 68247 Pte Devlin J.F. R Regt C 2 C.D.I.R.U.

(a) (Dated) Oct 30th 1942 (Signed) H. Lefebvre Brigadier
"A" Group Cdn. Reinf. Units
4 Bde W.R.
2 C.D.I.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

JWB

CHARGE SHEET

The accused No.B-68247 Pte. John Francis DEVLIN, Royal Regiment of Canada, on strength of 2nd Canadian Division Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas is charged with,

SEC 15 (1) Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Laurentide Camp at 1200 hrs on the 18th day of July 1942 absented himself without leave until he surrendered himself at 0800 hrs on the 28th day of October 1942 at Laurentide Camp.

Absent 101 days 20 hrs.

A.S. Pearson Lt.Col.
(A.S. Pearson) Lt.Col.
Officer Commanding
4th T.W.,2nd C.D.I.R.U.

Laurentide Camp
29th October 1942

To be tried by Field General Court Martial.

H. Letson
(H. Letson) Brigadier,
T/Commander,
"A" Group Cdn. Reinf. Units,
C.A.(O).

Witley, Surrey,
29 Oct. 42.

Convening Officer.

jw13

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. B-68947 Pte. J.F. Devlin of 2nd C.D.I.R.U. and find him fit to undergo trial by Court Martial.

S. Maltais Capt. Capt.
R.C.A.M.C.

Laurentide Camp
20th October 1942.

JMB

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT ALGONQUIN CAMP ON THE 30 DAY OF Oct 42

TRIAL OF:-No. B68247, Pte Devlin J.F. Unit R.R. of C.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lieut. A.J. McLeod (Unit) C.H.

Defending Officer:- (Name) Lieut. B.W. Rich (Unit) R. R. of C.

At hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No.

The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:

President Major J.M. Bronson (Unit) 48th Highrs

Members Capt. R.T. Pearce (Unit) C.B. Highrs

Lieut. T.M. Gentley (Unit) R.C.R.

The officers under instruction are duly sworn.

Q2 Do you object to ..... acting as shorthand writer? A2 -

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name Lieut. A.J. McLeod (Unit) R.C.H. sworn, produces AFB 296 and MFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - Yes

Q4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 - Yes

---

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

Statement by Defending Officer.
Accused mother was seriously ill - statement attached
is investigation attached as app. A to C

SUMMARY OF EVIDENCE

In the case of No.B-66247 Pte.John Francis DEVLIN. R.Regt.of C. on strength of 2nd Cdn. Div. Inf. Reinf. Unit.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath

First Witness Prosecution — Lieut. J.Major, Asst. Records Officer, 2nd C.D.I.R.U. having been duly sworn states,
I am Lieut. J. Major, Asst. Records Officer of 2nd C.D.I.R.U and I produce
(A) A certified true copy of the Record of the Declaration of a Court of Inquiry concerning the absence of the accused dated 17th August 1942.
as exhibit A for the Prosecution, pertaining to the accused whom I now recognize and duly initialled by me for the purpose of identification.

Jean Major Lieut
(J.Major) Lieut.

The accused declines to cross-examine the witness

Second Witness Prosecution. — No.B-66671 Cpl.G.E.Harrison,R.Regt.of C. having been duly sworn states
I am No.B-66671 Cpl.G.E.Harrison of the R.Regt.of C.Coy. 2nd C.D.I.R.U. At 0800 hrs on the 28th day of October 1942 I was on duty in the Orderly Room of the a/m Coy when the accused came in and surrendered himself. As I knew him to be an absentee I at once placed him in close arrest and had him escorted to the Guard Room.

Cpl. G.E.Harrison
(Cpl.G.E.Harrison)

The accused declines to cross-examine the witness
The accused having been duly cautioned in accordance with R.P.4(e)
Reserves his Defence.

Certified that all the provisions of R.P.4(c)(d)(e)(f)&(g) have been complied with in connection with the foregoing Summary of Evidence.
Taken down by me in the presence and hearing of the accused this 29th day of October 1942 at Laurentide Camp.

A.J. McKeer Lieut
(A.J.McKeer) Lieut. Officer detailed to take Summary of Evidence

J.M. Lawrence Major

J.M.B

App. B

Hours -
10 - 11 a.m.
6 - 8 p.m.
Wednesday - Half Holiday
10 - 11 a.m. only.

Telephone No. 27061.

164 Divis Street
Belfast

31/8/47

This is to certify that I examined
Mrs Devlin, 20 Ross St., on 11/7/47,
and, in my opinion, she was and
is suffering from myocarditis and
Cardiac Goiter Brachialis (Left arm). The
latter is a very painful condition and
owing to the condition of her heart
she is liable to sudden death. I
advised her son John Francis Devlin
to remain near home to the serious
condition of his mother. I examined
her mother yesterday 30/8/47 and she
is still in a serious condition and
it is advisable for her son to remain

over for at least another week.

Dr G. Dimond,
L R C P & S I.

JMB

I sent you a wire this morning to tell you where to get the £2 from Nottingham post office

App "C"

JMB

40 [illegible]

Belfast.

Tues 6th June

My dear Brother Johnny

Your welcome letter was received this morning, and were we glad to get it. Gee but we have spent a very sad week watching and waiting every day to see you. Pa was at the docks every morning, waiting for you but you never came, and I neednt tell you how it has left my Mother with a broken heart. She got your letter last monday 2nd June and your telegram came on wed. so June, so she wasted no time in sending you on the £2 required, but she had difficulty in the post office to find out, where you sent the wire from, so the post office girl said you would be paid the money at Nottingham post-office. I do hope you have got it O.K by now. Then I sent you a wire on thursday and paid for a reply, but we got none. We couldnt understand what was wrong. But Johnny dear you have not the faintest idea how Mother & I felt about your not coming home. It has nearly killed us both. So please do not disappoint us any more. I think you

JMB

JMB

could have been home long ago, if you had tried hard enough, the suspence is terrible. However Johnny I want to tell you this, for god sake try and get home before Saturday, as I am going away to the Country for a months holidays I was taking mother with me, but she has cancelled that as she is expecting to see you this week end. If you dont come home before Sat. I shant see you at all. So Johnny dear for Gods sake, try and make it, this Friday. As I wont be satisfied until I see you again. This is all I can say for the present. Your loving Sister

Lil & mother

x x x x x

App "A"

Statement of John Francis Derlin

30 Oct. 42.

I John Francis Derlin of the Royal Regt of Canada wish to make the following statement to this honourable court:

I enlisted with the Royal Regiment of Canada on the 25 July 1941 after being twice rejected. I am now 40 years of age. I arrived in England on the 20 April 42.

After my arrival in England I received frequent letters from my sister telling me that my mother was in very poor health and begging me to go and see her. My mother lived in Belfast Northern Ireland. I had not seen my mother for 15 years. My sister is married but she tries to help my mother as much as possible although she is rather tied down by her own household duties.

I applied for leave to go and see my mother but this was not immediately granted.

However on 9 July 1942 I managed to secure 7 days leave and proceeded to Belfast in response to a particularly urgent appeal which I received from my sister and found my mother seriously ill and indeed in danger of sudden death as shown by the certificate from her doctor which I now produce to the Court.

Her only help, aside from my sister is a younger son who unfortunately is rather simple and not mentally capable of being any help to my mother. On the expiration of my leave the doctor advised me to stay over and help her as much as possible. I had no option but to stay. My mother did not improve and on 30 Aug. 42 the doctor told me I should stay on longer.

I could not bring myself to leave my poor old mother without anyone to look after her

(3)

I knew that if I communicated with the camp no further leave would be granted as I had overstayed my pass so long and the military police would pick me up before I had finished looking after my mother.

Eventually my mother improved sufficiently so that I could leave her to look after herself with the help of my sister and I returned to the camp and surrendered.

I have no excuse to offer beyond what I have just written. I have produced the Doctor's letter to show that my mother was seriously ill and needed me. The Doctor assured me that this would be sufficient to excuse my actions. Whether this be so or not I am sure the Court will believe me when I say that my absence was not wantonly wilful but simply

. . . . .

that I could not, and
four men could, leave
my poor old mother
in what appeared
to be her last illness,
partially paralyzed and
quite deaf, only a simple
boy to minister to her
needs. It would not
have been human to
do so.

Sgd. John F Dewhurst

JFD

RECORD of the Declaration of a Court of Inquiry assembled at LAURENTIDE Camp, Witley, Surrey on the 17th day of August 1942 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. B 68247 Pte Devlin-J.F., Royal Regiment of Canada Company of No.2 Canadian Division Infantry Reinforcement Unit.

DECLARATION

The Court declare, that B 68247 Pte Devlin/F, Royal Regiment of Canada Company of No.2 Canadian Division Infantry Reinforcement Unit, illegally absented himself without leave (or other sufficient cause) at Laurentide Camp, Witley, Surrey, on the 16th day of July 1942, that he is still so absent and that on the 10th day of August 1942, he was deficient and he is still so deficient of the following articles to the value of £6.13.2.

		List Price	List Price less 2½%	List Price No reduction
Anklets, webs	Prs 1	£ 0- 1- 4½	£ 0 2 7	-
Battle Dress, Blouse, Serge	(1)	1- 7- 8	1 0 7½	-
" " Trousers, "	(1)	1- 7-11	1 0 11	-
Boots, ankle,	Prs 1	1- 1- 6	0 16 1½	-
Braces,	Prs 1	0- 1- 3½	0 0 11	-
Brasses, Button	1	0- 0- 2	0 0 0	£ 0 0 2
Brushes, Boot Blacking	1	0- 0- 8	0 0 6	-
" " polishing	1	0- 0- 9	0 0 7	-
" Button	1	0- 0- 8	0 0 6	-
" Cloth	1	0- 1- 1	0 0 10½	-
" Shaving	1	0- 1- 4	0 1 0	-
" Tooth	1	0- 0- 4½	0 0 3½	-
Cap, Field Service	1	0- 1- 8	0 2 9	-
Comb, Hair	1	0- 0- 2	-	0 0 2
Dressings, First Aid	1	0- 1- 1	0 0 10	-
Knife, Clasp	1	0- 5- 2½	-	0 5 2½
Razors	1	0-1-10½	-	0 1 10½
Shirts, flannel, khaki	2	0- 9- 2	0 6 10½	-
Socks, Prs	2	0- 5- 0	0 3 9	-
Towels, Hand	2	0- 1-11	0 1 5½	-
Braces L-R	1	0- 6- 2½	0 4 8	-
Covers, Mess Tin	1	0- 0 4½	0 0 3	-
Haversacks	1	0-10- 5	0 7 10	-
Helmets, Steel	1	0-10- 9½	0 7 6½	-
Wallet, A/Gas	1	0- 1- 5½	-	0 1 5½
Eyeshields	1	0- 2- 3	-	0 2 3
Facepiece R.K.IV	1	0-10- 0	-	0 10 -
Haversack MK VII	1	0- 6- 6	-	0 6 6
Container MK VI	1	0- 4- 4	-	0 4 4
Outfit A/Gas MK V and Mixers	1	0- 0 2½	-	0 0 2½
		£8 6 9	£ 0 10½	1 12-2
			1 12 2	
			£ 6 13 2	

President Lt-Col Hawkesbury Capt

Member Lt. C. Gallagher

Member Capt. Hunt

Signature of Commanding Officer A. J. Pearson

C.O. 4 Bde Wing
2 C.D.I.R.U.

Certified true copy

Signature of Officer having custody of original record.

Lieut. R.A.M.C.

Temporary Sheet

No. 368247 Name Devlin, J.F. Sqn., Battery, or Company Corps R.R.C. Date of enlistment 25-7-41 G.C. Badges Service or Proficiency Pay Character

M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Signature O.C. Company, etc. | Sheet No.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				NIL					

Certified True Copy.

[signature] Staff Sergt.

M.F.R. 385
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-68247	Pte	Devlin J.P.	2nd C.D.I.R.U.

1. The following is a fair and true summary of the entries in the ~~Service and General Conduct sheets~~ Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For	times	~~times~~
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary ~~awards~~ under ~~Air Force Act~~ A.F.A. 73 Section 47 of the Army Act and ~~dispensations~~ with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ~~beginning on the~~ day of

4. The accused has been in confinement awaiting trial on the present charges, for ..... days in civil custody, and ..... days in military custody, making a total of ..... days in custody, of which ..... days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 40

6. The date of his ~~conversion~~ attestation specified in his ~~record of service~~ attestation paper is 25-7-41

7. The service which the accused is allowed to reckon towards discharge is 1 yr 3 mos

8. The accused is entitled to reckon 1½ yrs service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force ~~reward~~ military (or is in possession of or entitled to). State any air force decoration or ~~reward~~ military.

10. (If the accused is a ~~warrant~~ officer.) The accused before he was made a warrant officer last held the ~~regimental~~ rank of

HHB

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of .....years.

In the rank of .....years.

In the rank of .....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name ..... of .....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ..... day of .....

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

I hereby certify that I have received a copy of the Summary of Evidence taken at Laurentide Camp preliminary to my Court Martial and I further acknowledge receipt of a copy of the Charge Sheet under which I am being brought to Court Martial.

Laurentide Camp
29th October 1942

John F Devlin

I hereby request the Convening Officer to appoint

Lieut Rich

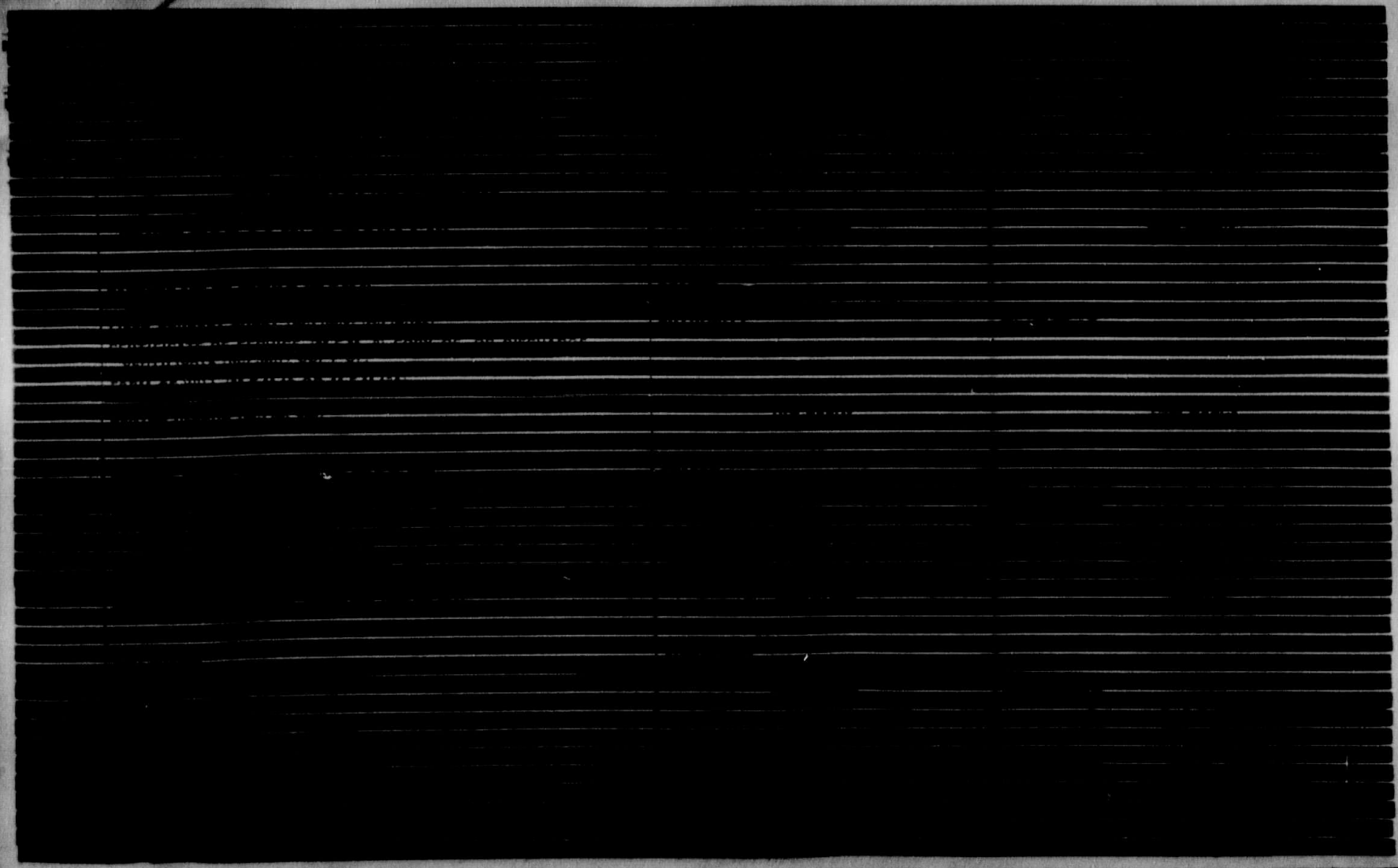
to represent me at my forthcoming Court Martial.

Laurentide Camp
29th October 1942

John F Devlin

JMB

52-85 Notre Dame U.



SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F.88360 Pte Vincent DEVOE

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA See 15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 45 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of one hundred and twenty (120) days and to be put under stoppages of pay to the amount of 2/3 cost of return to his unit.

(Sgd) ..... Judge-Advocate, if any. 19 MAR 46 Date awarded. (Sgd) C. E. Woodrow Lt. Col. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1) (1. AA 57A. Delete if not used.)

(Sgd) A.B. Connelly Brig.

Date 28 Mar 46 Commanding CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
F.88360 Pte Devoe V.	28 Mar 46.	E. Snelgrove Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 1945 No. 51345 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 168 52-85

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA81) 40, 5th & 6th Edns (6144) 4/38B

Convened by Order of Col W.B.K. Gordon DSO ED Comd 1 Repat Depot dated 16 Mar 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.88360	Pte		Vincent	DEVOE	4 (Gen Rft) Wing, 1 Cdn Repat Depot

PROCEEDINGS REVIEWED 15 Apr 46 C.H. Tourtellotte Maj. JUDGE ADVOCATE OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the F.I. in (country) ENGLAND on (date(s)) 19 Mar 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, J.A., if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn RQs. For guidance on procedure when a variation in this form arises, see form like GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1150 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to an interpreter?~~ Ans ~~—~~

~~The interpreter is sworn.~~(1) Do you object to E100409 Sgt O'Neill as shorthand writer? Ans No Sir

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~J.A. if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	C.E. Woodrow OBE ED	RN, CSU
Member	Capt	B BERNSTEIN	1 Cdn Repat Depot
Member	Lieut	J.F.W. COLLINSON	1 Cdn Repat Depot
~~Judge-Advocate~~			
Prosecutor	CAPT	F.M. PRITCHARD	1 CDN REPAT Depot
Defending Offr	LIEUT	D.T. SMITH	1 CDN REPAT Depot

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~not~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 113. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with R.P 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No Sir (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 25(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) charge(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 25(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 80(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ..... Do you intend to call witnesses on your behalf? Ans. ..... Are they witnesses as to character only? Ans. .....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 42, 127(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(2) (*d*), *RP* 45, 120(*A*). 2. *AA* 54(2), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No Sir

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *AFB* 255 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Depending Officers plea we wish to rest on all other (2)

(1. *RP* 37(*C*), 46(*D*). 2. *Add Ex, if any, produced per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and then JA, if any~~.(2)

(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its jurisdiction, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 130, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 563-566, *Overseas AO* 309, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 58(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, F.88360 Pte. Vincent DEVOE, CIC on strength No 4(Gen Rft) Wing, No 1 Cdn Repatriation Depot, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE

SECTION 15(1)

ARMY ACT

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, absented himself without leave from 2 359 hrs 2 Dec 45, until surrendering himself to Civil Police at Enfield, at 0915 hrs 4 MAR 46, thereby incurring expenses in returning him to his Unit in the amount of £0-2-3.

Absent: 91 days 9 hrs 16 mins.

No 8-

Officer Commanding,
No 4(Gen Rft) Wing,
No 1 Cdn Repatriation Depot,
(Lorne Scots)
Cdn Army Overseas.

Field

14 Mar 46.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

A/ B K Gordon

(W.B.K. GORDON)Col
Commanding Officer
#1 Cdn Repat Depot

In the field

16 Mar 46

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.[illegible]360	Pte		Vincent	DEVOE	No 4(Gen Rft) Wing 1 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 Mar 46 endorsed by me, (~~or by an offr of my staff for me~~) " To be tried by Field General Court-Martial ";

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (A) three Offrs to form the Court, (B) a FA Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(C). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	C.~~.~~ WOODROW OBE ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by OC 4(Gen Rft)Wing	1CDn Rep.Dep.
Lieut	To be detailed by OC 4(Gen Rft)Wing	1Cdn Rep.Dep.

~~WAITING MEMBER.~~

~~Rank.~~	~~(Name of Reld. if any. RP 106).~~	~~Unit.~~

JUDGE ADVOCATE.

~~Rank.~~	~~(Must be named. (Can. RP 104).~~	~~(Unit.~~

On Active Service in the Fd

in England — A.B.K. Gordon — Colonel
(Country.) (Signed personally. RP 105 fn 2.) (Rank.)

Date 16 Mar 46 — (A.B.K. Gordon)
Commanding 1 Cdn Repat Depot
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (FAGS (Sp Instn of APAS) 40, F & G-1067 (4/43).)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. F. 88360 Pte Devoe, V.

of # 1 Cdn. Repat Depot is in a fit state of health,

and is able to undergo Trial by Court Martial. To Day

K. McInnis Capt
Medical Officer

Station Field

Date 19 / 3 / 46

3/59A MFB 246
40-P & S/372 (7351)

Plea of Mitigation
for
F58260 Pte. J. Dean

Plea attached at
K 3
Ord

Vol. June 7. 05 Aug 43.

It is a simple story I have to tell in this plea
Dean Vol. 41 05 43 good soldier, reasonable conduct
sheet. Married in July 42 - had one child
And now the story becomes less simple. ~~[illegible]~~
~~story of a marriage [illegible] point~~ After Dean was
married, he, rather unfortunately had to take up
residence with his In-laws. This situation
although disagreeable under normal circs, was
enhanced by the fact that the In-laws were very
different people, and made things extremely uncomfortable
I won't go into details about the existing conditions
but believe me they are unpleasant.

Dean was quite a week end & find of home was home
for his wife, but as the result of ~~[illegible]~~ in ignorance
leaving situation in this country, they must appreciate
the difficulties Dean ran into. The over stay of his
leave, feeling he must find his wife a home, and at this
time his In laws became very nasty and practically ordered
them to leave. He was ~~[illegible]~~ hopelessly married about his wife's
and ~~[illegible]~~ influence on her account by them.
At the time of his apprehension, he had just managed
to get a place for his wife, and she will move into
this new home as soon as the owner returns from hospital
She was obviously ~~not~~ and I beg the court to take this into consideration

Exhibit A/
Cdn

SUMMARY OF EVIDENCE

in the case of

F.88360 Pte. Vincent DEVOE, CIC, on strength No 4(Gen Hft) Wing, No 1 Cdn Repatriation Depot, a soldier of the Canadian Army Overseas.

"I produce the following documents, pursuant to Overseas Routine Order No 5352, which have been read over and shown to the Accused, and which are attached hereto as Exhibits:"

(1) Certified True Extract from No 2 Canadian Repatriation Depot Part II Orders No 152 "A" dated 7 Dec 45, which declares in Section 2, Para 6, Sub-para (a) that F.88360 Pte Devoe V absented himself without leave from 2359 hrs 2 Dec 45.
(Marked Exhibit "A")

(2) Army Form B.1617 dated 4 Mar 46 and signed by the Officer of Police in charge of Enfield Station, which declares that F.88360 Pte. Devoe V surrendered himself to Civil Police in Enfield at 0915 hrs 4 Mar 46.
(Marked Exhibit "B")

(3) Expense Voucher (Ref W1 & O (Can) 39) Officer Issuing Railway Warrant and Expense monies, No 6 Area Provost Company Canadian Provost Corps, London, concerning expenses incurred in returning F.88360 Pte Devoe, V., to London from Enfield.
(Marked Exhibit "C")

C.E.Ennis

(C.E. Ennis) Lieut., RCA.,
Officer detailed to take
the Summary of Evidence.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given as evidence."

The Accused reserves his defence.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the Accused, and that Rules of Procedure 4(c)(d)(e) and (f) have been complied with.

C.E.Ennis

(C.E. Ennis) Lieut., RCA.,
Officer detailed to take
the Summary of Evidence.

Field

14 MAR 46.

Exhibit "J"

LAST ORDER
No.151 "A"
d/6 Dec 45

PART II ORDERS
No. 2 Canadian Repatriation Depot
issued by
COL.W.T. IBBOTT MM ED
OFFICER COMMANDING

THIS ORDER
No.152 "A"
d/7 Dec 45

---

2. Other Ranks

8. ABSENT WITHOUT LEAVE:

(a) F-88360 PTE DEVOE V AWL wef 2359 hrs 2 Dec 45.

'H. Irving' Capt.
for (W.T. IBBOTT) COLONEL
OFFICER COMMANDING
NO 2 CDN REPAT DEPOT

CERTIFIED TRUE EXTRACT FROM ORIGINAL DOCUMENT HELD IN MY POSSESSION.

D.C. Bignell

(D.C. Bignell) Capt., RCA.,
Officer having custody
of original document.

Exhibit "B"

I CERTIFY that the man whose personal description is given below surrendered himself to P.S. 99 Sarnia at Brewster Street Cornfield at (hour) 9.45 am on the 12th day of March 1945 being No. F 88260 (Rank and Name) Pte Vincent DEVOE a deserter (or absentee without leave) from No 2 Repatriation and it appears to me from his confession that he is a deserter or absentee without leave.

Camp Worker

*After the word "to" is to be inserted the name and rank of the police officer concerned.

Age 24 Height 5 Feet 5 Inches

Complexion fresh Hair lt brown

Eyes blue

Marks nil

In uniform or plain clothes uniform

Probable Date and Place of Attestation	6 th W. Sydney N.S.
Probable Date of Desertion or beginning of absence, and from what place	2/12/45 from No 2 Repatriation Camp working Sarnia Ontario Mosp

Signature of Officer of Police in charge of Cornfield Station

10/3/46 Date of Signature.

Exhibit 'C'

Expense Voucher Re— Ref: KR & O (Can) 539

Reg No 8855 Rank Pte Name Dewar, V Unit 1 Rft Depot

The following expenses were incurred in apprehending and returning the M/N Soldier to his ~~Unit from~~ London from Enfield

Date	Particulars	Amount		
4 Nov 46	Escorts return fare from LONDON To Enfield	0	1	6
	Prisoners single fare to LONDON From Enfield	0	0	9
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	0	2	3

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

F. J. Wilson Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-55
40/P & S/483 (6762)

THE CASE OF F.88360 P te. Vincent DEVOE

(i) LIST OF WITNESSES FOR THE PROSECUTION

Nil

(ii) LIST OF WITNESSES FOR THE DEFENCE

Nil

(iii) LIST OF EXHIBITS FOR THE PROSECUTION

(a) Cert true extract from No 2 Cdn Repat Depot P art II Orders dated 7 Dec 45 concerning the absence without leave of F.88360 P te. Devoe V.
(Marked Exhibit "A")

(b) Army Form C.1617 dated 4 MAR 46, concerning the surrender of F.88360 Pte. Defoe, V.
(Marked Exhibit "B")

(c) Expense voucher concerning expenses incurred in returning F.88360 Pte Devoe, V to London from Enfield.

(iv) LIST OF EXHIBITS FOR THE DEFENCE

Nil

(v) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence, taken in the Field, p re-liminary to my Court-Martial, I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

(F.88360 Pte. Devoe, V.)

(vi) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my Trial.

I desire the services of .....
if he is available.

(F.88360 Pte. Devoe, V.)

Signed in the Field

This 14 day of MAR 46.

Exhibit "B"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
F.86360	Pte.	Devoe, V.	No. 1 Cdn Repatriation Depot

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 607, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For A.A. Sec. 15(1)	~~nil~~	3 times
~~For [illegible]~~	~~nil~~	~~nil~~
~~For [illegible]~~	~~nil~~	~~nil~~
~~For [illegible]~~	~~nil~~	~~nil~~
~~For [illegible]~~	~~nil~~	~~nil~~

~~Number of instances of gallantry or distinguished conduct~~ ~~nil~~

~~nil~~

~~There are no entries in the conduct sheets of the accused~~

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 71 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~*or* The accused at the present time is under sentence for~~

~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for 0 days in civil custody, and 15 days in military custody, making a total of 15 days, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 24 yrs

6. The date of his ~~attestation~~ specified in his ~~attestation paper~~ record of service is 6 JUN 41

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~ ~~service~~

9. ~~The accused is entitled to reckon~~ ~~service for the purpose of determining his pension, etc.~~

10. The accused ~~is in possession of, or entitled to, the military decoration or military award for~~ is in possession of *or* entitled to (*state any military decoration or reward*) CVSM & Clasp

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer was [illegible]~~

12. ~~(In the case of an officer.) The accused holds in the army the rank of~~ ~~dated~~ ~~and in his regiment (corps) or department) the rank of~~ ~~dated~~

W1,57037/3349 20M. 3/40. P. Ltd. T24-3.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. F.88360 Rank Pte. Name Devoe, V of 1 Cdn Repat Depot (or as the case may be)

(INSTRUCTION—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19 day of March 46

C.O. Ennis Lieut. RCA
Rank of Officer
Appointment

The accused has served as a non-commissioned officer continuously without reduction, to the present date.

In the rank of years,

In the rank of years,

In the rank of years,

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such source as is available and the paragraph entered accordingly.*)

Date of Promotion

Paybook 'C' Ch 4

No. F88360 Name DEVOE, V | Sqn, Battery, or Company | Corps CIC | Date of enlistment 6-6-41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/136 (7010)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing with trial	By whom awarded	Remarks
Field		Pte		AA Sec. 15(1)		168 hrs detn	7-8-41		9 d.p. tot.
"		"		AA Sec. 15(1)		7 days C.B.	28-12-44		2 d.p. forf.
"		"		AA Sec. 15(1)		14 days C.B.	17-6-45		18 d.p. tot.

CERTIFIED TRUE EXTRACT FROM MFM 2 HELD IN MY POSSESSION

(D.C. Bignell) Capt. RCA.,
Officer having custody
of original document.

9 MAR 46

FLASH NUMBER TWO

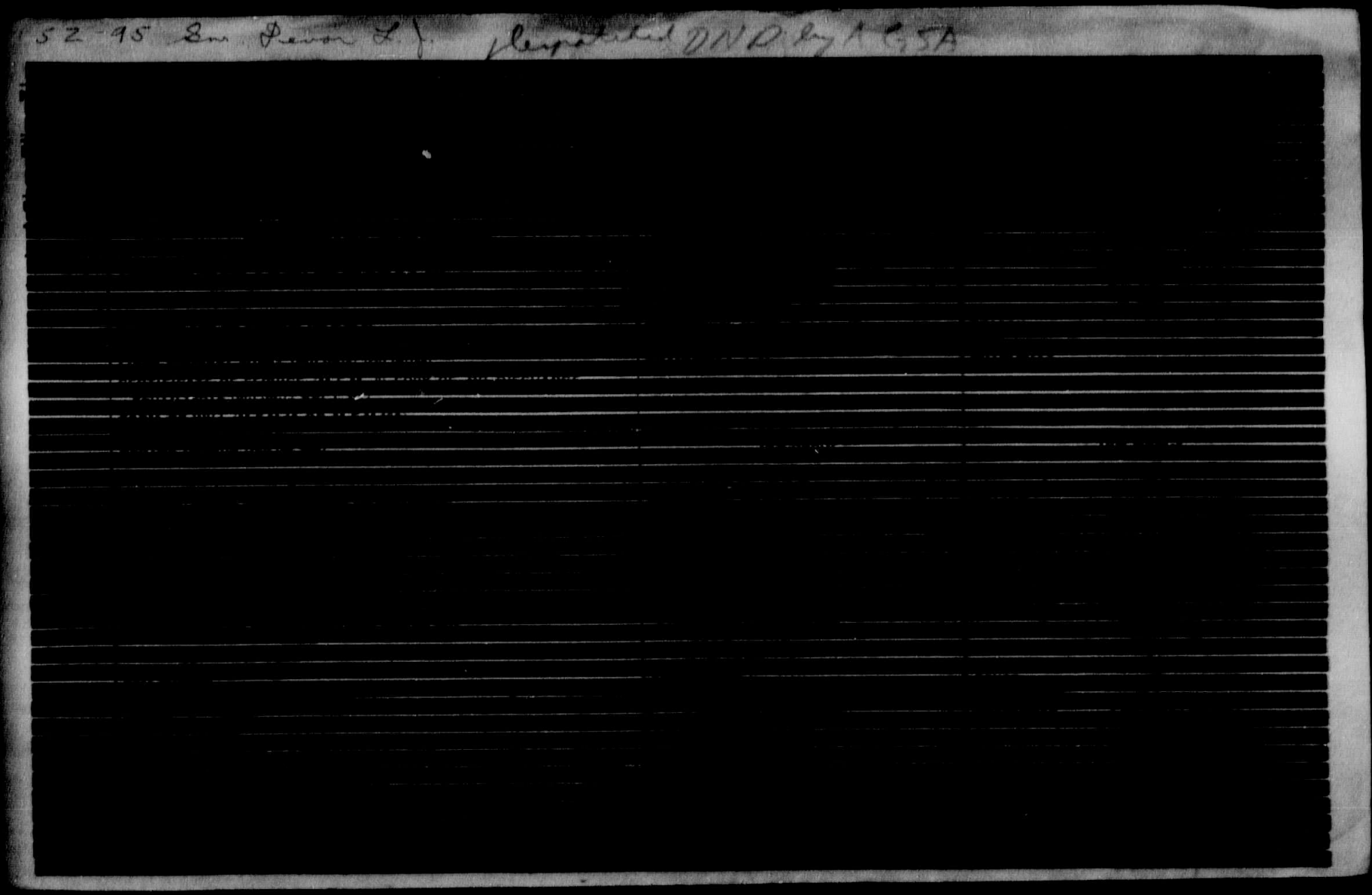
FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO



HHH-42

PTE DEVORE E.

ENTERED IN RECORDS OF C.M. HHH-42

E/L

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWELVTH day of MARCH , 1944 .

Whereas it appears to me, the undersigned, an officer in Command of SECOND CANADIAN INFANTRY BRIGADE , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [illegible]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

[illegible]

No illegalities or irregularities of any description such as would warrant refusal to confirm.

PROCEEDINGS REVIEWED 23 May 44

R. Beaudette Capt

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time; and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	W.H. Buchanan	Seaforth of C

Members.

Rank.	Name.	Regiment.
Capt	E.P.T. Grean	P.P.C.L.I.
Lieut	J.R. Heppell	P.P.C.L.I.
(W) Lieut	J.A. Clark	Seaforth of C

*Signed (E.W. Hoffmeister) Brig
Commanding 2 Cdn Inf Bde
Convening Officer.

E 71

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
M56202 Pte DEVORE, E. L. Edmn R	1st Charge Sec 12 (1) Army Act When On Active Service Deserting His Majesty's Forces	Not Guilty	GUILTY ~~2 years and 6 months imprisonment without hard labour and with penal servitude~~ 4 yrs Maj 3 years Penal Servitude ~~Maj~~ 12 MAR 44	I reserve confirmation of the finding and sentence of the court for superior authority 18 Mar 44 Brdr I confirm the finding and sentence. I direct that part of the sentence in excess of two years shall be served in a Military prison P Montague (P.J. Montague) Major-General for Chief of the General Staff Canadian Military Headquarters 14 APR 1944

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A).):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to the conduct of the trial before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) B.M. Hoffmeister (Signed) Lieut Lieutenant Major
(B.M. Hoffmeister) Brig
Commanding 2 Can Inf Bde
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 12 day of MARCH 44, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~ Not Reqd
*(4. ~~The officers under instruction~~) Not Reqd

*Omit if not applicable.

were duly sworn.

Signed this 12 day of MARCH 19 44.

Lieut Lieutenant Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (c) on page 782 M.M.L., 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison or detention barracks until further orders.~~) Nil

Signed this day of 19

P Montague
Lt Adjutant-General
for Chief of the General Staff
Confirming ~~Officer~~ Canadian Military Headquarters
14 APR 1944

Promulgated and extracts taken in the case of

(a) F.G.C.M.
Promulgated and extracts taken in the case of M-56202 Pte DEVORE, E L Edmn R

(a) (Dated) 21 day of Apl 44 (Signed) [illegible] Capt

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23838) W—4613-5/47 30,000 1/43 A.E.F.W. Ltd. Gp.A88

CHARGE SHEET

The Accused M56202 Pte Elmer DEVORE of The Loyal Edmonton Regiment, a soldier of the Cdn Army Overseas, On Active Service, is charged with:-

When On Active Service:-

DESERTING HIS MAJESTY'S FORCES

In that he

FIRST CHARGE Sec. (2(1)) ARMY ACT

In the field on 14 Dec 43 absented himself without leave from 0900 hours 14 Dec 43 until apprehended by members of 111th Provost Coy C.M.Police at the QUESTURA, NAPLES at Approximatley 1215 hrs 18 Jan 44, at which time he was wearing U.S.Army uniform.

In the Field

Date 4. Mar 1944

E.W. Day

(E.W.Day) Lt-Col.
Comd The Loyal Edmn R.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field

Date 10 Mar 44

B.M. Hoffmeister

(B.M.Hoffmeister) Brig.
Commanding, 2nd Cdn Inf Bde.

M E D I C A L C E R T I F I C A T E

(KR (Can) para 557)

I certify that I have this morning examined

No. M.56202 Pte. Devore, E. of The Loyal Edmonton Regiment, and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial

In the Field

Date 12 Mar. 44.

T.R. Grainger

(T.R.Grainger) Capt.
Medical Officer i/c
The Loyal Edmn R.

Accused M56202 Pte ELMER DEVORE Loyal Edmonton R
(No.) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in ITALY on 12 MAR 44
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	MAJOR	W.H. BUCHANAN	SEAFORTH OF CAN.
MEMBERS:	CAPT	E.P.V. GREEN	P.P.C.L.I.
	LIEUT	J.R. HEPPELL	P.P.C.L.I.

JUDGE ADVOCATE (if any): _____

OFFICERS UNDER INSTRUCTION: N.A.

PROSECUTING OFFICER: CAPT K.H. PRICHARD Lawyer? Ans NO.

DEFENDING OFFICER: LIEUT Lt. PRONGER Lawyer? Ans NO.

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (RsP 17(E), 22(A)).

The President, in closed court (RP 22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (AA 49; RP 105) and constituted, that the accused is (~~are~~) amenable to Military Law, and that each charge discloses an offence. (RP 106).

The accused is (are) brought before the Court, and at 1345 hrs, the trial commences.

The Prosecuting Officer produces a Medical Certificate under MR (Can) 557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to accused:
Do you object to N A as interpreter? Ans _____

The interpreter is duly sworn.

Do you object to NO as Shorthand Writer? Ans _____

The Shorthand Writer is duly sworn. (Forms of Oath on Page 'D')
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (RP 10)

President to accused
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans NO

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (RP 26-27 (Forms of Oath on Page 'D'))

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused [redacted] (has not) elected trial by Court Martial (AA 46(8)).

(If special plea/s is/are made for separate trial on one or more charges (RsP 62(E), 108); or as to the jurisdiction of the Court (RP 34); or in bar of trial (RP 36); or as to accused's mental fitness to stand trial (AA 130, RP 57), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

Each Charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (RP 112). He pleads as follows:

First Charge Not Guilty

Second Charge_____

Third Charge_____

Fourth Charge_____

Fifth Charge_____

Sixth Charge_____

Seventh Charge_____

Eighth Charge_____

(For procedure on alternative charges, see RP 37, fn 2)

Further proceedings are recorded on pages hereto attached.

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all Charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President).

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been predjudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (RP 39(A)). Ans NO.

2. The Prosecutor's open ing address (if any) (RP 39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D').

3. The Prosecution is closed. (If submission that there is no prima facie case established, see RP 40 fn 1; RP 70 fn 1).

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (RP 40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can NOT be cross-examined.. (RP 40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans YES
Q. Do you intend to call any other witnesses in your defence? Ans NO
Q. Is he a witness as to character only? (RP 40(B)) Ans NO.

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto. AS EXHIBIT "E" RECORDED

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see RsP 40, 41 and 42).

8. The Court is now closed to consider the finding (RsP 43 and 117)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. (RP 117(B)).

10. Statement of Character and Service (AFB.296) and Field Conduct Sheet (AFM.6) signed in the manner required by AA 163 (1) (h) and purporting to refer to the accused by his number(if any), rank, name and Corps, are produced to the Court, read, marked "F", and "G", initialled by the President and attached to the proceedings (RP 46; Overseas RO 3131).

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment? (RP 46(D)).
Ans YES. No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto). EXHIBIT "H"

12. The Court is now closed to consider the sentence (Record on Page 2 of AFA.3)
(Punishments, AA 44, MR (Cam) 563 - 566; one sentence only awarded, (RP 48); sentence should be dated.

The sentence is not announced to the accused by the Court.

[signature]
(Signature of President)

PAGE 'A'

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. RP 35(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (fn 3) and his plea thereto, explaining the difference in procedure by the plea (RP 37(B)) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (RP 37(B)) Ans_____

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (RP 37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (RP 37(C)). Ans_____

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination).

5. President to Accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (RP 37(C)). Ans_____

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto).

6. Statement of Character and Service (AFB.296) and Field Conduct Sheet (MFM.6) signed in the manner required by AA 163 (i) (h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked " " and " ", initialled by the President and attached to the proceedings. (RP 46; Overseas RO 3131).

7. President to accused:
Q. Do you wish to address the Court on your Statement of Character, Service and Conduct in further mitigation of punishment? (RP 46(D)). Ans_____ (No cross-examination). (Record address, if any, on separate sheet, initialled by the President and attached hereto).

8. The Court is now closed to consider sentence. (Record on Page 2 of AFA.3).

(Punishments, AA 44, KR (Can) 563 - 566; one sentence only awarded, RP 48). Sentence should be dated).

The sentence is not announced to the accused by the Court.

_____
(Signature of President)

Ex Exhibit "B" cont'd Page

Lab/Pvt 4116204 2/Lt Brandy E. Lowry Was duly sworn

I am 4116204 2/Lt Brandy E. Lowry Platoon Co. Morning Dec 14 after we had come to Leonardo I got all the men together & found Pvt Bates + for roster purpose and Pvt Barnes was not there. Note: The last time I saw Pvt Barnes I reported it to Platoon Officer

Q. At what time was this

A 0830 - 0900 Dec 14

Q. Pvt Barnes should have been there in accordance of his duties

A Yes

Q When did see Pvt Barnes

A After he was brought to Otana as prisoner of Fact I don't remember the ____

Q What was the Co doing when Pvt Barnes

A Taking up a position to attack the enemy

Q Did all the members of the 2nd Pl knowledge

A Yes Sir we were order to reconnaissance to find how strong the enemy were.

Q During the night of 13-14 Dec was Pvt Barnes at any time in actual contact with the enemy

A Just Patrols were in contact only

Q Was the Co order any fire during the night of 13-14 Dec

A. Yes my Lord, my orderly + shall fire

Q. Have you been with the accused Pte continually from 14 Dec until now.

A Yes Sir.

Cross examined

Q You said Lt Mc Bain was going into the attack with the scout call

A To scout out enemy positions + to find out the strength of the enemy

Q He told them that the scouts had played during certain periods.

A Yes Sir

Q How long has the accused been in the Pl with you

A Since Sunday - after we left Algiers

Q Did he land with the Bn

A Yes Sir

Q Has he ever been wounded in action

A Yes Sir once.

Q The accused was a corpl

A Yes

Q What kind of men do you choose.

A Good sober and people who are level headed

cont by Major

Q Had you and applicant known the accused
under you in the performance of his duties
A Yes Sir he worked with me a few times
and was a very good man
Q How did he act under fire
A about the same a little nervous but he did
all his duties
Q Did the accused play any part as a scout
in the coming of Lt Morrow
A Yes Sir he was one of the first scouts
to come
Q Was the scouts the first of your Co
to meet Morrow
A Yes Sir
Q Was the accused in the group of the 21
that was warned to station the night of
13 & 14 Dec
A No Sir
Q When was the accused
A In San Leonardo
Q Did you see the accused at some time during that
night
A Yes Sir
Q When you talking to him about the rumor
A No Sir

Next Page

Q Was the accused with the Pl.

A No Sir. I was with Capt Longhurst we stopped the Lieut. he said he had been sent by Mr Johnston Accountant Officer & guide us to our B Hd Q. I send him to O'Keefe the Pl was and I told the Pl to follow Capt O'Keefe.

Q He was with the Pl after they had been warned for a move

A I don't know sir I never saw him again I don't know if he went to the pl or not

Q Do you know of your own knowledge if the accused knew you were going forward

A ~~I don't know sir~~ No Sir.

Q What was the Pl doing when you saw the accused and where when did this happen.

A The Pl. was on the move to Lieut Hendrickson to O'Keefe for the move and the place was on the south side of river appro 500 or 600 yds from the river

Q Was the accused at that time seen the river & come back & find you

A Yes Sir he had been across for water

a true copy

EXHIBIT "C"
Two (2) pages

2nd Wit Capt A M Johnston Army Law Duly sworn states

I was Capt A M Johnston L.I.R. on 14 Dec 1943 I was in comd of Scout Pl L.I.R. in the afternoon of that day Sgt Beaudy brought the Pl up to forward B.H.Q. in edge north of San Leonardo at that time he reports to me that Pte Deane whom I was prosecuting has been absent at breakfast and had not been seen since I checked the Pl and made enquiries and could find no trace of the accused. I commanded the Scout Pl until 3 Jan 1944 and during that time Pte Deane did not return to his Pl.

Q. What was the Bombing on night of 13-14 Dec
A. On the night 13-14 Dec the Bn moved into San Leonardo and filled in the gaps in the defence held by the Seaforths & in the morning of the 14 Dec the Coy moved up to the ridge north of the town and late on the fourth day x the Pl moved up.

Q. Was this ridge occupied by the enemy
A. The ridge was strongly held by the enemy

Q. When did you receive your order for the reconnaissance
A. I received the order in the afternoon of the 13 Dec.

Two (2) pages

Q. When the members of the Scout Pl were being

Q Were all scouts informed of this order?

A I can't say positively that all members of the scout platoon were informed but I know that Pvt Dawson was because he was assigned to "C" Coy for scouting purposes on the attack

Q Because of this order is it true that the scout platoon are less capable of coming return than the men in the Coy

A Whenever possible the scout Platoon is employed to explore the way for the platoon proper from a Bn level

Q Was the 1 E R the first unit to cross the Moroes River

A No

Q Then movement across the river opposed

A Not by small arms fire the area was patrolled by Selby-Mortaring

Q By until the time of Pvt Dawson alleged absence had he taken in the particular operation taken his forward of our own troops

A Yes he had been in twenty the are not one

Cross examined

Q Even assuming the accused had been warned of the impending attack would he work on a scout have been any more dangerous than what he had been doing previous

Hand to Judge

A. The danger in my opinion encountered the same as any one else in the Bn.

Q. Approx how long has the accused been under your command.

A. Between a month & two months

Q. How are men for the event PT salute

A. They are picked for average instructional ability, map reading, field craft and as they qualify as marksmen

Q. In the month and half the accused was under your command how did the accused measure up to the high standards

A. In my opinion he answered them gen[illegible]

Capt F H Vreeland [illegible] having been duly sworn
states.

I am Capt F H Vreeland Adj 2 F.R.D
submit to Lt McCourt A certificate purporting to be
signed by F.O Powell Land Officer Commanding
III Recr. by Military that H Pte Hanson E
was arrested at Naples at 0915 hrs 18 Jan 1944
and was wearing at that time American Army
Uniform.

Marked Ex "D"

Corrections for M 56202 Pte Lewis E Loving San Aug
Medical Corps Statement

EXHIBIT E
M.D. Hayes

I am M 56202 Pte Lewis E. Loving
13 day of Dec 1918 I had ben across the Meuse
River three times once when they was not a
single allied soldier on the north side of the Meuse
On the afternoon of the 13 Dec I was ordered to go
across the Meuse with C Coy together with
another corporal named Pte Webb I met C Coy
following my self according to orders received
from Capt Johnston that I was to go
no orders from C Coy Comdr at 4 pm on the
13 Dec I Coy received orders from
Capt Longhurst that myself & Pte Webb would
cross the river ahead of C Coy as scouts to cross
the river and went about one mile & a half behind
the enemy's forward position to enable us
could observe the Co move across the river
would appear three hours the Bn did not come
across the river we first bothered me for a little
Pte Webb & myself started back & cross the bridge
Meuse we had just reached the northern bank of
we met Capt Johnston and three other scouts
Capt Johnston said "so you have been behind the
Enemy's lines" I answered yes Well Capt Johnston
and the rest of the scouts we went to the

Union of San Leonardo for the purpose of checking
on the Seaforth position. Ole Bill & my self still
on our own advanced to the forward Seaforth
position which was laying under the worst
mortar barrage I had ever seen. I was then
about thirty men and I cracked. All I could
think of was to get out as I left, still under
the influence of something I had swallowed
of probably worse I left the fort a couple of
miles but I reckon I must have been one hundred miles back
before I realized the gravity of the thing I had
done so I reasoned my best policy would
be to return to the Regt. as soon as possible, so
I got on a tram which was going to the north
During my journey to the front I exchanged my
uniform for an American Overseas, for my
own was so dirty and ragged if I had come upon
a British Unit first I would have acquired a
British uniform but as it was the American
unit that I got the uniform from was the most
handy I reached Naples I was standing in the Piazza
which is a small district near the centre
discussing the war & current topics with a Regt
of the 11th Yeo. Corps when a conversation in which

some what cant I believe it. I remember the "Toronto Post" I have been absent four weeks, he arrested me and conducted me to the 11th Division room. I was then taken to the Court Room at Osgoode.

Q. You were telling us the Police constable did not arrest you directly

A He had no reason to because I was in American Army uniform

Q Why did you not then tell him who you were

A Because I wanted to get back to my unit.

Q How did it take you to get over the difficulties by the Military

A About a week

Q Why did you not return immediately at the end of the week

A I wanted to surrender myself and not be arrested and it took me some time to figure out how this could be done

Q Tell the Court why you had no Pay book when arrested.

A When I exchanged clothes I accidently left my pay book in the breast pocket of my tunic

Cross Examination

Q. It was about one week later that you came to your senses

A Yes

Q at that time you were about 100 miles from the front

A Yes

Q From then it took 28 days to get to Naples

A No sir

Q What were you doing those 28 days you were absent?

A The railway between Potenza and Naples at that time was in bad condition, blown up, and continually breaking down. My trip between Potenza & Naples took about two weeks

Q How long have you been in the army

A Slightly over two years

Q From the time you came to your proper senses until the time you were arrested in Naples were you ever close proximity to any British or Canadian Unit

A No Sir.

Q You were on the railway all that time, two weeks

A Yes

~~you were at home all~~

Q. Did you eat any place.

A. The people in charge of the town were supplying me with rations.

Q. In that case you arrived in Naples some 21 days after you left the Ba. Is that so

A Yes Sir Appx

Q. And you were trying to get back to Ft Bragg

A Yes Sir

Q. Can you explain why 19 days later you were still in Naples

A I was for approx 5 to 7 days trying to get out as Naples was under quarantine for Typhus

Q. It is true you have been in the Army for two years as you aware that an absentee who secures his himself or her delay is to be charged with desertion.

A Yes

Question by the Court

Q What time + date did you first report

A. On the 11 or 12 of Dec

Q At that time no one else was across there

A Yes

Q. Are you sure of the date

A No Sir it was over two days before the Cobre Regt crossed the river.

Q Did you go near San Leonardo.

A About a quarter of a mile to the east

Q When did you cross the river Branch.

A Appeox ½ mile from the east

Q Do you know the locality Le Applaro

A No Sir.

Q Did you cross the river by a Town bridge

A It was just E the east of the bridge 150 to 200 yds

Q Being a scout & ferry over the river a number of times you know the ridge & the east & south of San Leonardo

A Yes Sir.

Q Did you go up that ridge the first day.

A Yes Sir.

Q You stated how you crossed the river ahead of your Bn how far north did you procede from the river bank.

A Two miles

Q You mentioned in your testimony that

You went up to a ridge & waited for your Bn
Could you see from a point two miles from the
river ~~[illegible]~~ a Bn crossing the river

A: No Sir I did not observe the Bn from a point
two miles away

Q When were you able you to come to your senses
at the end of that first week

A South of Potenza about 70 miles in an ox cart
train

Q How did you get down there

A I couldn't tell you sir

Q If you wanted at that time to get back to
your unit why did you go to Naples

A. The railroad was the conduit to use for
getting toward the front

Q Are you aware that the railway from Potenza
did not run to any east point

A I don't know

Q Did you enquire

A I asked which way the railway ran north
& south & not the north.

Q When did you get the American Transport

A Half between Potenza & Salerno

Q Why was it impossible to get out of Naples

A It was almost impossible to get out because of the Typhus

Q Were you refused exit on any roads

A I never tried.

Q Did they any Canadian Nurses in Naples

A I don't know

Q Where did you get your food in Naples

A In the Canteen - Sir

Q In changing your uniform - you took your money that you got out your Pay book

A Yes Sir

Q How did you obtain permission to board the train

A There was no permission necessary

Q Was it a troop train

A No Sir

Q You were on the train for two weeks

A Yes Sir

Q How did you eat

A Personal supplies

Q Who were the train personal

A. Americans.

Q. Were you wearing American uniform at that time.

A. No I was quiet at Lake.

Q. If Naples was evacuated how did you get in.

A. Train and some lorries were allowed in no one questioned me.

Q. Why didn't you get out again

A. I did not want to go south.

Q. Could you not have got as far as Ancona

A. I suppose I could but I did not know there was any Canadian troops there.

Capt P.H. Pantelas of Legal Sec Regt having already been sworn states

I am Capt P.H. Pantelas Adj did affirm the records for LER 2 products A.F.B. 296 and statement of character and M.F.M. 6 forwarded and I identify these documents to be true records from the Regt I took will input to M accounts

M.F.M. 6 and statement of character marked A, F and B respectively

Prosecuting Officers Final Address in the
case of W/36202 Pte Clem Devore.

1. To establish desertion it is necessary to prove either intention not to return to the Canadian Army or intention to avoid some important particular service. I submit that evidence has been brought forward to prove both these ~~—~~ informers.

Evidence has been brought forward to show that the accused, by his illegal absence, did avoid an attack to which the Edmonton Regiment had been committed and of which he had previous knowledge.

The evidence to prove that the accused had no intention of returning to the Canadian Army is as follows.

1. On his own admission and from evidence of his Platoon Officer and Sergeant he did illegally absent himself sometime during the night or early morning of 13-14 Dec 1944.

2. He did not subsequently surrender himself, nor did he return to his unit but was apprehended by the Provost.

3. When apprehended he was not in proper uniform but was in U.S. Army uniform which I submit is as good a disguise in this country as could possibly be found by a non Italian speaking member of the Canadian Forces.

4. When apprehended he was not in possession of that usual means of identification, his pay book.

Lieut Biggs

The accused, in his own testimony, states that from the time he was subjected to mortar fire until some seven days later he remembers very little and intimates that he was practically out of his mind. Yet subsequent to this mortaring it is shown that he reported to his Platoon Sgt as detailed. Further, for a man ~~that~~ who was intent on rejoining his unit the lapse of time subsequent to his recovery of his mental processes until his arrest is very difficultly accounted for. We are asked to believe that a foot trip from Bologna to Naples took fourteen days. This would mean a daily average of ten miles covered. Further, the accused states that he had got some hundred miles south of the unit when he came to his senses and that from then he tried to work his way back to the unit. Yet after an elapse of twenty eight days he was arrested in Naples which is farther from the unit than his starting point was. The accused states that he himself made no attempt to leave Naples.

A Pickard
capt
~~Officer Judge Advocate~~
Prosecutor

Wm B Dyer

Summing up - Defending Officer - LT L.J. Pronger

As I see it Sir, the issue being decided is whether the accused is guilty of desertion or absence without leave. To be guilty of desertion he must @ have intended never to return to his unit, or @ have left his unit to avoid an important military duty.

@ The evidence shows that the ~~accused~~ accused always intended to return to his unit. The readiness of his admission of his identity to the Provost proves that & it is also proved by his own statement, given on oath. The fact that he was wearing an American army uniform has been satisfactorily explained — his own was ragged & it was the first he encountered.

The evidence as to his character given by Lt. Beaudry & Capt Johnson clearly indicates that he is not the type of man who would desert his unit.

@ As to his trying to avoid an important military duty the evidence shows that the accused was never warned for the attack impending. Also his record since landing in Sicily indicates that even had he known of the impending attack he would never have run out while in his right mind

~~[illegible]~~

P.T.O.

~~[illegible]~~

It should be borne in mind also that the accused voluntarily elected to give evidence on oath, thereby subjecting himself to cross-examination. Although he has been thoroughly examined & cross-examined there have been no discrepancies in his evidence.

For these reasons I submit, Sir, that the court cannot find the accused guilty of desertion, & the finding must be one of absence without leave.

A.J. Thorpe

In the case of No M56202 Pte Devore E.
L: Edmn R — plea in mitigation of
punishment by defending officer,
Lieut L J Pronger Sea of C

Sir: On the application for court martial
the accused has been given a "good" character
by his ~~Platn~~ commanding officer.
It will be noted that he has a
clean m.gm.b although he has been in the army 2 yrs.
His platoon commander has stated
that as a soldier he is well above average
& has risen to the high standard required
of scouts. This evidence has been corroborated
by the statement of his pl. sgt.
The accused landed with his
battalion in Sicily & has been wounded
once. ~~He has nothing~~
In view of his past record, his
character, & his services to his country,
I ask that the court be lenient &
give the prisoner the minimum sentence
possible.

EXHIBIT "H"
made P.C.
proper

L J Pronger

TO WHOM IT MAY CONCERN:-

This is to certify that in my opinion Lieut E.O. Powell, 5778212 L/Cpl Lake, W., 7692003 L/Cpl Datton, F. of 111th Provost Company CMP are not readily available to appear as witnesses for this Court Martial.

XXX (E.W. Day) Lt-col
Comd The Loyal Edmn R.

Certificate under Army Act Section 163 (1) (ii).

I certify that No. M56202 Rank Pte Name Devore, E.
of the EDMONTON REGT was arrested at .....
NAPLES at 1215 hrs 18 Jan 44 wearing AMERICAN ARMY UNIFORM
..... at ....hrs ..... on .....
Signature of APM, Provost Marshall or other officer
into whose custody the above named was taken on arrest.

E.C.Powell Lieut.
O.C. 111th Provost Company.

CERTIFIED TRUE COPY:

(E.H.Pritchard) Capt & Adjt.
The Royal Edmn R.

C H A R G E

Army Form B 252

The Edmonton Regiment. --- Regiment

BnHQ --- Coy

CHARGE against No. M56202 Rank Pte

Name Devore, E.

Place In the Field Date of Offence 14 Dec 43

OFFENCE:-(1) WOAS (absent from 0900 hrs 14 Dec 43 until apprehended by the Military Police at the QUESTURA, NAPLES at about 1215 hours on the 18 Jan 44.

(2) Improperly dressed i.e. wearing AMERICAN ARMY UNIFORM.

(3) BEING IN IMPROPER POSSESSION OF AMERICAN ARMY CLOTHING.

(4) NOT BEING IN POSSESSION OF HIS MILITIA BOOK.

Names of Witnesses:-

5778212 L/Cpl W. Lake - 111th Provost Coy CM Police
7692003 L/Cpl T. Dalton - " " " "
1069312 Cpl L. Heffreys - " " " "
(Statement attached) NCO i/c Guard

Statement of Evidence in the Case of
M56202 Pte Devore, E.
BnHQ Coy
The Edmonton Regiment
The Cdn Army.

Sir,

At Naples on 18 Jan 44 at about 1215 hrs I was on duty at the QUESTURA where I saw the above named soldier. He was dressed in complete US Army uniform. I asked him to what unit he belonged. He said, "I am a Cdn., I have been absent over five weeks. I arrested and conducted him to the MILITARY POLICE GUARD ROOM where I obtained his particulars verbally for report, and paraded him to NCO i/c Guard Room to be detained. When arrested Pte Devore was not in possession of his paybook.

Naples
18 Jan 44

W. Lake L/Cpl
111th Provost Company

Sir,

I have read over and corroborate the above statement.

Naples
18 Jan 44

T. Dalton L/Cpl
111th Pro Coy

CERTIFIED TRUE COPY
(E.H. Pritchard) Capt & Adjt L. Edmn R.

Certificate under Army Act Section 153 (1) (ii).

I certify that No. 5202 Rank PTE Name LE VORE R.

of the HUNTON ARMY was arrested at

NAPLES at 1215 hrs on 18 JAN wearing AMERICAN ARMY UNIFORM.

Signature of APM, Provost Marshall or other officer into whose custody the above named was taken on arrest.

E.O. Powell. Lieut.
O.C. 111 Provost Company.

WO 299/43 1863 C. [illegible]

CHARGE Army Form B 252
(See King's Regulations)

THE EDMONTON Regiment
"B" HQ Battery / Squadron / Troop or Company

CHARGE against No. M 56202. Rank PTE.

Name DE VORE. E.

Place Date of Offence

OFFENCE. C.A.S. (1) ABSENT FROM ? UNTIL APPREHENDED BY THE MILITARY POLICE AT THE QUESTURA, NAPLES AT ABOUT 1215 HOURS ON THE 18 JAN 44.
(2) IMPROPERLY DRESSED, i.e. WEARING AMERICAN ARMY UNIFORM.
(3) BEING IN IMPROPER POSSESSION OF AMERICAN ARMY CLOTHING.
(4) NOT BEING IN POSSESSION OF HIS MILITIA BOOK.

Names of Witnesses:—
5778212 L/CPL. W. LAKE 111th PROVOST COMPANY CM POLICE
7692003 L/CPL. T. DALTON 111 PROVOST COMPANY CM POLICE
10698124 CPL. L. JEFFREYS. 111th PROVOST COMPANY CM POLICE
(STATEMENT ATTACHED) N.C.O. I/C GUARD

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

STATEMENT OF **EVIDENCE** IN THE CASE OF,

NO M 56202. PTE DE VORE E.
"B" HQ COMPANY
THE EDMONTON REGIMENT
THE CANADIAN ARMY

Sir. AT NAPLES on the 1st JANUARY 1944 at about 1215 hours, I was on duty at the QUESTURA where I saw the above named soldier.

He was dressed in complete U.S ARMY uniform.

I asked him to what unit he belonged. He replied "I am a CANADIAN. I have been absent over five weeks".

I arrested and conducted him to the MILITARY POLICE GUARD ROOM, where I obtained his particulars verbally for report, and handed him over to the N.C.O. i/c GUARD ROOM to be detained.

When arrested PTE DE VORE was not in possession of his PAY BOOK.

NAPLES
1st JANUARY 1944

REMARKS W. Lake H/Capt
III Corps PROVOST COMPANY

Sir. I have read over and corroborate the above statement.

NAPLES
1st JANUARY 1944

W. Lake H/Capt
III Corps PROVOST COMPANY.

Statement of Evidence in the case of M/36202
Pte Devon, C. of the Royal Edmonton Regiment, a
soldier of the Canadian Army.

By direction of the Commanding Officer evidence
is taken on oath.

1st Witness M/16204 Sgt Beaudry, C. Royal Edmonton Regt
having been duly sworn states

I am M/16204 Sgt Beaudry C Platoon Sgt
of the Royal Edmonton Regt Scout Platoon On the morning
of 19 Dec 43 at approx 0730 hours I checked on the Scout Platoon and found
Pte Devon (A.C.) to be absent. I reported this fact to the
Scout Officer.

Q1 At this time and during the preceding night was
the Battalion in actual contact and in action with
the enemy.

A1 Yes sir.

Q2 Have you been with the Scout Platoon continuously
from 18 Dec 43 until now.

A2 yes sir.

Q3 Subsequent to Dec 18 when did you next see Pte Devon

A3 Sometime during February. He was then confined in the
Guard room.

The accused declines to cross examine this witness

L. Beaudry

Witness
Rejd

2nd Witness Capt. A.M. Johnson, Royal Edmonton Regt. Canadian Army having been duly sworn states

"I am Captain A.M. Johnson of the Royal Edmonton Regt. On Dec 14 1945 I was in command of the Scout Platoon. On the afternoon of the 14 L/Sgt. Beaudry brought the Scout Platoon up to Forward D.N.S. on the Myon Ridge. He reported to me at that time that Pte Swan E had been absent that morning at usual parade and had not been seen since. I made inquiries and was unable to find any trace of him. I commanded the Scout Platoon until approx 1 pm 15 and left until that time Pte Swan had not returned to the Platoon.

Q to you recognize Pte Swan

A yes as the accused

Q During the night of 13 Dec 44 and on the following day was the Edmonton Regt in actual action and contact with the enemy

A During the night of 13 14 Dec the Battalion was under enemy shelling and mortar fire. During the day of 14 Dec 44 the Battalion was in close contact with the enemy.

The accused declines to cross examine this witness

A.M. Johnson, Capt.

A/Capt

3rd Witness Lieut. E.O. Powell, O.C. 111 Provost Coy.

Documentary.

Documentary evidence read to the accused who did not demand the presence of this witness.

4th Witness 3779212 L/Cpl. Lake, W. 111th Provost Coy.

Documentary.

Documentary evidence read to the accused who did not demand the presence of this witness.

5th Witness 7692003 L/Cpl. T. Dalton 111th Provost Coy.

Documentary.

Documentary evidence read to the accused who did not demand the presence of this witness.

The accused was cautioned as follows:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declined to make a statement or to give evidence.

I certify that the foregoing summary of Evidence consisting of three pages was taken down in the presence of the accused and the Rules of Procedure 4(c), (d), 6), (f) & (g) have been complied with.

In the Field
6 Mar 44

[illegible]

[illegible] Capt
Officer taking Summary.

3rd Witness Prosecution

Lieut E.O.Powell O.C. 111th Provost Coy.

DOCUMENTARY

Documentary evidence read to the Accused who did not demand the presence of this witness.

4th Witness Prosecution

5778212 L/Cpl Lake, W. 111th Provost Coy.

DOCUMENTARY

Documentary evidence xxx read to the Accused who did not demand the presence of ths witness.

5th Witness Prosecution

7692003 L/Cpl T. Button. 111th Provost Coy.

DOCUMENTARY

Documentary evidence read to the Accused who did not demand the presence of this witness.

The accused was cautioned as follows:-

Do you wish to make any statement or to give xny evidence on Oath? You are not obliged to say anything, or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken downin writing and may be given in evidence.

The Accused declined to make xny a statement or give evidence.

Certified that the foregoing Summary of Evidence consisting three pages was taken down in the presence of the accused and the Rules of Procedure 4 (c) (d) (e) (f) & (g) have been complied with

In the Field
6 Mar 44.

Signed (H.H.Pritchard) Capt.
Officer taking Summary.

Ex. "G"
Capt B Nagi

ARMY FORM B 236.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
M56202	Pte	DEVORE, Elmer	The Loyal Edmn R

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:—

Note.—If a trial by field general court martial (the summary may be omitted from the field conduct sheet).

The penalty awards mentioned should be given in the order in which they were awarded to the prisoner.

See sec. 47, A.A., 1881.

* The entries need be stated briefly, and should deal with the nature of the offence, the punishment awarded, and the date of the award, but not with the evidence or the finding of the court.

Instructions as to the charges to be brought and the entries to be made should be carefully noted to avoid unnecessary work.

	* Within last 12 months.	Since Enlistment.
For	N I L times	N I L times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, or

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 72 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 53 days in military custody, making a total of 53 days, of which nil days were spent in hospital.

5. The present age of the accused according to his XXXXXXXXX attestation paper is 21 yrs

6. The date of his XXXXXXX attestation specified in his XXXXXXXXXX attestation paper is 21 Jan 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs service.

9. The accused is entitled to reckon 2 yrs service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to [state any military decoration or reward]).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated N/A and in his regiment (*or* corps or department) the rank of N/A dated N/A

(Name, regiment (or corps or department) and address of witness.)

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion

In the rank of ..... years,

In the rank of ..... years,

In the rank of ..... years.

(Instructions.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph inserted and attested accordingly.)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

Name ..... Regiment (or as the case may be)

Rank ..... of .....

No. .....

(INSTRUCTION. A verbatim extract from the regimental books, stating their decisions and dispositions with trial, must be inserted.)

Date and place of trial, or summary award awarding with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence and date of commencement, or authority and date of the order awarding	Punishment remitted	Description of court by which tried, or statement of officer dispensing with the charge or the proceeding with trial

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12 day of [illegible]

(E.E. Pritchard) Capt & Adjt
The Loyal Edmonton Regiment.

No. M56202 Name DEVORE, Elmer Sqn., Battery, or Company BnHQ Corps CIC Date of enlistment 21.1.42 G.C. Badge(s) Service or Proficiency Pay

M.F.M. 6

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
No entries.								Ex F Coy Pay 7 days	

CERTIFIED TRUE COPY

(E.H. Pritchard) Capt & Adjt
The Loyal Edmn R.

COUNTER NUMBER 54934

HOUR 12'25

OPERATOR'S INITIALS JR

RELIEVING OPERATOR MRD

HHH 42

R Lindsay

14 JUN 1944
A.H.Q. 2nd ECHELON

Army Form A.3

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWELFTH day of MARCH, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of SECOND CANADIAN INFANTRY BRIGADE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where convening Officer is Commanding Officer or is of said Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [I am unable to appoint

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely

(44)

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	W.H. Buchanan	Seaforth of C

Members.

Rank.	Name.	Regiment.
Capt	E.F.T. Green	P.P.C.L.I.
Lieut	J.R. Keppell	P.P.C.L.I.
(W) Lieut	J.A. Clark	Seaforth of C

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "B.M. Hoffmeister"
(B.M. Hoffmeister) Brig
Commanding 2 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
M56202 Pte DEVORE, E. L Edmn R	1st Charge Sec 12 (1) Army Act When on Active Service Deserting His Majesty's Forces	Not Guilty	Guilty 3 years Penal Servitude "W.H. Buchanan" Major 17 Mar 44	I reserve confirmation of the Finding and sentence of the court for superior authority. 18 Mar 44 "WHB" I confirm the finding and sentence. I direct that part of the sentence not exceeding two years shall be served in a military prison 14 Apr 44 P. J. Montague Brig. Prov Major-General, IC Administration Canadian Military Headquarters 14 Apr 44.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) "E.H. Hoffmeister" (Signed) "W.H. Buchanan" Major
(E.H. Hoffmeister) Jr Lt
Commanding 2 Cdn Inf Bde
Convening Officer (c) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B.

I certify that the above Court assembled on the 12 day of March 44, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. Certificate of President as to proceedings.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3.—~~The Interpreter~~) "WHB" Major
*(4.—~~The officers under instruction~~) "WHB" Major
were duly sworn.

*Omit if not applicable.

Signed this 12 day of March 19 44

"W.H. Buchanan" Major
President of the Court Martial.

C.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. Certificate in case of death sentences.

*See footnote (b) on page 767 M.M.L., 1929.

Signed this day of 19

"WHB" MAJOR
President of the Court Martial.

D.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. Confirmation.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or having such authority, recommends suspension.

Signed this day of 19

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of M 56202 Pte Devore E.L.

(Dated) 3 May 44 (Signed) [illegible] Capt.

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Exhibit

"A"
"WHB"

CHARGE SHEET

The accused M-56202 Pte Elmer DEVORE of the Loyal Edmonton Regiment, a soldier of the Cdn Army Overseas, On Active Service, is charged with;-

When on Active Service;-

DESERTING HIS MAJESTY'S FORCES

In that he

First Charge
Sec 12(1)
Army Act

In the field on 14 Dec 43 absented himself without leave from 0900 hrs 14 Dec 43 until apprehended by members of 111th Provost Coy C.M. Police at QUESTURA, NAPLES at approximately 1215 hrs 18 Jan 44, at which time he was wearing a U.S. Army uniform.

In the field.

Date 9 Mar 1944

"E. W. Day"

(E.W. Day) Lt-Col.
Comd The Loyal Edmn R.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the field.

Date 10 Mar 44

"B.W. Hoffmeister"

(B.W. Hoffmeister) Brig.
Commanding 2nf Inf Bde.

MEDICAL CERTIFICATE.
(KR (Can) para 557

I certify that I have this morning examined

No. M-56202 Pte Devore E.

of the Loyal Edmonton Regiment, and in my opinion he is fit to undergo trial by Court Martial.

In the field.

Date 12 Mar 44.

"WHB" Major

"T.R. Grainger"
(T.R. Grainger) Capt.
Medical Officer
The Loyal Edmn R.

Accused M-58202 Pte Elmer DEVORE Loyal Edmonton Regt.
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in Italy on 12 Mar 44.
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	Major	W.H. Buchanan	Seaforth of Can.
MEMBERS:	Capt.	E.P.T. Green	P.P.C.L.I.
	Lieut.	J.R. Heppell	P.P.C.L.I.

JUDGE ADVOCATE: (If any) N.A.

OFFICIAL INTERPRETER: N.A.

PROSECUTING OFFICER: Capt. E.H. Pritchard Lawyer? Ans no

DEFENDING OFFICER: Lieut. L.J. Pronger Lawyer? Ans no

(The following Procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs P 17(E), 22(A)).

The President, in closed court (R.P.22, Fn1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (R.A.49; R.P.105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P.106)

The accused is (are) brought before the Court, and at 1345 hours, the trial commences.

The prosecuting Officer produces a Medical Certificate under R.R. (Can.)557 (See C.M.H.Q. Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to accused: Do you object to n/a as interpreter? Ans

The interpreter is duly sworn.

Do you object to N/A as shorthand writer?

The shorthand writer is duly sworn. (Forms of Oath on Page 'D'.
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (R.P.10)

President to accused:
Do you object to be tried by me as President or by any of the officers whose names you have heard read over? Ans no

The President, Members, Judge Advocate and Officers under instruction are duly sworn (R.P.26-27 (Forms of Oath on Page 'D'))

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused has (has not) elected trial by Court Martial (A.A.46(8))

(If special plea/s is/are made for separate trial on one or more charges (Rs P 62(E), 108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R P.36); or as to accused's mental fitness to stand trial (A.A.130; R.P.57), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge Not guilty

Second Charge

Third Charge

Fourth Charge

Fifth Charge

Sixth Charge

Seventh Charge

Eighth Charge

(For procedure on alternative charges, see R.P. 37, fn2)

Further proceedings are recorded on Pages hereto attached.

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all Charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President)

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P.39(A). Ans no

2. The Prosecutor's opening address(if any) (R.P.39(B) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D')

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P.40 fn 1; R.P.70 fn1)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.P.40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans yes
Q. Do you intend to call any other witness in your defence? Ans No
Q. Is he a witness as to character only? (R.P.40(B) Ans no

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto. Recorded As exhibit "E"

7. The closing addresses of the Prosecutor, Defending Officer and Judge- dvocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see Rs P 40, 41 and 42)

8. The Court is now closed to consider the finding (Rs P 43 and 117)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. R.P. 117(B)

10. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (.F.M.6) signed in the manner required by A.A.163(1)(b) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "F", and "G", initialled by the President and attached to the proceedings, (R.P.46: Overseas A.C.I.3131)

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character Service and Conduct and in mitigation of punishment? (R.P.46(D).
Ans yes No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto) Exhibit "H"

12. The Court is now closed to consider the sentence (Record on Page 2 A.F.A.3)
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, (R.P.48); sentence should be dated.

The sentence is not announced to the accused by the Court.

"W.H. Buchanan" Major
(Signature of President)

PAGE 'A'

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alternations, erasures and additions to be initialled by the President)

1. R.P.35(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (fn 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (R.P.37(B) and_____

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (R.P. 37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (RP.37(C). Ans _____

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination)

5. President to accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (R.P.37(C). Ans_____

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto)

6. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (A.F.B.6), signed in the manner required by A..163(i) (h) and purporting to refer to the accused by his number(if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings. (R.P. 46; Overseas R.O. 3131)

7. President to accused;
Q. Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)). And _____ (No cross-examination)
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

8. The Court is now closed to consider sentence. (Record on Page 2 of A.F.B.3)
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, R.P.48). Sentence should be dated)

The sentence is not announced to the accused by the Court.

_____
(Signature of President)

In the case of No. M-56202 Pte Devore E. L Admn R- plea in migigation of punishment by defending officer. Lieut. L.J. Pronger Sea of C.

Sir; On the application for Court Martial the accused has been given a "good character by his Commanding Officer.

It will be noted that he has a clean M.F.M. 6 although he has been in the Army for 2 years.

His platoon commander has stated that as a soldier he is well above average [illegible] has risen to the high standard required of scouts. This evidence has been corroborated by the statement of his pln Sgt.

The accused landed with his battalion in Sicily and has been wounded. ONCE.

In view of his past record, his character, and his services to his country, I ask ~~[illegible]~~ that the court be lenient & give the prisoner the mimium sentence possible.

Exhibit "H" "L.J. Pronger"
"WHB" Major.

.....

Page 1.

Exhibit "G" "WHB" Major.

Witness for Prosecution.

1st Witness. M-16204 L/Sgt. Beaudry E. Having been duly sworn states;-
I am M-16204 L/Sgt. Beadry E. Scout Platoon . On morning Dec 14 after we had come into San Leonardo I get all the men to-gether to find billets and for ration purposes and Pte Devore was not there That is the last time that I saw ~~him~~ Pte Devore I reported it tothe Scout Officer.

Q At what time was this?

A 0830 0900 hrs Sir.

Q Pte Devore should of been there in normal course of his duties.

A Yes

Q When did you see Pte Devore?

A After he was brought to Orsona sometime in Feb I don't remember the

Q What was the Bn doing the night 13 & 14 Dec?

A Taking up a position to attack the ridge.

Q Did all the members of the Scout Pl know this .

A Yes Sir we were orders to scoutahead to find how strong the enemy were.

Q During the night of 13&14 Dec was the Bn at any time in actual ~~xxxxxx~~ contact with the enemy?.

A Just the patrols were in contact only.

Q was the Bn under ~~fire~~ any fire during the night of 13 & 14 Dec.

.....

Page 2 .

A Yes very heavy mortar and shell fire.

Q Have you been with the Scout Pl continuslly from the 14 Dec until now.

A Yes Sir.

Cross examined.

Q You said Sgt the Bn were going into the attack what is the scout roll.

A To scout out the enemy position, M.G. nests and the strength of the enemy.

Q The role therefore would be the same as that which the scouts had played during sometime previous.

A Yes Sir

Q How long has the accused been in the Pl with you.

A Since Sicily- after we left Algeria.

Q Did he land with the Bn.

A Yes Sir.

Q Has he ever been wounded in action.

A Yes Sir once.

Q The accused was a sniper.

A Yes.

Q What kind of men do you choose.

A Best shots and people who are level headed.

"ann" Major.

Q Had you and oppertunity to observe the accused under fire in the performance of his duties.

A Yes Sir he worked with me a few times and was very good man.

Q How did he act under fire.

A About the same, a little nervouse but he did all his duties.

Q Did the accused play any part as a scout in the crossing of the Morrow.

A Yes Sir he was one of the first scouts to cross.

Q Were the scouts the first of your Bn. to cross.

A Yes Sir.

Q Was the accused in the group of the Pl that was warned for duties the night of 15 Dec

A No Sir.

Q Where was the accused.

A In San Leonardo

Q Did you see the accused at any time during that night.

A Yes Sir.

Q Were you talking to him about the move.

A No Sir.

"A" "BB" Major.

.....

Q Was the accused with the Pl.

A No Sir I was with Capt. Longhurst, we stopped Pte Devore, he said he had been sent by Mr Johnston Scout officer to guide us to BHQ. I sent him to "C" Coy where the Pl was to guide the Pl in. I was going ahead with "C" Coy.

Q He was with the Pl. after they had been warned of a move

A I don't know sir I never saw him again, I don't know if he went to the Pl or not.

Q Do you know of your own knowledge if the accused knew you were going forward.

A No Sir.

Q What was the Pl doing when you saw the accused and did this happen.

A The Pl was on the move to San Leonardo attached to "C" Coy for the move and the place was on the south side of river approx 500 or 600 yds from the river.

Q Had the accused at that time been across the river & come back to find you.

A Yes Sir he had been across 3 or 4 times.

2nd Witness

Capt. A.M. Johnston having been duly sworn states;

I am Capt A.M. Johnston L.E.R. on the 14 Dec 1943 I was in comd of Scout Pl. L.E.R. in the afternoon of that day Sgt. Beaudry brought the Pl up to forward BHQ on the ridge north of San Leonardo at that time he reported to me that Pte Devore whom I now recognize had been absent at breakfast and had not been seen since. I checked the Pl. and made enquiries and could find no trace of the ~~ZZ~~ accused. I commended the Scout Pl. until 3 Jan 1944 and during that time Pte Devore did not return to the Pl.

Q What was the Bn doing the night of 13&14 Dec

A On the night of 13 Dec the Bn moved into San Leonardo and filled in gaps in the defence held by the Seaforth of C on the morning of the 14 Dec three Coys moved up to the ridge north of the town and later on the fourth Coy & Bn HQ moved up.

Q Was the ridge occupied by the enemy.

A The ridge was strongly held by the enemy.

Q When did you receive your orders for the operation.

A I received the orders on the afternoon of the 13 Dec.

Q Were the members of the Scout Pl. encluding.

"WHB" Major.

.....

Pte Devore informed of these orders?

A I can't say positively that all members of the Scout Pl. were informed but I know that Pte Devore was, because he was assigned to "C" Coy for sniping purposes in the attack.

Q Because of these duties is it true that the Scout Pl are told more of coming action than the other men in the Bn.

A Whenever possible the Scout Pl is briefed as a whole to explain to them the whole operational picture from a Bn level.

Q Was the L.E.R. the first unit to cross the Morrow River.

A No.

Q Then was movement across the river opposed.

A Not by small arms fire there was periodic shelling and mortaring.

Q Up until the time of the Pte Devore alledged absence had his duties in the particular operation taken him forward of our own troops.

A Yes he had been in territory that was not ours~~AAA~~.

CROSS EXAMINED.

Q Even assuming the accused had been warned of the impending attack would his work as a Scout have been any more dangerous than what he had been doing sometime previous.

"WHB" Major.

A The danger in my opinion increased proportunately the same as any one else in the Bn.

Q Approx how long has the accused been under your command.

A Between a monthor two months.

Q How are men for the Scout Pl selected.

A They are picked for ~~xxx~~ courage, initiative , skill in Map reading and Field craft and on there ability as marksman.

Q In the month and half the accused was under your command how did the accused measure up to these high standards.

A In my opinion he answered those qualifications.

"xxx" Major.

.....

Page 8.

Capt. E.H. Pritchard having been duly sworn states;-

I am Capt. E.H. Pritchard. Adj L.R.H. I submitt to the Court the certificate puporting to be signed by E.O. Powell Lieut. Officer Commanding 111 Prov. Coy. Certifing that M Pte Devore E. was arrested at Naples at 1215 hrs 18 Jan 1944 and was wearing at that time American Army uniform.

Marked Ex. "D"

"xxx" Major.

.....

Page 9.

Evidence for the Defence.

M-56202 Pte Devore E. having been duly sworn states;-

Exhibit "E"
"xxx" Major.

I am M-56202 Pte Devore E. On the 13 day of Dec 1943, I had been across the Morrow River three times once when there was not a single allied soldier on the north side of the Morrow ~~xiver~~ On the afternoon of the 13 Dec I was ordered to go across the Morrow with "C" Coy. together with another sniper named Pte Webb I went to C Coy fully understanding that according to orders received from Capt Johnston that I was on my own taking no orders from C Coy Comdr, at approx 1330 hrs 13 Dec C Coy received orders to move , I informed Capt. Longhuist that myself & Pte Webb would cross the river ahead of "C" Coy as scouts. We crossed the river and went approx one mile & a half behind the enemy's forward positions to a ridge where we could observe the Bn move across the river We waited approx three hours the Bn did not come across the river the fact bothered me quite a little Pte Webb & myself started back to cross the river Morrow as had just reached the northern bank when we met Capt. Johnston and three other scouts. Capt Johnston said "so you have been behind the enemy's lines, I answered yes. with Capt

out of the
Johnston and the scouts we went into the;-

.....

Page 10

town of San Leonardo for the purpose of checking on the Seaforths position. Pte Webb & myself still on our own advanced to the forward Seaforth position which was laying under the worst mortar barrage I had ever seen. I was there about thirty mins and I cracked. All I could think of was to get out so I left, still under the influence of something I had no control of, probably nerves. I left the front altogether . I must of been one hundred miles back before I realized the severity of the thing I had done so I reasoned my best policy would be to return to the Regt. as soon as possible, so I got a train which was going ~~xxxxx~~ to the north, during my journey to the front I exchanged my uniform for an American Uniform because my own was so dirty and ragged if I had come upon a British unit first I would have acquired a British uniform but as it was the American unit that I got the uniform from was the most handy. I reached Naples, I was standing on the Questura which is a small district near the railroad discussing the war & current ~~xxxxxx~~ topics with a L/Cpl. of the 111 Prov Corps when in conversation he asked

"WHB" Major.

.....

Page 11.

me what unit I belonged to I answered The Edmonton Regt. I have been absent five weeks, he arrested me and conducted me to the 111 Prov Guard Room. I was then taken to the Guard Room at ~~xxxxxxx~~ Avelino.

Q You were talking to the Prov. conversationally, he did not approach you officially.

A He had no reason to because I was in American Army uniform.

Q Why did you not then, tell a lie as to your unit.

A Because I wanted to get back to my unit.

Q How did it take you to get over the nervousness caused by the shelling.

A About a week.

Q Why did you not return immediately at the end of the week

A I wanted to surrender myself and not be arrested and it took me some time to figure out how this could be done.

Q Tell the Court why you had no pay book when arrested.

A When I exchanged cloths I accidently left my pay book in the breast pocket of my tunic.

"WHB" Major.

CROSS EXAMINATION

Q It was approx one week later that you came to your senses.

A Yes.

Q At that time you were approx 100 miles from the front.

A Yes

Q From then it took you 28 days to get to Naples.

A No Sir.

Q What were you doing those 28 days, you were absent 35.

A The railway between Potenza and Naples at that time was in bad condition, blown up , and continually breaking down. My trip between Potenza & Naples took approx two weeks.

Q How long have you been in the Army.

A Slightly over two years.

Q From the time you came to your proper senses until the x time you were arrested in Naples were you in close proximisty to any British or Canadian Unit.

A No Sir.

Q You were on the railway all that time, two weeks.

A Yes.

"WHB" Major.

Q Did you eat any place.

A The people in charge of the trains were suppling me with rations.

Q In that case you arrived in Naples some 21 days after you left the Bn. Is that true.

A Yes Sir approx.

Q And you were trying to get back to ~~your~~ the Bn.

A Yes Sir.

Q Can you explain why 14 days later you were still in Naples.

A I was for approx 5 to 7 days trying to get out as Naples was under quarintine for Typhus.

Q Pte Devore you have been in the Army for two years are you aware that an absentee who surrenders himself is less likely to be charged with desertion.

A Yes.

CROSS EXAMINATION

Q It was approx one week later that you came to your senses.

A Yes.

Q At that time you were approx 100 miles from the front.

A Yes

Q From then it took you 28 days to get to Naples.

A No Sir.

Q What were you doing those 28 days, you were absent 35.

A The railway between Potenza and Naples at that time was in bad condition, blown up , and continually breaking down. My trip between Potenza & Naples took approx two weeks.

Q How long have you been in the Army.

A Slightly over two years.

Q From the time you came to your proper senses until the x time you were arrested in Naples were you in close proximisty to any British or Canadian Unit.

A No Sir.

Q You were on the railway all that time, two weeks.

A Yes.

"WHB" Major.

.....

Q Did you eat any place.

A The people in charge of the trains were supplying me with rations.

Q In that case you arrived in Naples some 21 days after you left the Bn. Is that true.

A Yes Sir approx.

Q And you were trying to get back to ~~the~~ the Bn.

A Yes Sir.

Q Can you explain why 14 days later you were still in Naples.

A I was for approx 6 to 7 days trying to get out as Naples was under Quarintine for Typhus.

Q Pte Devore you have been in the Army for two years are you aware that an absentee who surrenders himself is less likely to be charged with desertion.

A Yes.

Questioned by the Court.

Q What time & date did you first cross the river.

A On the 11 or 12 of Dec

Q At that time no one else was across there.

A Yes.

"WHB" Major

.....

Page 14

Q Are you sure of the date.

A No Sir it was one or two days before the Edm Regt crossed the river.

Q Did you go near San Leonardo.

A About a quarter of a mile to the east.

Q Where did you cross the river Morrow.

A Approx ½ mile from the coast.

Q Do you know the village San Appollaro.

A No Sir.

Q Did you cross the river by a blown bridge.

A It was just to the east of the bridge 150 to 200 yds.

Q Being a scout & being over the area a number of times you know the ridge to the east & south of San Leonardo

A Yes Sir.

Q Did you go up that ridge the first day.

A Yes Sir.

Q The third time you crossed the river ahead of your Bn how far north did you proceed from the river bank.

A Two miles.

Q You mentioned in your evidence that "WHB" Major

.....

Page 15.

you went up to a ridge to watch for your Bn Could you see from a point two miles from the river a Bn crossing the river.

A No Sir I did not observe the Bn from a point two miles away.

Q Where were you when you came to your senses at the end of the first week.

A South of Potenza around 10 miles in an inland town.

Q How did you get down there

A I couldn't tell you Sir.

Q If you wanted at that time to get back to your unit why did you go to Naples.

A The railroad was the handiest to use for getting towards the front.

Q Are you certain that the ~~RAILWAY~~ railway from Potenza did not run to any east point.

A I don't know.

Q Did you enquire.

A I asked which way the railway ran , north & south ~~and~~ took the north.

Q Where did you get the American uniform.

A Half between Potenza & Salerno.

"WHD" Major.

.....

Page 16.

Q Why was it impossible to get out of Naples.

A It was almost impossible to get out because of the Typhus.

Q Were you refused exit on any roads.

A I never tried .

Q Are there any Canadian Prov. in Naples.

A I don't know.

Q Where did you get your food in Naples.

A In the Canteen Sir.

Q In changeing your uniform you took your money but forgot your Pay Book.

A Yes Sir.

Q How did you obtain permission to board the train.

A There was no permission necessary.

Q Was it a troop train.

A No Sir.

Q You were on the train for two weeks.

A Yes Sir.

Q How did you eat.

A The train personnel supplied me.

Q Who were the train personnel.

A. American

Q. Were you wearing American uniform at that time.

A. No I aquired it later.

Q. If Naples was quarentined how did you get in.

A. Trains and some trucks were allowed in, No one questioned me.

Q. Why didn't you get out again.

A. I did not want to go south.

Q. Could you not have got as far as Avellino

A. I suppose I could Sir but I didn't know there was any Canadian troops there.

"MHB"
Major

Capt E.H. Pritchard of Loyal Edmn Regt having already been sworn states:

I am Capt E.H. Pritchard Adj and officer i/c records for L.E.R. I produce A.F.B. 296 and statement of character & second, MFM 6 of accused. I certify these documents to be a true Record from the Regt'l books with respect to the accused.

MFM 6 and statement of character marked Ex. F and G respectively.

"WHB"
Major.

Prosecuting Officer Final Address in the case of M56202 Pte Elmer Devore:

1. To establish desertion it is necessary to prove either intention not to return to the Canadian Army or intention to avoid some important particular service. I submit that evidence has been brought forward to prove both these (undesipherable).

Evidence has been brought forward to show that the accused, by his illegal absence, did avoid an attack to which the Edmonton Regiment had been committed and of which he had previous knowledge.

The evidence to prove that the accused had no intention of returning to the Canadian Army is as follows.

1. On his own admission and from evidence of his Platoon Officer and Sergeant he did illegaly absent himself sometime during the night or early morning of 13-14 Dec 1944

2. He did not subsequently surrender himself, nor did he return to his unit but was apprehended by the Provost.

3. When apprehended he was not in proper uniform but was in U.S. Army uniform which I submit is as good a digtise in this country as could possibly be found by a non Italian speaking member of the Canadian Forces.

4. When apprehended he was not in possession of that usual means of identification, his pay book.

"WHB"
Major.

The accused, in his own testomony, states that from the time he was subjected to mortar fire until some seven days later he remembers very little and intimates that he was practically out of his mind. Yet subsequent to this mortaring it is shown that hereported to his Platoon Sgt. as detailed. Further, fora man who was intent on rejoining his unit the lapse of time subsequent to his recovery of his mental processes until his arrest is very sketchily accounted for. We are asked to believe that a rail trip from Potenza to Naples took fourteen days. This would mean a daily average of ten miles covered. Further the accused states that he had got some hundred miles south of the unit when he came to his sences and that from then he tried to work his way back to the unit. Yet after an elapse of twenty eight days he was arrested in Naples which is farther from unit than his starting point was. He further states that he, himself made no attempt to leave Naples.

"E.H. Pritchard" Capt.
Prosecutor

"WHB" MAJOR.

Summing up - Defending Officer - Lt/L.J. Prosser

As I see it, Sir, the issue being decided is whether the accused is guilty of desertion or absence without leave. To be guilty of desertion he must ① have intended never to return to his unit, or ② have left his unit to avoid an important military duty.

① The evidence shows that the accused always intended to return to his unit. The readiness of his admission of his identity to the Provost proves that & it is also proven by his own statement, given on oath the fact that he was wearing an American Army uniform has been satisfactorily explained - his own was ragged & it was the first he encountered.

The evidence as to his character given by Sgt Beaudry & Capt Johnson clearly indicates that he is not the type of man who would desert his unit.

② As to his trying to avoid an important military duty the evidence also shows that the accused was never warned for the attack impending. Also his record since landing in Sicily indicates that even had he known of the impending attack he would never have run out while in his right mind. "WHB" Major

It should be borne in mind also that the accused voluntarily elected to give evidence on oath, thereby subjecting himself to cross-examination, although he has been thoroughly examined and cross-examined there have been no discrepancies in his evidence.

For these reasons I submit, Sir, that the court cannot find the accused guilty of desertion, and the finding must be one of absence without leave.

"L.J. Pronger"

Ex "G" "WIIB" Major

M.F.B. 355
225M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M56202	Pte	DEVORE, Elmer	The Loyal Edmn R.

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	NIL times	NIL times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.F.A. 73 / A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 53 days in military / Air Force custody, making a total of 53 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 21 yrs

6. The date of his enrolment / attestation specified in his record of service / attestation paper is 21 Jan 42

7. The service which the accused is allowed to reckon towards discharge is 2 yrs

8. The accused is entitled to reckon 2 yrs service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force / military decoration, or air force / military reward (or is in possession of or entitled to). State any air force / military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

..... dated N/A, and in his regiment (or corps), the rank of

..... dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12 day of Mar 44

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

"E.H. Pritchard"
(E.H. Pritchard) Capt & Adjt
The Loyal Edmonton Regiment

No. M56202 Name DEVORE, Elmer Sqn., Battery, or Company BnHQ Corps CIC Date of enlistment 21.1.42 G.C. Badges Service or Proficiency Pay

M.F.M. 6
(A.F. B.122)
40/P Ac /8136 (2065)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
No entries.									
				CERTIFIED TRUE COPY					
				12-Mar-44				Ex F	
				"E.H. Pritchard"				"WHD" Major	
				(E.H. Pritchard) Capt & Adjt					
				The Loyal Edmn R.					

(P.T.O.)

Statement of Evidence in the case of M56202 Pte Devore E of The Loyal Edmonton Regiment, a soldier of the Canadian Army.

By direction of the Commanding Officer evidence is taken on oath.

1st WITNESS

M16204 L/Sgt Beaudry E Loyal Edmonton Regt. having been duly sworn states:

I am M16204 L/Sgt Beaudry E. Platoon Sgt of the Loyal Edmonton Regt, Scout Platoon. On the morning of 14 Dec 43 at approx 0830 to 090 0 hrs I checked on the scout Platoon and found Pte Devore to be absent. I reported this fact to the Scout Officer.

Q.1. At this time and during the proceeding night was the Battalion in actual contact and in action with the enemy.
A.1. Yes Sir,

Q.2. Have you been with the Scout Platoon continuously from 13 Dec 43 until now.
A.2. Yes Sir.

Q.3. Subsequent to Dec 13 when did you next see Pte Devore.
A.3. Sometime during February. He was then confined in the Guard Room.

The accused declines to cross examine the witness

"WHB" Major "E. Beaudry"

2nd WITNESS

Capt. A.M. Johnson, Loyal Edmonton Regt, Canadian Army, having been duly sworn states:

"I am Captain A.M. Johnson of the Loyal Edmonton Regt. On Dec 14 1943 I was in command of the Scout Platoon. On the afternoon of Dec 14 L/Sht Beaudry brought the Scout Platoon up to Forward B.H.Q. on the Moro Ridge, he reported to me at that time that Pte Devore E. had been absent that morning at meal parade and had not been seen since. I made inquiries and was unable to find any trace ofhim. I commanded the Scout Platoon until approx. 1 Jan 44 and up until that time Pte Devore did not return to the platoon.

Q.4. Do you recognize Pte Devore

A.4. Yes, as the accused

Q.5. During the night of 13 Dec 44 and on the following day was the Edmonton Regt. in actual action and contact with the enemy.

A.5. During the night of 13-14 Dec the Battalion was under enemy shelling and Mortar fire. During the day of 14 Dec 43 the Battalion was in close contact with the enemy.

The accused declines to cross-examine this witness.

"A.M. Johnson, Capt. "

"W.E."

3rd WITNESS

Lieut E.O. Powell, O.C. III Provost Coy

Documentary

Documentary evidence read to the accused who did not demand the presence of this witness.

4th WITNESS

5778212 L/Cpl Lake W. III Provost Coy.

Documantary

Documentary evidence read to the accused who did not demand the presence of this witness

5th WITNESS

7692003 L/Cpl T Dalton III Provost Coy.

Documentary

Documentary evidence read to the accused who did not demand the presence of this witness.

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declined to make a statement or to give evidence . Certified that the foregoing Summary of Evidence consisting of three pages was taken down in the presence of the accused and the Rules of Procedure 4 (c) (d) (e) (f) & (g) have been complied with.

"E.R. Pritchard" Capt.
Officer taking Summary

In the Field
6 Mar 44

"WHB" Major

TO WHOM IT MAY CONCERN:-

This is to certify that in my opinion Lieut E.O. Powell, 5778212 L/Cpl Lake, W., 7692003 L/Cpl Patton, F. of 111th Provost Company CMP are not readily available to appear as witnesses for this Court Martial.

(E.W. Day) Lt-col
Comd The Loyal Edmn R.

Certificate under ARMY Act Section 163 (1) (ii).

I Certify that No. M56202 Rank Pte Name Devore, E.

of the EDMONTON REGT was arrested at

NAPLES at 1215 hrs 18 Jan 44 wearing AMERICAN ARMY UNIFORM

Signature of APM, Provost Marshall or other officer into whose custody the above named was taken on arrest.

E.O. Powell Lieut.
O.C. 111th Provost Company.

Certified true copy.

"E.H. Pritchard"
(E.H. Pritchard) Capt & Adjt.
The Loyal Edmn R.

CHARGE

Army Form B 252

The Edmonton Regiment. --- Regiment
EnHQ --- Coy

Charge against No. M56202 Rank Pte
Name Devore, E
Place In the Field Date of Offence 14 Dec 43

OFFENCE:- (1) WOAS (Absent from 0900 hrs 14 Dec 43 until apprehended by the Military Police at the QUESTURA, NAPLES at about 1215 hours on the 18 Jan 44.

(2) Improperly dressed i.e. wearing AMERICAN ARMY UNIFORM.

(3) BEING IN IMPROPER POSSESSION OF AMERICAN ARMY CLOTHING.

(4) NOT BEING IN POSSESSION OF HIS MILITIA BOOK.

Names of Witnesses:-
5778212 L/Cpl W. Lake - 111th Provost Coy CM Police
7692003 L/Cpl T. Dalton " " " "
1069312 Cpl L. Jeffreys" " " "
(Statement attached) NCO i/c Guard

Statement of Evidence in the case of
M56202 Pte Devore, E. EnHQ Coy.
The Edmonton Regiment
The Cdn Army

Sir,

At Naples on 18 Jan 44 at about 1215 hrs I was on duty at the QUESTURA where I saw the above named soldier. He was dressed in complete US Army uniform. I asked him to what unit he belonged. He said "I am a Cdn., I have been absent over five weeks. I arrested and conducted him to the MILITARY POLICE GUARD ROOM where I obtained his particulars verbally for report, and paraded him to NCO i/c Guard Room to be detained. When arrested Pte Devore was not in possession of his paybook.

Naples
18 Jan 44

W. Lake L/Cpl
111th Provost Company

Sir,

I have read over and corroborated the above statement.

Naples 18 Jan 44 CERTIFIED TRUE COPY T Dalton L/Cpl

CERTIFICATE UNDER ARMY ACT SECTION 165 (1) (11).

I certify that No. M 56202 Rank Pte Name DE VORE E.

of the EDMONTON Regt was arrested at Naples at 1215 hrs

"B"
"HB"
Major

on 18 Jan 44 wearing AMERICAN ARMY UNIFORM

Signature of APM, Provost Marshall or other officer into whose custody the above named was taken on arrest.

"E.O. Powell" Lieut
O.C. 111 Provost Company

Ref. 1299/43 1863/e

Army Form

CHARGE (See King's Regulations)

"E.O. Powell" Lieut Regiment

THE EDMONTON

~~Battery~~ ~~Squadron~~ ~~Troop of~~ Company

"B" HQ

Ex "D"

"HQB" Major Rank Pte

CHARGE against No. M 56202

Name DE VORE, E. "UNDESIPHERABLE"

Place Date of Offence

OFFENCE W.O.A.A.S.(1) ABSENT FROM ? UNTIL APPREHENDED BY THE MILITARY POLICE AT THE QUESTURA, NAPLES AT ABOUT 1215 HOURS ON THE 18 JAN 44.
(2) IMPROPERLY DRESSED, i.e. wearing AMERICAN ARMY UNIFORM.
(3) BEING IN IMPROPER POSSESSION OF AMERICAN ARMY CLOTHING.
(4) NOT BEING IN POSSESSION OF HIS MILITIA BOOK.

Names of Witnesses :—
5278212 L/Cpl W. Lake, 111th Pro Coy CM Police
7692903 L/Cpl T Dalton " " " "
1069312 Cpl L. Jeffreys " " " "
(STATEMENT ATTACHED) HCO i/c Guard

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

W.O. W1.W1262/1908 3,000,000. 5/42. K. & H. Ltd. Guild.

Statement of **EVIDENCE** in the case of,
No.M-56202 Pte DE VORE, E.
"B" HQ Company
The Edmonton Regiment
The Canadian Army

Sir,

At Naples on the 18th January 1944 at about 1215 hours I was on duty at the Questura where I saw the above named soldier.
He was dressed in complete U.S. Army uniform.
I asked him to what unit he belonged he replied "I am a Canadian, I have been absent over five weeks".
I arrested and conducted him to the Military Police Guard Room, where I obtained his particulars verbally for report, and handed him over to the NCO i/c Guard Room to be detained.
When arrested Pte De Vore was not in possession of his pay Book.

Naples
18th January 1944

"W. Lake L/Cpl"
111th Provost Company

Sir,

I have read and corroborate the above statement,

REMARKS

Naples
18th January 1944

"T.H. Dalton L/Cpl"
111th Provost Company.

II-140

PTE DEVRIES HH

Correspondence to be PINNED here.

II-140

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 2nd day of July, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Second Canadian Division, Candian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial (or reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*[I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely:—]

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	T.W.Bigelow	6 Cdn Inf Bde Coy RCASC

Members.

Rank.	Name.	Regiment.
Captain	W.H.HORNER to be detailed by D.C.,8 Cdn Recce R	8 Cdn Recce R(14H)
Captain	R.C.LONG 11 Bde Fd Amb RCAMC to be detailed by ADMS,2 Cdn Div	RCAMC

*Signed (E.L.M.Burns) Major-General
Commanding 2 Cdn Div.
Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D91013,Pte Harry Henry DEVRIES,RCASC,att'd 10 Cdn Fd Amb,RCAMC.	Frist charge Section 12(1)(a)AA (See charge sheet attached	Guilty	Guilty	Confirmed E. L. Burns Maj Gen
	Second charge Sec.15(1) Army Act (See charge sheet attached)	Guilty	Guilty	
	Third Charge Sec 22 Army Act (See charge sheet attached)	Guilty	Guilty	
	Fourth charge Sec 15(1) Army Act (See charge sheet attached)	Guilty	Guilty	
	Fif th charge Sec 24(2) Army Act (See charge sheet attached)	not Guilty	Guilty. To undergo imprisonment with hard labour for 18 months and awarded stoppage of pay 7 £10-12-2 (Ten pounds 12/- and stoppage 2-8 and 1 penalty 2-8 Total £13.	

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) E. L. Burns (E.L.M. Burns) Major-General — *Commanding 2 Cdn Div.* — *Convening Officer (e)*

(Signed) [illegible] Major. — *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 3rd day of July, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

* Omit if not applicable

were duly sworn.

Signed this 3rd day of July 1943.

[illegible] Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See Footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this [illegible] day of 19 .

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~) E.L.B

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 6th day of July 1943.

E. L. Burns
Confirming Officer.
Major
Comd 2 Cdn Div

6 JUL 1943

Promulgated and extracts taken in the case of D-91013 Pte Devries H H

(a) (Dated) 6 July 43. (Signed) B. G. Shein, Lt. Col. O.C. 10 CDN. FD. AMB.

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

EXHIBIT B2
Jean Bigland Major

CHARGE SHEET

The accused, D 91013 Pte. Harry Henry Devries, RCASC att'd 10 Cdn Fd Amb RCAMC, a Soldier of the Canadian Army Overseas, is charged with

First Charge
Sec 12(1)(a)
Army Act

When on Active Service,
Deserting His Majestys' Service
In that he
In the field at 1949 hrs. 27 Dec 42 after mounting guard absented himself without leave until arrested at 1545 hrs 19 June 1943 dressed in civilian clothes.

Cost of return to unit 7/8.

Second Charge
Sec. 15(1)
Army Act.

Absenting Himself Without Leave
In that he
In the field at 1300 hrs 26 Dec 42 did not return from pass and remained absent until reporting at 1645 hrs 27 Dec 42.

Third Charge
Sec. 22
Army Act.

When in Confinement Escaping
In that he
In the field at or about 0300 hrs 23 Jun 43 when confined to detention room, S Sask R escaped.

Fourth Charge
Sec 15 (1)
Army Act

Absenting Himself Without Leave
In that he
In the field at 0300 hrs 23 Jun 43 absented himself without leave until 1219 hrs 23 Jun 43.

Fifth Charge
Sec. 24(2)
Army Act

Losing by Neglect His Equipment, Clothing and Regimental Necessaries
In that he
In the field on 2 July 43 was deficient of:-

Article.	No.	Price
Holdall	1	3
Razor	1	1-10½
Shoe Brushes	2	6 ea.
Button Brush	1	8
Button stick	1	2
Gloves, Woollen prs.	1	2- 7½
Respirator,A.G. complete	1	18- 8½
Pistol, revolver .38	1	4-10- 6
Battle Dress suit	1	8-15- 7
Great Coat	1	3-17-6½
Straps, supporting	1	8
Cap, field service.	1	3- 8
		£12-12- 9
75% Value		£10-12- 2

TO BE TRIED BY F.G.C.M.

E L M Burns

2 July 43 (E.L.M.Burns)Maj.Gen
In the field Comdg.2 Cdn Div.
2 July 43.

J. R. Shier Lt Col.
O.C. 10 Cdn Fd Amb. RCAMC.

EXHIBIT 'N'

MEDICAL CERTIFICATE

I certify that I have this morning examined No. D.91013,Pte.Devries,H.M. and in my opinion he is fit to undergo trial by court martial.

In the Field
3 July 1943.

Major
RCAMC.

T. W. Bigelow Major.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a F. G. Court-Martial held at Field

on the 3 day of July 19 43 by order of

Majr-General E. L. M. Burns

Commanding 2 Cdn Div

dated the 2 day of July 19 43

President.

Majr T. W. Bigelow, R.C.A.S.C.

Members.

Capt. W. H. Horner, 8 Cdn Recce Regt (14th Can Hus)

Capt. R.C. Long, 11 Cdn Fd Amb.

Judge Advocate.

Trial of* D 91013 Pte. Harry Henry Davies, R.C.A.S.C.

att'd

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ is not available ~~is correct.~~

~~, and the absent member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Majr F.L. Slipp, 10 Cdn Fd Amb.

Counsel‡ or defending officer† Capt. J. F. Primeau, 10 Cdn Fd. Amb.

At 1130 o'clock the Trial commences.

The order convening the Court is read, and is marked A signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

(1)

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the fifth charge against you which you have ~~read~~ heard read? Not Guilty *Answer.*

The accused having pleaded Guilty to the first four charges, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C Lieut Bigelow Major.

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A).)

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No

The prosecutor makes an opening address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution. A103959 Pte Patrick, D. P.

being duly sworn, is examined by the prosecutor.

The Prosecutor introduces a certified true copy of the Court of Inquiry held on 19 Jan 43 for investigating the absence and loss of kit of Pte Davies. The terms were as shown in the fifth charge.

The Witness, Pte Patrick, stated he was the driver of the truck which brought Pte Davies back to his unit - that Pte Davies was in civilian clothing and brought no military kit or equipment with him.

D Lt. Bigelow Major.

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. No

Question. Do you intend to call any other witness in your defence?

Answer. No

Question. Is he a witness as to character only? *Answer.*

There was no defence brought forward & support the plea of "Not Guilty"

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

~~The evidence of the accused (and of the witness for the defence, including witnesses as to character) is recorded in separate proceedings.~~

(Where the accused does not give evidence upon oath.)

Question to the accused. ~~Have you anything to say in your defence?~~

Answer. The accused in his defence says† No, Sir.

[hands in a written address which is read, marked
signed by the President and attached to the proceedings.]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court above.)

E

Finding.* Lieut Colonel Major

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Guilty of the fifth charge.

(For proceedings on Guilty pleas see page CC attached)

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

Proceedings on Conviction *before Sentence.*

*The Court being re-opened, the accused is again brought before it.

Major F. L. S Lipp is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

Yes introduced MFM6 and MB 296

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked "J" "I" signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question. Have you compared the contents of the above statement with the regimental books? *Answer.*

Yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Yes

[Interpolate.—If by reason of the nature of the service of the accused in a detachment corps, or otherwise, the finding of the Court should not be fully in accordance with the previous entry, the alteration to that to be inserted by the Court the president must call the attention of the Court to the fact, and the Court must consider the nature and amount of that additional punishment.]

Cross-examined by the accused.

No

Question to the accused. Do you wish to address the Court? *Answer.* Yes (Sworn)

~~The Court is closed for the consideration of the sentence.~~

F

Sentence.

~~The Court sentence the accused~~ ~~Sentence~~

Address by defending officer in mitigation of sentence

The accused attempted to join the Army in Sept 1939 but was too low a category & left. However after several attempts he finally obtained an "A" category and joined up. Later at Borden in Canada he had an opportunity of being discharged on medical grounds but refused because he was so anxious to do his part in the War.

~~He~~ was very young and hoped to learn a trade & better himself in the Army. However he only did D. R. work and was a driver so ~~he~~ did not have the opportunity. While in the Army he found an opportunity of learning a trade so he left the Army to do this. He intended to learn the trade and then return to the Army. He had an opportunity to go to Ireland but did not do so.

The Court is closed for consideration of the statement

F

~~SENTENCE~~

~~The Court sentence the accused~~ ~~Sentence~~

Judge Advocate

CC Lieut Bigelow Major.

Proceedings on Plea of Guilty.

* To be struck out in case the plea of "Not Guilty" be here proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused D 91013 Pte Harry Henry Davies is found guilty of the First, Second, Third and Fourth charges.

†The summary (or abstract) of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

No

~~He hands in a written statement, which is read, marked, signed by the President, and attached to the proceedings.~~

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character? No Sir

Question to the accused.

Answer

Evidence as to character.

(For proceedings on conviction before sentence see page E)

Exhibit [illegible]

CERTIFICATE IN ACCORDANCE WITH P.C. 2794 of 16 ~~Sept~~ Sept 42.

I CERTIFY that No. P-91013 . Rank . Pvt. . Name . Devries, E.H.

Unit R.C.A.S.C. Att. 10 Fld. Amb . was arrested at . London . (Place)

at .1545 hrs. (hour) on .19 June 43 . (date) and that at the time of his arrest he was wearing (~~Military uniform~~) or (Civilian Clothes)

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

Exh "B"

London
20 June 43

(W. B. Ken) D. A. P. M., Capt.
London Area

EXHIBIT E

Expense Voucher Re—: (Ont. R.R. & M. (Can) 530)

Reg. No. D7161.3 Rank Pvt. Name Devereux, H. Unit 10 Fd. Amb.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
4th June 43	Escorts return fare from LONDON To Pattenough (2 portions)		3	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Pattenough		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Ed "C"

CAPT.
(W. FERN) D.A.P.M.
LONDON AREA

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-35
40./P & S./483

411

EXHIBIT D
Sgt Taylor

I CERTIFY that the man whose personal descriptions is given below surrendered himself to Sgt Bickell
at 12.15 pm. at the Broadway Mill on
the 23rd. day of June 1943 as being No. D. 91013
(Rank and Name) Private Henry De VRIES.
a deserter (or absentee without leave) from 10th Canadian Field Ambulance, R.C.A.M.C.
and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 22 Height Feet 5 Inches 7
Complexion Fresh Hair Dark Brown
Eyes Hazel
Marks Scar right patella.
In uniform or plain clothes Plain clothes

Ex'd D

Probable Date and Place of Attestation	13.9.1939 Montreal, Canada.
Probable Date of Desertion or beginning of absence, and from what place	26.12.1942 Eastleigh, Surrey

Signature of Officer of Police in charge of Walsden Town
96, Rough Road Gen'l
23rd June 1943
Date of Signature

Exhibit 'B'
Investigation Major

RECORD of the DECLARATION of a Court of Inquiry assembled in the Field (England) on the 19 day of January 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D 91013 Pte. DEVRIES, H.H.

D E C L A R A T I O N.

The Court declare, that D 91013 Pte. Devries, H.H. (MT) Section, 10 Cdn Fd Amb. ROAMS, Absented Himself without leave on the night of Dec., 27th 1942, and is still absent at the time of the sitting of this Court, 19 Jan 43.

The Court also finds the following shortages in his Equipment:-

Article	No.	Price.	Vocabulary.
Holdall.	1	.3½	9.
Razor	1	1.4½	1.10½
Shoe brushes	2	.6	1. 0½
Button brush.	1	.6	8
Button Stick.	1	.1½	2
Gloves, Woolen prs.	1	1.11½	2. 7½
Respirator, complete	1	9. 4½	13. 6½
Pistol, revolver .38 complete with holster & 11 or 12 rounds Ammunition for same.	1	4.10. 6	6.00.00
Battle Dress Suit.	1	2. 1. 6½	2.16. 7
Great Coat	1	1.11.10½	3.17. 6½
Straps supporting.	1	6	1.11
Cap, Field service.	1	8. 9	3. 8
		£9. 1.4	£18. 1. 5½

Names of President and Members.

President — Major A. Lerner.

Members. — Lieut. S.M. Civkin.

Lieut. P.C. Voloshin.

Signature of Commanding Officer B.S. Shier Lt.col
26 Jan 43.

CERTIFIED CORRECT Extract from Mil.. Book 68.

Exh A

B.S. Shier
Lt Col
O.C. 10 CDN. FD. AMB.

Exhibit "C"

Summary of evidence in case of D 91013 Pte Harry Henry Devries, RCASC, attd 10 Fd Amb RCAMC.

Accused is informed of his rights.

CO does not direct & accused does not demand that evidence be taken on oath.

First Witness — L17045, Sgt Clark, A.D., 10 Cdn Fd Amb, RCAMC, states: accused is Pte Devries of this unit. On 26 Dec 42 I was Coy NCO & took a roll call at 1330 hrs & found Devries had not reported back from pass. His pass had expired 1300 hrs on 26 Dec. I reported absence to orderly room. On 27 Dec 42 I was Cdr. Sgt & Pte Devries had not returned. He reported to me at 1645 hrs & I placed him under open arrest & warned him for duty as guard. He was present when I inspected gd at 1700 hrs. At approx 1745 hrs Cpl of the gd reported to me & I went with him on a tour of billets looking for Devries & could not locate him. I then detailed another man to take his place. Today is first time I've seen him since.

I produce Declaration of Crt of Enq on illegal absence (Exh A) Certificate of apprehension (Exh B) Certificate of costs of return (Exh C) and certificate of apprehension (Exh D). all of which relate to the accused whom I recognize.

Accused does not wish to cross-examine.

AO Clark Sgt.

Second Witness — L12717 Cpl Brunsdon, NZEF, S. Sask R., states: I recognize the accused. He was brought to 3 S R or detention room on afternoon of 21 June 43 then was no papers with. We locked him in gd room. I saw him locked in the room between 2 & 3 o'clock in the afternoon. On night of 22/23 June Cpl Hagensky reported to me & I went down to gd room to check & found the bars had been ripped away & the accused was missing. I checked at approx 0530 hrs 23 June 43. I reported to Regtl police. Did not find accused that night & today is the next time I saw him.

Accused declines to cross-examine the witness.

Cpl Brunsdon NZ.

Third Witness — L 12700, Cpl Hagensky, S L, S Sask R. states: Recognize the accused but don't his name. He was under close arrest in our detention barracks when I took over guard on 21 June 43. That night I was between 2300 hrs & 0030 hrs I looked in room & everyone was there. Later during night one of detainees asked to be taken out. I put lights on & accused was gone. It was just after 0300 hrs. I went to window, cement was chipped loose on the bottom & the bars were shaved apart.

Exhibit "C"
Lieut-Colonel
Major.

Summary of evidence in case of D 91013 Pte Harry Henry Devries, RCASC, attd 10 Fd Amb RCAMC.

Accused is informed of his rights.

C.O. does not direct & accused does not demand that evidence be taken on oath.

First Witness — L17045, Sgt Clark, A.D., 10 Cdn Fd Amb, RCAMC, states: accused is Pte Devries of this unit. On 26 Dec 42 I was Coy NCO & took a roll call at 1330 hrs & found Devries had not reported back from pass. His pass had expired 1300 hrs on 26 Dec. I reported absence to orderly room. On 27 Dec 42 I was Cpl. Sgt & Pte Devries had not returned. He reported to me at 1645 hrs & I placed him under open arrest & warned him for duty as guard. He was present when I inspected gd at 1730 hrs. At approx 1945 hrs Cpl of the gd reported to me & I went with him on a tour of billets looking for Devries & could not locate him. I then detailed another man to take his place. Today is first time I've seen him since.

I produce Declaration of Crt of Enq on illegal absence (Exh A) Certificate of apprehension (Exh B) Certificate of costs of return (Exh C) and certificate of apprehension (Exh D) all of which relate to the accused whom I recognize.

Accused does not wish to cross-examine.

AC Clark Sgt.

Second Witness — L12717 Cpl Brunsden, NCF, S. Sask R., states: I recognize the accused. He was brought to SSR & detention room on afternoon of 21 June 43. I then was on pass with. We locked him in gd room. I saw him locked in the room between 2 & 3 o'clock & the afternoon. On night of 22/23 June Cpl Hazenusky reported to me & I went down to gd room to check & found the bars had been ripped away & the accused was missing. I checked at approx 0530 hrs 23 June 43. I reported to Regtl police. I did not find accused that night & today is the next time I saw him.

Accused declines to cross-examine the witness.

Cpl Brunsden NCF.

Third Witness — L12760, Cpl Hazenuski, S.L., S Sask R. states: Recognize the accused but don't his name. He was under close arrest in our detention barracks when I took over guard on duties 22 June 43. That night I took between 2300 hrs & 0030 hrs I looked in room & everyone was there. Later during night one of detainees asked to be taken out. I put lights on & accused was gone. It was just after 0300 hrs. I went to window, cement was chipped loose on the bottom & the bars were shaved apart.

accd was only one missing
accused declines to cross-examine the witness.

Sgt Koszynski S. F.

Fourth Witness — Capt R F. Oldbe, RCAMC, 10 Cdn Fd amb RCAMC, states:-
2 reported at RCASC RU 2 Jul 43, took over accused dressed in civilian clothes. He had no military equipment or clothing.
Accused declines to cross-examine the witness.

R F. Oldbe Capt.

The accused, having been cautioned in accordance with R.R 45) says "I have no statement to make"

Accused does not wish to call witnesses for defence at this point.

Certified that RP 4 complied with
In the field
2 July 43

G. L. Sturt-Major
Officer detailed to take summary

EXHIBIT J.

M.F.M. 6
W.A.F.B. (1917)
(7750—7.41 (1919-20)
H.Q. 1772-39-1652

No. D91613 Name DEVRIES, H.H. Sqn., Battery, or Company Corps RCASC Att RCAMC. Date of enlistment 13 Sep 39 O.C. Badges

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1. — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 13 Mar 40. Nil Drunkeness. Last instance N.A.						D.O. Shtr.			
In the Fd.	23 Dec 40	Pte.		Disobeying a lawful command given by a superior officer, failing to appear at place of duty appointed by his C.O. (Kitchen fatigue, replaced by another man)	Cpl. Geller L/Cpl. Willis	3 days Fatigues 1 day Pay	23 Dec 40	Major R.A. Dufresne.	
In the Fd.	22 Mar 42	Pte		A.A. Sec 1(1) W.O.A.S. A.W.L. 20 days 20 hrs and 30 mins.	CSM Ford, C.	27 days Detn 1 day Crd Pay	10 Apr 42	Lt.Col. D.C. Leech	Forfeits 21 days A/L. & 27 days Detn
In the Fd	22 Nov 42	Pte		A.A. Sec 1(1) W.O.A.S. A.W.L. 10 hrs 15 mins.	S/Sgt. West L/Cpl. Steel	1 days Pay	28 Nov 42	Lt.Col. D.C. Boiler	1 days Pay A/L.
In the Fd.	5 Dec 42	Pte.		(2)A.A. Sec 1(1) W.O.A.S. A.W.L. 9 hrs 30 mins.					

FTO

Place	Date of offence	Rank	Cause of detention	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				(2) A.A. Sec 11 W.G.AS. Neglecting to obey Standing Orders, Failed to turn in his pass.	S/Sgt.West Cpl.Phillips L/Cpl Carlson	14 days Pay. 2 days Pay. 14 days C.B.	8 Dec 42	Lt.col. S.G. Shier	Forfeits 1 days Pay.

CERTIFIED TRUE COPY

S.G. Shier Lt.col.

(S.G. Shier)
Commanding Officer,
10 Con Fd Amb. RCAMC.

EXHIBIT I

Substitute for AFB 296

Statement of Character and Particulars of Service

D-91013 Pte. Devries,H.H. 10 Cdn.Fd.Amb.R.C.A.M.C.

Age 20 married or single Single No.of dependents Nil.

Date of attestation:-13 Sep 39.

Days in custody awaiting trial

Civil Military 13 days Hospital Total 13 days

Dates of appointments,promotions,etc.

In the field
3 July 43.

Officer i/c Records
10 Cdn Fd Amb.RCAMC.

MFM 6 must accompany this form

NN-14
GNR DEVRIES J.

M-63933 Gnr DEVRIES, J.
1 CARU

NN-14

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this FOURTEENTH day of AUGUST, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[redacted]

*Omit if not applicable.

President.

Rank.	Name.	Regiment.
LT-COLONEL	D.L. REDMAN	HQ CRU

Members.

Rank.	Name.	Regiment.
LIEUTENANT	F.A. ITTER, RCA	1 CARU
CAPTAIN	J.E. DUFOUR, RCA	3 CARU
CAPTAIN	N.C. MCLEOD, RCA	2 CARU

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier,
Commanding "C" Gp, Cdn Rft Units.
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
M-63933				
Gnr DEVRIES, J. (RCA) 1 CARU	FIRST CHARGE A.A. Sec.18(4)	NOT GUILTY	Not Guilty	Confirmed
	ALTERNATIVE CHARGE A.A. Sec.40	"	Guilty	
	SECOND CHARGE A.A. Sec.18(4)	"	Not Guilty	
	ALTERNATIVE CHARGE A.A. Sec.40	"	Guilty	
	THIRD CHARGE A.A. Sec.18(4)	"	Not Guilty	
	ALTERNATIVE CHARGE A.A. Sec.40	"	Guilty	
	FOURTH CHARGE A.A. Sec. 40	"	Guilty	
	Sentenced To undergo Detention for a period of Ninety (90) Days. 16th Aug 1943			
	See Charge Sheet attached.			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" No.

Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) _____ Brigadier, (Signed) _____

Commanding "C" Group, Cdn Rft Units.
Convening Officer (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16th day of Aug 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
~~*(3. The Interpreter)~~
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 16th day of Aug 1943

_____
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (i) on page 762 M.M.L. 1929.

~~I certify that the terms of A.C.I. 370 of 1918 have been complied with.~~

~~Signed this day of 19~~

_____
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 17th day of August 1943

_____
T.C. STEWART, Brigadier,
Confirming Officer Commanding "C" Group
Cdn Reinforcement Units

Promulgated and extracts taken in the case of M63933 Gnr DEVRIES J.

(*a*) (Dated) 17 Aug 43 (Signed) _____ COL
C.O. - 1 CARU

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, M.63933 Gunner Jacob DEVRIES, No.1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Active Army, is charged with, WHILE ON ACTIVE SERVICE:-

1ST CHARGE
A SEC. 18 (H)

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he

in the field, between 0600 hrs 5 Aug 43 and 1030 hrs 6 Aug 43, stole a fountain pen, the property of B.16747 Gnr. Hamilton, L.G. "E" Bty, No.1 C.A.R.U., Canadian Army Overseas, a person subject to Military Law.

ALTERNATIVE CHARGE
A A SEC. 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field, at 1030 hrs on 6 Aug 43, was improperly in possession of a fountain pen, the property of B.16747 Gnr. Hamilton, L.G. "E" Bty, No.1 C.A.R.U., Canadian Army Overseas.

2ND CHARGE
A A SEC. 18 (H)

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he

in the field, between 0600 hrs 5 Aug 43 and 1030 hrs 6 Aug 43, stole a fountain pen, the property of H.35551 A/L/Bdr. Coker, W.J. "E" Bty, No.1 C.A.R.U., Canadian Army Overseas, a person subject to Military Law.

ALTERNATIVE CHARGE
A A SEC. 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field, at 1030 hrs on 6 Aug 43 was improperly in possession of a fountain pen, the property of H.35551 A/L/Bdr. Coker, W.J., "E" Bty, No.1 C.A.R.U., Canadian Army Overseas.

3RD CHARGE
A A SEC 18 (H)

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he

in the field, between 0600 hrs 5 Aug 43 and 1030 hrs 6 Aug 43, stole a fountain pen, the property of B.44575 Gnr. Mc Kinnon, G.G., "E" Bty, No.1 C.A.R.U., Canadian Army Overseas, a person subject to Military Law.

ALTERNATIVE CHARGE
A A SEC. 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field, at 1030 hrs 6 Aug 43, was improperly in possession of a fountain pen, the property of B.44575 Gnr. McKinnon, G.G., "E" Bty , No.1 C.A.R.U., Canadian Army Overseas.

4TH CHARGE
A A SEC. 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field, on 6 Aug 43 was improperly in possession of the following articles of public property, namely: 1 blouse serge; 1 cap Field Service; 1 vest, gym; 2 towels, hand; 1 carrier, waterbottle; 1 pullthrough, 303; 1 oil bottle; to the total value of one pound, seventeen shillings, and three pence, half penny. (£1-17-3½).

W A Townsley

(W.A. TOWNSLEY) Colonel,
Commanding Officer,
No.1 Canadian Artillery Reinforcement Unit,
Canadian Army Overseas.
R.C.A.

Dated at Bordon, Hants.,
this 10th day of
August, 1943

To be tried by Field General Court Martial,

Brigadier,
Commanding 1 Cdn Group, Cdn Reinforcement Units.
(Convening Officer)

No.1 Can Artillery Reinforcement Unit.

MF3 246

MEDICAL OFFICER'S CERTICICATE

K.R. (CAN) PARA 557

I certify that I have, this morning, examined

No. M 63733 De Vries J.

of No.1 Can Arty Reinf. Unit and in my opinion he

is fit to undergo Trial by Court Martial.

Station #1 C.A.R.U.

Date 16 August 43.

A.W. Stephen Capt

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT St Lucia Bks
ON THE 16 DAY OF Aug 1943

The accused. M 63.9.33 Gnr. Lebrun. J. Unit..... 1 C.A.R.U. .....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. Lt-Col. A.L. Redman ....Unit. H.Q. C.A.R.U. .....

Members. Capt. J.C. Lawson ....Unit. 3 C.A.R.U. .....

Lieut. J.A. Thom .....Unit. 1 C.A.R.U. ....

The officers under instruction are duly sworn:-

Capt. Lovell .....Unit. Gren. Gds.

.....Unit.....

Prosecutor. W.K. Thompson ....Unit. 1 C.A.R.U. ....

Defending Officer. A.C. Shaw ....Unit. 1 C.A.R.U. ....

The charge sheet is signed by the President and the accused is arraigned.
~~The accused pleads guilty to the charge(s) and R.P. 35(B)~~ is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) Calls witnesses as to character.
(c) Calls witnesses in mitigation of punishment.
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Proceedings follow on reverse.

Trial of M 63933 Gnr Davies J. 1 C A R A

The accused when arraigned plead not guilty to each and every of the charges The ~~Charge~~ Question under K R O 39(A) was asked The answer "no" is recorded.

1st witness for the Prosecution

H 35557 A/4 Bdr Coker W. J. being duly sworn states

I am in "E" Bty 1 C A R A. I have been with it for the past month. I identify this as being my pen. I had it until the 5th of Aug. It is grey, ~~Aigs~~ Agg broken off. two brass bands. The nib is slightly worn on one side. (marked Ex 1)

On 5th Aug before 0815 parade I put my pen on the mattress under the blankets. I slept in Room 1 Blk 10 at 17 00 hrs Aug 5. I came off parade I went to get my pen. It was not there. The room orderly had not seen it. I reported to Sgt Johnstone R. next morning I was called to the office and identified my pen.

Cross examined by the ~~S~~ Offr

I did not that the accused was the room orderly on 5 Aug 43. There are no initials on my pen but I wrote that standard and the nib is 20 worn.

2nd witness for Prosecution

B 445 75 Gnr McKinnon J. J. 1 C A R A being duly sworn states

I live in Blk 10 for the past 2 weeks. This is my fountain pen. I know by the ~~pearl~~ color, blue ink in it. the case is brown ~~plastic stripes~~ (marked Ex 2) On 5 Aug I came off parade on 5 Aug 43 and I had supper and I went to bed at 1800 hrs. I looked in my dress pocket. It was lying on my bed. The pen was not there

Page 2

The next morning at about 0800 hrs I reported to Sgt Johnson R.A.

Later in the morning at the battery office I identified my fountain Pen (Cross Examined by Def Offr)

My kit had been lying on the bed with the pen in it all day. I got this pen in Crete.

3rd witness for the Prosecution

B16747 Gnr Hamilton L.F. 1 Cdn R.A. being duly sworn states

On 5th Aug 43 I was in "E" Bty I lived in Block 10.

This is my pen. It is a green vacumatic Parker with a coarse nib, blue ink. On returning from parade at noon 6th Aug I discovered my pen was missing from my kit locker. I reported to Bdr Sliger the N.C.O. i/c of the room (Room 4 Blk 10). On 6th I was called to the Bty Orderly Room & discovered my pen. He then produced a pen & said it was mine, it was EE and this is the pen I identified EX 3

(Cross Examined by Def Offr)

I can see no other distinguishing marks on my pen. My pen has never been taken from my

4th witness for Prosecution

B6067 Sgt Johnston R.A. 1 Cdn R.A. being duly sworn states

I have seen the three pens EX 1, 2 and 3 report at 0800 hrs 6 Aug 43

3 pens were reported missing. I reported to Lt Murphy. He took a description from the men who claimed them, McKinnon Cutler and Hamilton

Page 3

The accused was going on draft at 1000 hrs that day. Lt Murphy and I examined his kit when we emptied his kit bags the three fountain pens EX 1 2 and 3 fell out.

Lt Murphy then said to the accused some articles are missing and as you are going on draft we wish to inspect your kit.

[The Def Offr is objected to any statements made by accused being given as he had not been cautioned. The Prosecutor referred to para (4) Page 92 Manual. The Court said it would allow the statements to be given in evidence]

The accused said "I have them sir, I'm sorry I did it. I don't know what I did it for but I'm glad you found them". Lt Murphy ordered the accused placed under close arrest.

Later in the Guard room when the accused was present his kit was inspected and articles of Govt property surplus to the scale of issue & Pte III in B.M.L were found: 1 cap F.S.; 1 blouse Khaki Serge (F.F.L. P.T. Shirt) 1 canvas water bottle; 1 Pull Thru 303; 1 oil bottle; 2 towels.

Articles in wrapping paper marked EX 4.

(Cross Examined by Def Offr)

I can't say that that is exactly what the accused said. "I am sure that he said "I'm sorry I did it. I don't know why I did (or done) it for but I'm glad you found them."

5th witness for Prosecution
2Lt R P. Murphy 1 Cav RA being duly sworn states.

I am a troop officer pr Block 10 I have seen Exs 1, 2 & 3 before at about 0800 hrs 6th day it was reported 3 pins missing in Blk 10 I took the names of the owners as the accused was going out on drill at 10 am hrs. I had the time changed to 10:30 am & I went to inspect his kit. I told the accused that pins were missing and I was going to make a kit inspection of everyone but as he was going on drill I would inspect his kit then.

when the pins fell out the accused said "There they are. I am sorry I did it but I am glad you found them" I arrested the accused under arrest I took the 3 pins which fell out of the kit bag which are Exs 1. 2 & 3 and they were identified by the men whose pins were reported missing.

I went to the Ground Room where the kit of the accused was being inspected in his presence. We found the articles in Ex 4. as being surplus to a private's scale of issue.

Cross Examined by Sgt of Officers The accused was present in Blk 10 when I opened his kit-bag. He was watching as the pins fell out. I can't say positively that the words above quoted were the identical words used. They were those words or words to that effect

Trial of M & 34 33 7 ors. Davies J. I C A R A.

Page 5

6th witness for the Prosecution

B 7027 B.R. M.S. Corporal E.A. I.C.A.R.A.

duly sworn states

at about 1130 hours 1/43. I was called to the guardroom to check kit of the accused. I checked it against M.B. m 1 Pt III Clothing and Equipment Statics I found him fully equipped and I found W.S. Equipment in excess of articles issued on M.B. m 1 to the value of £1-17-3½ being the articles in EX 4.

I asked the accused if he had bought any of these articles

The Def Off's objected to statements by accused being given in evidence that accused was then under arrest and had not been cautioned.

The court sustained the objection

Cross Exam by Def Offr

I check the kit of the accused against his Pt III and found it complete and the above articles in excess.

End of case for Prosecution

The Pres informed the accused under Proc 2 R P 40.

The Def Off's submitted that the Prosecution had not made a prima facie case on any of the charges.

The court adjourned to consider the submission

The court reopened

The President announced that the court disallowed the submission

The accused made a statement not on oath which is attached and initialled

1st witness for the Defence

43734 Pte Miller R. of 1 C A R U being duly sworn states

On July 1943 the accused and I were on "D" Bty when the matter of a kit came up. It was left on his bed by a man going on draft who told me I could keep it. I told the accused he could have it.

The end of Evidence for Defence.

The Def Offr addressed the court

The Prosecutor addressed the court

The court is closed for finding

The court reopens.

The President announces that it finds the accused not guilty of the 1st 2nd and 3rd charges laid under A A 18(4) but with respect to the 4 charges laid under A A 40 the court convicted with C A O R O 3262.

The Prosecutor produced M 7 B 358 an ext copy of M 7 M 6 respg accused R P 46 (B) is compld with.

In mitigation the Def Offr said produced a neurological report and medical plan which is attached C A O R O 3262 is compld with.

The court adjourned to consider sentence.

[illegible] 20 Jul

Statement of the accused

M 63933 Gnr DeVries Jacob.

I have been accused of having stolen three fountain pens and of having some kit in my possesion that I was not entitled to. I have never stolen anything in my life, and as for the kit, I have had it for some time. Some of it I got when I was on the rear party and some of it was given to me.

I was room orderly in the block, and one day I wanted to write a letter, and having lost my fountain I looked around to borrow one and saw one in a tunic which I borrowed, I found that I could not write very well with it, so I looked for another one and found it in another tunic as I was writing I was interupted by an inspection of the block, and I did not get a chance to finish my letter. After lunch I was sweeping the block when I found a fountain pen on the floor. I did not know who it belonged to, and intended turning it into the room orderly but I forgot it then as I was kept busy all afternoon. I got up late in the morning and I was going on draft I had to make my rounds, I dumped the things out of my pocket into my kit bag intending to pack it when I came back. I did not remember about the pens until I came back and was tole that there was going to be a kit inspection. And when they opened my kit bag of course the pens were there. I have nothing else to say except that I did not steal them.

Plea in mitigation on sentance

M63933 Gnr DeVries J

The accused was born in Holland in 1921. He reached grade 8 and then went to work for his Father in a grocery store. He was reared in a home where his Mothers mental condition caused much difficulty. He became very nervous and showed no interest in anything. He was sent to Canada where he obtained work first as a labourer and then as a 1942 clerk in a grocery store. He later worked in a bicycle shpp. In July he Anliated in the N.F.A.M. and a month later he went on Active service He has now been in the army for over two years and with one exception that of being A.W.L. for 8 hours in 1942 he has a clean M.F.M.C. He has never been in trouble before. ~~Now this is not the record of a man who would steal those fountain pens from his friends.~~ I have had the accused before a Psychiatrest and would like to have the Courts permission to read a few details from it.

The accuseds Father dying and his Mother being in a Mental Hospital and the fact that the accused was of low average intelligence has given him an inferiority complex. He imagines that everybody is against him, ~~xxxx~~His mind is inclined to wander and he is unable to do anything about it. He is consequently accused by his instructors of being inattentive. He has been a good soldier as his record shows and I would ask the Court to take into consideration his mental condition and his clean record into consideration in meting out sentance

SUMMARY OF EVIDENCE in the case of No M.63933 Gunner DEVRIES, Jacob, on the strength of "E" Battery, No.1 Canadian Artillery Reinforcement Unit, Canadian Army Overseas.

By direction of the Commanding Officer the summary is taken on oath.

1st WITNESS for the prosecution

Lieut. R.P. Murphy, "E" Battery, No.1 Canadian Artillery Reinforcement Unit, having been duly sworn states:-

I am Lieut. R.P. Murphy of "E" Battery, No.1 Canadian Artillery Reinforcement Unit. On the morning of 6 Aug 43, at 0805 hrs, it was reported to me that 3 fountain pens were missing from Block 10. I took the names of those who had lost them. M.63933 Gnr. Devries, J. was scheduled to leave camp at 1000 hrs, so I decided to inspect his kit before his departure. When his kit bag was dumped on the floor the accused stated: "There they are, I'm sorry I did it but I'm glad you found them", or words to that effect. I ordered Sgt. Johnson, R.A. to place the accused under close arrest. I had the three owners of the pens report to "E" Bty Office and they identified their property. I was also in the guard room when B.Q.M.S. Connor, E.W. inspected the accused's kit and equipment. The articles in excess of his kit were: 1 blouse, serge; 1 cap FS, 1 vest, gym; 2 towels, hand; 1 carrier, waterbottle; 1 pull-through, .303; and 1 oil bottle.

The accused declines to cross-examine this witness.

R.P. Murphy Lieut R.C.A.
(R.P. Murphy) Lieut. R.C.A. No.1 CARU.

2nd WITNESS for the prosecution

B.6067 Sgt. Johnson, R.A., "E" Battery, No.1 Canadian Artillery Reinforcement Unit, having been duly sworn states:-

I am B.6067 Sgt. Johnson, R.A. of "E" Battery, No.1 Canadian Artillery Reinforcement Unit. At approximately 0805 hrs on 6 Aug 43, at Quebec Barracks, Bordon, Hants, it was reported to me that several pens were missing from Block 10. I reported this fact to Lieut. R.P. Murphy. He took the names of the owners of the missing pens. Gnr. Devries was going on draft at 1000 hrs, 6 Aug 43. Lieut. Murphy and myself decided to inspect his kit before he left. The missing fountain pens were found when the contents of his kit bag was dumped on the floor. Gnr. Devries said: "There they are, I'm sorry I did it. I don't know what I did it for, but I'm glad you found them". Lieut. Murphy ordered me to place this man under close arrest. Gnr. Devries kit was inspected in the guard room after his arrest by Q.M.S. Connor. The following kit was in excess: 1 blouse, serge; 1 cap, F.S.; 1 vest, gym; 2 towels, hand; 1 carrier, waterbottle; 1 pullthrough, .303; 1 oil bottle, which articles are produced marked Exhibit "D".
Cross-examined by the accused.

Q. Did I admit that I took those pens?

A. No. But you did say, "I'm sorry I did it, I don't know what I did it for".

The accused declines to further cross-examine this witness.

R.P. Johnson
B.6067 Sgt. Johnson, R.A.

My

3rd WITNESS for the prosecution

H.35551 A/L/Bdr. Coker, W.J. of "E" Battery, No.1 Canadian Artillery Reinforcement Unit, having been duly sworn states:-

I am H.35551 A/L/Bdr. Coker, W.J. of "E" Battery, No.1 Canadian Artillery Reinforcement Unit. At 1700 hrs, 5 Aug 43, I went to get my pen from underneath my blankets where I'd left it in the morning. Finding it gone and thinking it had fell on the floor and was picked up by the room orderly, I made inquiries. The room orderly told me he had not seen it, and satisfying myself that it had disappeared, I immediately reported it. Sgt. Johnstone, R. told me that nothing much could be done about it. At 0815 hrs on 6 Aug 43, Lieut. R.P. Murphy called me to one side and asked me about it. I told him that two other pens were also reported missing. He called the other two men and took down particulars, stating that he would see what could be done. Later on in the morning we were called from 'Sunshine Alley', by the Orderly N.C.O., to report to the Battery Office. On reporting there, Lieut. Murphy asked me if I could identify my pen. I told him 'Yes'. He asked me the description of my pen, which was, a grey pen, Canadian made, two brass bands, the clip broken off, nib worn slightly on one side and pen filled with green ink. He then showed me the pen and asked me if that was my property and I said 'Yes'. He then asked the other two men the same questions. I here produce: 1 fountain pen marked as Exhibit "A".

Cross-examined by the accused.

Q. Did you ask me as room orderly on 5 Aug 43 whether I had found a pen?

A. No. I did not ask you as I did not know you were room orderly.

The accused declines to further cross-examine this witness.

.....
H.35551 A/L/Bdr. Coker, W.J.

4th WITNESS for the prosecution

B.44575 Gnr. McKinnon, G.G. "E" Battery, No.1 Canadian Artillery Reinforcement Unit, having been duly sworn states:-

I am B.44575 Gnr. McKinnon, G.G. of "E" Battery, No.1 Canadian Artillery Reinforcement Unit. At 1600 hrs, 5 Aug 43, I went to look for my pen in my pocket to write a letter, and it was gone. I didn't say anything about it until 0800 hrs 6 Aug 43 when I reported it to Sgt. Johnson, R.A. Later on in the day I was called up to "E" Battery Office to identify my pen. I gave Lieut. Murphy the description of my pen as follows: 'It was a brown pen in a brown leather case. The pen was in the case alone. The pen was filled with blue ink'. I here produce: 1 fountain pen marked Exhibit "B".

The accused declines to cross-examine this witness.

.....
B.44575 Gnr. McKinnon, G.G.

5th WITNESS for the prosecution

B.16747 Gnr. Hamilton, L.G., "E" Battery, No.1 Canadian Artillery Reinforcement Unit, having been duly sworn states:-

I am B.16747 Gnr. Hamilton, L.G. of "E" Battery, No.1 Canadian Artillery Reinforcement Unit. On returning from noon parade on 5 Aug 43, I discovered my pen was missing from my tunic pocket and I inquired around from the boys if anyone had seen it. None of them had so I reported the same to the NCO i/c room. The following day I was called into the Battery Office to identify my pen. I described my pen to L'eut. Murphy as follows: green, Parker Vacumatic pen, coarse nib. I here produce: 1 fountain pen marked Exhibit "C".

The accused declines to cross-examine this witness.

L.G. Hamilton

B.16747 Gnr. Hamilton, L.G.

6th WITNESS for the prosecution

B.9143 Sgt. Johnstone, R. "E" Battery, No.1 Canadian Artillery Reinforcement Unit, having been duly sworn states:-

I am B.9143 Sgt. Johnstone, R. of "E" Battery, No.1 Canadian Artillery Reinforcement Unit. I went down to the Guard Room with B.Q.M.S. Connor on the morning of 6 Aug 43, to check Gnr. Devries' kit. The excess equipment found was: 1 blouse, serge; 1 cap F.S.; 1 vest, gym; 2 towels, hand; 1 carrier, waterbottle; 1 pullthrough, .303; 1 oil bottle.

The accused declines to cross-examine this witness.

R. Johnstone

B.9143 Sgt. Johnstone, R.

7th WITNESS for the prosecution

B.7027 B.Q.M.S. Connor, E.W., "A" Wing, No.1 Canadian Artillery Reinforcement Unit, having been duly sworn states:-

I am B.7027 B.Q.M.S. Connor, E.W. of "A" Wing, No.1 Canadian Artillery Reinforcement Unit. At 1130 hrs, 6 Aug 43, I was called to the guard room, No.1 C.A.R.U., to check the kit of Gnr. Devries. I checked it against M.E.M.1 Pt III Clothing and Equipment, and found Gnr. Devries in excess of W.D. equipment to the extent of one pound, seventeen shillings, three pence, half penny. (£1-17-3½). The following is the equipment the accused had in excess: 1 blouse, serge; 1 cap, F.S.; 1 vest, gym; 2 towels, hand; 1 carrier, waterbottle, 1 pullthrough, .303; 1 oil bottle. In front of three witnesses Sgt. Johnstone, R, Sgt. Johnson, R.A. and Lieut. R.P. Murphy each article in excess was shown to Gnr. Devries, and the question asked, " Did you at any time buy these articles". To which he replied, to all articles listed in excess, that he did not buy them, but had found them at different periods during his army life.

The accused declines to cross-examine this witness.

E.W. Connor RQMS

B.7027 B.Q.M.S. Connor, E.W.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused elected to make a statement as follows:

1st WITNESS for the Defence

The accused, M.63933 Gnr. Devries, J., "E" Battery, No.1 Canadian Artillery Reinforcement Unit, states:-

I am M.63933 Gnr. Devries, J. of "E" Battery, No.1 Canadian Artillery Reinforcement Unit. On or about 15th June 1943, I came off parade, at St. Lucia Barracks, Bordon, Hants, and found a tunic folded on my blankets. Gnr. Miller asked me if I knew whose it was. I replied, "No". Then he stated that it was his and asked me if I wanted to keep it. I replied, "You can have it back if you want it". As Gnr. Miller is away on leave until 13 Aug 43, I cannot call him as a witness.

J. de Vries

M.63933 Gnr. Devries, J.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence, consisting of four pages, was taken down by me in the presence of the accused and that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

W.H. Kasperski Lieut. R.C.A.

(W.H. KASPERSKI) Lieut. R.C.A. No.1 CARU.

Bordon, Hants.,
10 Aug 43.

LIST OF EXHIBITS

Exhibit "A"	Fountain pen (Skywriter)	1
Exhibit "B"	Fountain pen and case (Skywriter)	1
Exhibit "C"	Fountain pen (Parker)	1
Exhibit "D"	1 bag containing the following excess kit:	

blouse serge	1
cap F.S.	1
vest gym	1
towels hand	2
carrier waterbottle	1
pullthrough .303	1
oil bottle	1

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P. 14 (B)

I, M.63933 Gnr. Devries, J. of No.1 Canadian Artillery Reinforcement Unit, desire to have Lieut. E. Shorey to represent me at my trial by court- martial.

J. de Vries

M.63933 Gnr. Devries, J.

No. M.63933 Name DEVRIES, J. Sqn., Battery, or Company — Corps R.C.A. — Date of enlistment 28 Jul 41 — O.C. Badges — Service or Proficiency Pay N.A.

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine N.A. — Sheet No. 1 — Signature O.C. Company, etc. — Character

M.F.M. 6 (A.F.B. 122) 3M—7-41 (1219-20) H.Q. 1771-30-1403

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Fort Garry	11 Apr. 42	Gnr.		A.A. Sec. 15 (1) A.W.L. from 2130 hrs. 11 Apr. 42 to 0600 hrs. 12 Apr. 42.		5 days C.B.			Ffts 1 days pay F.R. & I. 149 (1) (a)

(K.J.C. Ridley) Lieut.
Records Officer
CERTIFIED TRUE COPY OF MAIN
OFFICER HAVING CUSTODY OF REGIMENTIAL BOOKS

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M.63933	Gunner	DEVRIES, J.	NO.I C.A.R.U.

1. The following is a fair and true summary of the entries in the Regimental Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. Sec. 15 (1)	times	1 times
For	times	times
For	times	times
For	times	times

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for 10 days in military custody, making a total of 10 days in custody.

5. The present age of the accused according to his attestation paper is 21 yrs 11 mons 11 days

6. The date of his attestation verified in his attestation paper 26 Jul 41

7. The service which the accused is allowed to reckon towards discharge is 2 yrs 13 days

8. The accused is entitled to reckon 2 yrs 13 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of .

..... dated ..... .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused. Number M.63933 Rank Gunner Unit

Name DEVRIES, J. of NO.I C.A.R.U. ~~XXXXXX~~

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody. (K.J.C. Ridley) Lieut.

Signed this 16th day of Aug 43. Officer i/c Records

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.


TT-134
SGN. DEW J.E.

TT-134

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H.103031 SIGMN JAMES ERNEST DEW 5TH C.A.D. SIGS. INCREMENT CANADIAN ARMY OVERSEAS

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 40 AA	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ ~~.~~ (1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial—a total of~~ ~~days, of which~~ ~~days were spent in hospital.~~ (1) (1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To

14 days F.P. and £15-0-0

stoppages.

(Sgd) ~~Judge-Advocate~~, if any. 3 November 1943 Date awarded. (Sgd) A.P. Doohan Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding & Sentence Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) (1. AA 57A. Delete if not used.)

(Sgd) A.H. Cadbrooke Brig

Date 5 Nov 1943 Commanding ~~Officer~~ 5 Cdn Armd Div. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr
H103031 SIGMN DEW JAMES ERNEST	7 NOV 43	J.H. Cadbrooke Capt. COMMANDING 5 CAD SIGS SPECIAL INCREMENT

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

CPA90 (In lieu of AFA3) 40/P & S/1058 (2004)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig. G.R. Bradbrooke Comd 5 Cdn Armd Div Spec Inc dated 2 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H.103031	Signalman 17 Yeast 43 W.H. Haugh Capt	James Ernest	DEW	Special Increment 5 Canadian Armoured Division Signals

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 3 November, 1943

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3) a/k/d

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1000 hours trial commences. a/k/d

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (1) a/k/d

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ ~~as interpreter?~~ Ans ~~.~~

~~The Interpreter is sworn.~~ (1) ~~Do you object to~~ ~~as shorthand writer?~~ Ans ~~.~~ ~~The shorthand writer is sworn.~~ (1) a/k/d

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W.P. Doohan	8 Cdn A Fd Regt R.C.A.
Member	Captain	J.A. Fringle	8 Cdn A Fd Regt R.C.A.
Member	Lieutenant	B.I. Belkin	8 Cdn A Fd Regt R.C.A.
Judge-Advocate	---	---	
Prosecutor	Lieut.	J.J. Asselstine	No. 1 CSRU
Defending Offr	Lieut.	A.J. Adams	No. 1 CSRU

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused H.103031 Signalman James Ernest DEW before arraignment makes no (a) plea. a/k/d

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or in one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(unanimously)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 69(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*); *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47.* See para E3 of Record Form E. *5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he ~~(they)~~ ~~change(s) his (their) plea(s) on ..... charge(s).~~ Part 3 of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

~~B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part 3 of the Schedule.(1)~~
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B1 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

Fill here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A)-(B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 115, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(2) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(3) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to answer on with anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Diversions RO 309, 2303, RP 46. As to sentences assigned for civil offences by the law of England see AA 43(5), MML p 130. When accused MML p 90, 737-739. As to sentences assigned for civil offences by the law of England see AA 43(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused H.103031 Sigmn. Dew J.E., 5th. C.A.D. Sigs. Increment a soldier of Canadian Army Overseas is charged with.

FIRST CHARGE

A.A. Sec. 40

WHILE ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

at approx, 2200 Hrs. at 5 Armd Div. Sigs Unit 26 Oct. 43, did unlawfully and without authority use a Canadian Government vehicle No. CM 4231853 thereby becoming involved in an accident causing damage to said vehicle in the Amount of £15-0-0.

In the field
26 Oct. 43

J.F. Collins
(J.F. Collins) Capt.
Officer Commanding,
5th. C.A.D. Sigs, Increment.

To be tried by Field General Court-Martial

In the Field

2 Nov 43

(G.E. Bradbrooke) Brig.
Comd H.Q. 5 Cdn Armd Div
Spec Inc

W.P. Dorland Major

MEDICAL OFFICER'S CERTIFICATE

I have this morning medically examined No. H103031 Signmn Dew, J.E. 5 Cdn Armd Div Sigs Regiment, and he is F.I. to undergo trial by Court-Martial

Date 3 Nov 43.

Norman B. Stewart Capt RCAMC
(Signature of the Medical Officer)
M.O. Movement H.Q. 5 C.A.D.

W.P.D.

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of AFA 3)
40/P&S/1607 (2nd Ed)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.103031	Signalman	James Ernest	DEW	Special Increment 5 Canadian Armoured Division Signals

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (date) 2nd November 1943 endorsed by me [illegible] " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

[illegible] (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

[illegible] (RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) W. F. Doohan (Must be named. RP 106.) 8 Cdn A Fd Regt (Unit.) R.C.A.

MEMBERS.

Captain (Rank.) J. A. Pringle 8 Cdn A Fd Regt R.C.A.

Lieutenant (Rank.) B. I. Belkin (Named or detailed. RP 106.) 8 Cdn A Fd Regt (Unit.) R.C.A.

WAITING MEMBER.

Lieutenant (Rank.) W.C. Taylor (Named or detailed, if any. RP 106.) 8 Cdn A Fd Regt (Unit.) R.C.A.

[illegible]

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in England (Country.)

Date 2nd November, 1943

(Signature) (G.R. Bredeorooke), Brig. (Rank.)
Comd Spec Inc 5 Cdn Armd Div
Commanding Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Plea in mitigation of sentence by defending officer (Lt A J Adams) on behalf of the accused (H 103031 Sigmn. Dew J.E.)

The accused has a clean record on his conduct sheet. Since his enlistment, one year ago, his records show that he has conducted himself in a manner becoming that of an efficient soldier. This is born out by his Statement As To Character And Particulars of Service produced by the prosecuting officer. He is not the kind of man who would ordinarily get into trouble.

He is 20 years old and has been overseas for two months.

The circumstances at the time the crime was committed should be made clear to the court. A signal offic detachment had to be called out on short notice to replace signal office personnel who were proceeding on an exercise. The accused was a member of the relief detachment. It was his first posting to a field unit.

It took several days to organize the new detachment and it was during this period of adjustment that the crime occured.

It was a period of confusion when a number of regulations were unavoidably relaxed. Vehicles were not being demobilized when parked and a spare key was left within easy reach of signal office personnel. Of necessity, Vehicles were being used without normal control.

In this way, the accused was confronted with the temptation of utilizing the ~~transportation~~ transportational facilities of the signal office.

The accused is not a trouble maker and realizes the seriousness of his offence. A severe sentence is not necessary as a deterrent in this case as I am convinced from my associations with the accused that he has learnt a valuable lesson from this experience.

I would therefore ask the court to be as leanient as possible and impose a minnimum sentence.

A J. Adams Lt

(DEFENDING OFFICER)

EXHIBIT A with

Summary of Evidence in the case of M.103031 Sgmn Dew, J.E., 5 Cdn Armd Div Sigs, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS:

Lieut A. Yates, R.C.Signals on strength of 5 Cdn Armd Div Sigs., an officer of the Canadian Army Overseas, having been duly sworn, states as follows:-

At the 5th C.A.D. Headquarters, on 29 Oct 43,- I have given orders to the effect that no transport will be used unless authorized by me. On the night of 26 Oct 43, Sgmn Dew, J.E. used veh No. CM. 4231853. His use of this veh was not authorized by me.

The accused declines to cross examine the witness.

.....A Yates Lieut.....

SECOND WITNESS:

No. K.34816, Cpl Ames, J.M., R.C.Signals, on the strength of 5 Cdn Armd Div Sigs, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

At 5 C.A.D. H.Q., on 29 Oct 43 - on the night of the 26 Oct 43, no work ticket or authorization was given by me for the use of veh CM.4231853 by Sgmn Dew, J.E.

I am the N.C.O. in charge of the Signal Office.

The accident was reported to me at approx 2200 Hrs 26 Oct 43, by A.2429 Sgmn Seip, O.B. I immediately interviewed Sgmn Dew, J.E., upon his reporting to me, and found out that he was driving without authority and placed him under arrest.

The accused declines to cross examine the witness.

.....J.M. Ames.....

THIRD WITNESS:

No.B.32662 Sgmn Du Somme, R.C.Signals, on the strength of 5 Cdn Armd Div Sigs, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

At 5 C.A.D., H.Q., on 29 Oct 43 - On the night of 26 Oct 43, I left Div H.Q. with Sgmn Dew for the canteen. We went to the canteen and returned. On the way back we picked up Sgmn [illegible] and Sgmn Brooks. On approaching the gate of Div H.Q. we made the turn but were beyond the gate. The driver applied his brakes but the veh did not stop before we hit the wall.

Cross examined by the accused:

QUESTION 1: How fast do you figure I was going when I hit the wall?

ANS

ANSWER I: I would say anywhere from fifteen to twenty miles per hours

QUESTION II: Dont you think there would have been more damage than there was if I had hit the wall at 30 m.p.h.

ANSWER II: Yes, I think there would have been.

C.A.D. [illegible]

FOURTH WITNESS:

No.A.2429 Sgmn Seip, C.S., R.C.Signals, on the strength of 5 Cdn Armd Div Signals, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

At 5 C.A.D., H.Q., on 29 Oct 43:- On the 26 Oct 43, about 2 o'clock I got picked up at the corner in front of the Crown Hotel, and proceeded down the road toward Div H.Q., and on coming near the gate someone said here is the gate, but we went too far past the gate ane missed it and hit the wall.

Cross examined by the accused:

QUESTION I: Did I apply the brakes.

ANSWER I: I would say the brakes were applied.

[illegible] Seip

FIFTH WITNESS:

No. K.35713, Sgmn Brooks, S.T., R.C.Signals, on the strength of 5 C.A.D. Signals, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

At 5 C.A.D., H.Q., on 29 Oct 43:- On night of 26 Oct 43, I came out of pub and was starting home. The jeep came along and we asked them if they wer coming down to Div H.Q. They said pile in. We were coming down the road about 30 to 35 miles per hour until we came to the gate of Div H.Q . and somewone hollered there is the gate. The driver tried to turn in but he was too far past to make the turn and he ran into the wall.

Cross examined by the accused:

QUESTION I: How fast do you figure I was going when I made the turn?

ANSWER I: I couldn't say but he was not going 30 m.p.h.

QUESTION 11: Did I have my brakes on?

ANSWER 11: Yes.

....Sgmn. A.T. Birch.

SIXTH WITNESS:

Capt H.T. Fitzsimmons, R.C.O.C., on strength of of 76 L.A.D., an officer of the Canadian Army Overseas, having been duly sworn, states as follows:

At Possingworth Park on 29 Oct 43:- On the 27 Oct 43, when I examined veh C.M.4231853, I made an estimation of damage as follows: £3 labour, £12 material, making total of £15.

Accused declines to cross examine the witness.

.....Capt

SEVENTH WITNESS:

No. H.38982 Sgmn Pridham, E.B., R.C.Signals, on the strength of 5 C.A.D. Signals, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

At 5 Cdn Armd Div Signals H.Q. on 30 Oct 43:- On the afternoon of 26 Oct 43, after returning from my regular DRLS run I parked veh No. CM.4231853 which is signed over to me in the D.R. Park, and took the key out. I didn't see the veh again until the morning following the accident.

The accused declines to cross examine the witness.

.....

The accused declines to make a statement and reserves his defence.

I CERTIFY THAT THE FOREGOING SUMMARY OF EVIDENCE CONSISTING OF 3 PAGES WAS TAKEN DOWN BY ME IN THE PRESENCE AND HEARING OF THE ACCUSED AND THAT RULES OF PROCEDURE 4 (c), (d), (e), (f), (g) HAVE BEEN COMPLIED WITH.

.....
Officer detailed to take the Summary of Evidence.

In the field
30 Oct 43.

H.103031 No. Name Dew J.E. Sqn., Battery, or Company Corps RCCS Date of enlistment 3-11-42 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F. B.122) 40/P & /8130 (2265)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				Nil entries first 6 months 3 May 43 Signd. Capt. E. Perk					
				Certified True Copy					
				J Woods Sgt 31 Oct 43.					
				EXHIBIT "G"					
				W.F. Boolan Major					

IP.T.O.

M.F.B. 355
2256—5-41 (573-3)
H.Q. 1773-39-62)
A.F.B. 266

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H.103031	Sigmn.	Dew J.E.	5 Cdn Armd Div. Sigs. Increment

1. The following is a fair and true summary of the entries in the [redacted] or Company Conduct sheets of the accused [redacted]

	Within last 12 months	Since enlistment or appointment
For	Nil times	Nil times
For	times	times
For	times	times
For	times	times
For	[redacted]	

or,

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted

or,

[redacted]

3. The accused is not under sentence at the present time.

or,

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and [redacted] days in military custody, making a total of [redacted] days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 20

6. The date of his [redacted] specified in his attestation paper is #3/11/42

7. The service which the accused is allowed to reckon towards discharge is Nil

8. The accused is entitled to reckon Nil service for the purpose of determining his pension, etc.

9. The accused is [redacted] entitled to no [redacted] decoration, or [redacted] military

[redacted]

10. [redacted]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused. Number H.103031 Rank Sigmn. Unit Name Dew J.E. of 5th. CAD Sigs Increment Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Nil	Nil	nil	Nil	Nil

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20 day of October 1943 J Vandelaare Lt. Sigs 5 CAD Sigs Inc.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked EXHIBIT B signed by the president, and annexed to the proceedings.

W P Bolton Major

JAG BRANCH - REVIEW RECORD

Accused
H. 10303. Sdg. Dur. J.F.
#5. C.A.D. Sigs Regiment

Remarks	Date
Trial in (Country) Eng.	3 Nov
Charges 40	
Sentence 14 dys F.P.	3 Nov.
Rec'd from CR at JAG Branch	12 Nov
To WWW for (pre)(post) rev	12 Nov
Recommendations by [illegible]	
(1) Pass and record	
~~(2) Ltr on irregularities;~~	
~~(3) Quash charge(s).~~	
(4)	
Ret'd to JAG Rev 1 by [illegible]	17 Nov 43
Passed to	
Passed to	
To AG 5 for	
Ret'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal	
Records file	17 Nov 43
Instrs completed by	

HP-62

Pte. Dewar A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B46460 Pte Albert DEWAR - A & S Highrs - 3 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd AA Sec 15(1)	GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 64 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 21 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo Detention for a period of two (2) Years and to be put under Stoppages of one (1) Year and to be Reduced to the Ranks and to pay costs made good 21-14-6 the expenses of the return Warrant 25 Jan 45

(Sgd) ..... (Sgd) .....
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the Accused be not committed to Prison or detention barracks until further order.~~ (1. AA 57A. Delete if not used.)

Date 30 Jan 45 (Sgd) K Blackader Brig
Commanding Comd 13 Cdn Inf Trg Bde

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B-46460 Private DEWAR, Albert	Promulgated 31 Jan 45 Entered S.O. 31 dated 3 Feb 45	(W. J. Hallmillen) Lieutenant Adjutant Inf. Depot Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160, 4P-62

FIELD GENERAL COURT-MARTIAL

CPA66 (To Illy of AFA43) 40/P & B/1698 (6) (44) 4/388

Convened by Order of Brigadier K G Blackader, DSO, MC, ED Comd 13 CITR dated 21 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
B46460	Pte		Albert	DEWAR	A & S Highrs 3 CITR

PROCEEDINGS REVIEWED J Lindsay Capt. 17 Feb 45
REVIEWING OFFICER, JAG BRANCH C.M.H.Q

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 25 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)
The Court is satisfied that it is properly convened and constituted,(2) accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1130 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO (1).~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

~~A5. President to accused: Do you object to ..... as interpreter? Ans ~~
~~The Interpreter is sworn.~~(1) Do you object to C. Pte [illegible] as shorthand writer? Ans No
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court?
Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	LT-COL	D L REDMAN	HQ CRU
Member	CAPT	S R FRASER	2 CITR
Member	LT	L P POIRIER	4 CITR
~~Judge-Advocate~~			
Prosecutor	LT	G N GILLESPIE	3 CITR
Defending Offr	LT	L BROSSO	3 CITR

Questions by President : Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused ..... before arraignment makes(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental Fitness to stand trial (AA 13, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~does~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 30, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination, and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO - 21 W (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereto proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(b).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (5), RP 43, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NIL - SW
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A.A. 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Sig and Addn - NOTE - ATT (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 91(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas AO 309, 1313. MML p 66, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B46460 Private Albert DEWAR, Argyle and Sutherland Highlanders of Canada, on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE — WHILE ON ACTIVE SERVICE, Absenting himself without leave,

Section 15 (1) Army Act

in that he,

In the Field, absented himself without leave from 2200 hours 29 September 1944 until apprehended by the Canadian Provost Corps in London at 1635 hours 21 November 1944. Total absence 52 days, 20 hours 35 minutes.

SECOND CHARGE — WHILE ON ACTIVE SERVICE, Absenting himself without leave,

Section 15 (1) Army Act

in that he,

In the Field, absented himself without leave from 0800 hours 29 November 1944 until surrendering to the Corps of Military Police in Manchester at 1545 hours 12 January 1945, thereby incurring the cost of returning him to his unit in the amount of £1-14-6. Total absence 44 days, 7 hours, 45 minutes.

(A.M. Young) Lt-Col.
A/Commander
3 Cdn Inf Trg Regt.

IN THE FIELD
18 JAN 45

To be tried by Field General Court Martial.

(K G Blackader) Brig
Comd
13 Cdn Inf Trg Bde

In the Field
21 Jan 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B46460	Pte		Albert	DEWAR	A & S Highrs 3 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(X) named above as the accused, being subject to military law, has (~~XXX~~) committed the offence(s) set forth in the Charge Sheet(X) attached and on (*date*) 21 Jan 45 endorsed by me, ~~ZZZ BY AUTH OF ARMY RULE 22~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable by delay the trial for reference to a superior military auth~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(X), and to consist of the Offrs appointed or detailed hereunder.

~~And I am unable to appoint (a) Vice Offr to constitute Court (b) a Offr as President, for the reasons stated hereon.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~And I also appoint an Judge Advocate to perform the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LT COL	D L REDMAN, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer	2 CITR
Lieutenant	to be detailed by Commanding Officer	4 CITR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer	2 CITR

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.)

(K G Blackader)

Brigadier (Rank.)

Date 21 Jan 45

Commanding 13 Cdn Inf Trg Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (See overleaf for oaths and notes for use on trial.)

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. B46460.....
.....Pte. Dewar. R. of.....#3 C.I.T.R.....
and in my opinion, he is....fit..... to undergo trial by Court Martial.
Station..Field.....
Date....25-1-43.....(Sgd.)....G.D. Lawes.....
(Medical Officer)
(Canadian Reinforcement Units Routine Order No. 3, para 27, d/6 Jan 42)

Pte. A Beaton.

Sir:

This man is a battle casualty from the Argyll and Sutherland Highlanders. He went into action with his unit and was wounded at the Crossing of the Leine River. After being hospitalized in England he went absent. The man's nerves were apparently on edge and even while A.W.O.L. he tried to join his unit by going to France on his own.

His one desire is to rejoin his unit in action and I think he would be far better off there than in detention. Requesting your favourable

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B46460 Private Albert DEWAR, Argyle and Sutherland Highlanders of Canada, on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary is taken on oath.

FIRST WITNESS

For the Prosecution

Capt. E.T. Stewart, General List, on the strength of No 3 Canadian Infantry Training Regiment, an officer of the Canadian Army Overseas, having been duly sworn, states:

I am Capt. E.T. Stewart, and am Adjutant of No 3 Cdn Inf Depot Bn. I hereby present, marked Exhibit "A", Certified True Copy of the Declaration of a Court of Inquiry held on 13 Nov 44 which shows that the accused, B46460 Pte Dewar A., absented himself without leave from 2200 hours 29 Sept 44. I present, marked Exhibit "B", Certificate in Accordance with P.C. 2797 of 10 Apr 42 dated 22 Nov 44 which shows that the accused was arrested in London at 1835 hrs 21 Nov 44. I present, marked Exhibit "C", Certified True Copy of the Declaration of a Court of Inquiry held on 22 Dec 44 which shows that the accused absented himself without leave from 0800 hrs 29 Nov 44. I present, marked Exhibit "D", Certificate of Arrest dated 13 Jan 45 which shows that the accused surrendered himself to the Corps of Military Police in Manchester at 1545 hours 12 January 1945. I present, marked Exhibit "E", Expense Voucher dated 15 Jan 45 which shows that the cost of returning the accused to his unit was in the amount of £1-14-6.

(E.T. Stewart) Capt.

The accused declines to cross-examine this witness.

The accused was cautioned as follows: Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence

The accused declines to make a statement or to give evidence on oath.

I certify that the foregoing Summary of Evidence consisting of ONE page was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c) (d) (e) and (f) have been complied with.

(W. J. Aslin) Lieut
Officer detailed to take Summary

IN THE FIELD
18 January 1945

EXH 117

Exhibit "A" attd.

RECORD of the Declaration of a Court of Inquiry assembled at ALDERSHOT, HANTS, on the 13th day of NOVEMBER 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B.46460 Private Dewar, A. (CIC)

DECLARATION

The Court declare that No. B.46460 Private Dewar, A., Canadian Infantry Corps, on the strength of 3 Cdn Inf Reinforcement Unit illegally absented himself without leave from 3 Cdn Inf RftUnit at 2200 hours on the 29th day of September, 1944 that he is still so absent, and that on the N/A he was deficient, and that he is still deficient of the following articles:— NIL

ARTICLES	VALUE	ARTICLES	VALUE
N I L		N I L	

Signed at Aldershot, Hants

this 14th day of Nov 1944

(M R Medland) Captain President
Toronto Scottish Regiment, 3 CIRU

(W G Moore) Lieutenant Member
Highland Light Infantry of Canada, 3 CIRU

(J A Seamark) Lieutenant Member
Canadian Infantry Corps, 3 CIRU.

Signature of Commanding Officer (A. S. Pearson) Colonel

Certified true copy, Medland Capt Comdr 3 CIRU

Signature of Officer having custody of original record

W.F.B. 373
A.F.B. 118
[illegible]
H.Q. 1072-30-437

117

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR. 42

I certify that No. B-46460 . Rank. Pte. . Name. Dewar, A. . . . . .

Unit. . No. 3 C.I.T.R. (CRU) was arrested at London. . . . (place)

at. 1835 . . . (hour) on. 21-Nov-44. (date) and that at the time of his arrest he was wearing (military uniform) ~~civilian clothes~~.

Signature of Provost-Marshal, Assistand Provost-Marshal, or other officer or the Commanding Officer of the portion of Him Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
22-Nov-44.

J. A. Thomson

(J.A. Thomson.) Lieut.
Adm. Officer. D.P.M.'s Br.
C.M.H.Q.

RECORD of the Declaration of a Court of Inquiry assembled at **In the Field** on the **22nd** day of **December** 19 **44**, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. **B46460 Pte Dewar, A.R. (CIC)**

DECLARATION

The Court declare that No. B46460 Pte Dewar, A.R. (CIC)

illegally absented himself without leave From 3 Cdn Inf Trg Regt at 0800 on the 29th day of November 1944 that he is still so absent, and that on the 22 Dec 44 he was deficient, and that he is still deficient of the following articles :—

ARTICLES	VALUE	ARTICLES	VALUE
(SEE APPENDIX)		Exhibit "B" WJA	

Capt. W.Y. Smith — President

Signed at In the Field — Lieut. J.H. Nauss — Member

this 22 day of Dec 1944 — Lieut. R.C. Ward — Member

Signature of Commanding Officer (A.M. Young) Lt-Col

Certified true copy [signature] Lt

Signature of Officer having custody of original record

3/608 MFB 375-AFB 115 40/P&S/392 (6610)

APPENDIX

B46460 Pte Dewar, A.R.

ARTICLES	VOCAB VALUE £	s	d	APPSD VALUE £	s	d
Anklets Web		4	5		3	4
Blouses B.D.	2	7	0	1	15	3
Trousers B.D.	2	8	3	1	16	2
Caps F.S.		2	6		1	10½
Boots Ankle	2	8	10	1	16	7
Drawers Wool		10	9		8	6
Gloves Wool		2	1		1	6½
Greatcoats	2	10	7	1	17	11
Jerseys Pull		8	0		6	0
Shirts Angola		18	2		13	6
Vests Wool		10	9		8	0
Shoes Canvas		11	5		8	6½
Socks Prs		5	4		5	0
Badges Cap			4½			4½
Bags Kit		4	7		3	5
Braces Prs		1	4		1	0
Bresses Cleaning			2			2
Brushes Button		1	2			10½
" Cloth		2	2		1	7½
" Hair		1	6		1	1½
" Shaving		1	8		1	3
" ShoePolish		1	3			11
" Tooth			6			4½
Caps Comforter		1	6		1	1½
Combs Hair			2			1½
Identity Discr)						
" O)						
Cord Disc)						
Dressing F.F.		1	1			9½
Forks Table			4			4
Holdall			10			7½
Housewife		X	9			6½
Knives Clasp		3	10		3	10
" Table			8			8
Razors Safety			3			3
Shorts Gym		3	10		2	10
Spoons Dessert			4			4
Vests Gym		3	2		2	4
Towels Hand		2	10		2	1
Dubbing Tins						
Blouses Denim		11	10		8	10½
Trousers "		11	3		8	5
Belts Waist		3	0		3	0
Bottles Water		3	8		3	8
Braces Left & Right		2	8		2	8
Carriers Bottle		1	8		1	8
Frogs Bayonet			10			10
Haversacks		8	0		8	0
Helmets Steel		10	8½		10	8½
Packs Web		8	3		8	3
Pouches Basic		12	0		12	0
Straps Left & Right		2	10		2	10
" Web Supporting		1	2		1	2
Tins Mess		1	7		1	7
Veils Face		1	11		1	11
Sheets Ground		13	2		13	2
Blankets G.S.		13	9		13	9
Mugs Drinking			7			7
Detectors Sleeve		1	xix		1	xix
Eyeshields		2	0		2	0
Ointment		1	4		1	4
Respirators		14	7		14	7
Capes A/G		12	4		12	4
Bayonets & Scabbards		13	9		13	9
Bottles Oil			3			3
Bullthroughs			6			6
Slings Rifle		1	4		1	4
Rifles	10	3	6	10	3	6
TOTALS	33	1	10	29	2	10½

I, KEITH NEEDHAM. Certify that No. R/46460 Rank Pte Name Dawar A.

of ....Coy, ...Bn, The Royal Canadian Army Regiment,

Surrendered himself to No. 3709511 Rank L/Cpl Name Morris. 154 Provost Coy.

Corps of Military Police, at St. Peters Square Manchester at 15.45hrs

on the 12th day of January 194?, as a deserter (or absentee

without leave).

Date. 13th. January. 1945.

Captain,
O.C., 154 Provost Company, C.M.P.,
[illegible] Corps District,
North West District Manchester.

Expense Voucher Re—

Ref: KR & O (Can) 539

Reg No B 46460 Rank Pte Name Dewar, A Unit 3 C I T R

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London (Ont) to Manchester (½ portion)

Date	Particulars	Amount		
15 Jan 45	Escorts return fare from LONDON To Manchester		14	1
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		6	4
	Total £	1	14	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J. A. Thomson LIEUT.
J. A. THOMSON.
ADMIN OFFICER—D.P.M's BR
C.M.P.O.

Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-55
40/P & S/483 (6762)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number. *Rank.* *Name.* *Regiment (or as the case may be).*

B46460 Private Albert DEWAR, Argyle and Sutherland Highlanders (3 CITR)

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded in the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15 (1) 24 times.

For A.A. Sec 40 12 times.

~~For~~ ~~times.~~

~~For~~ ~~times.~~

Date of first entry in Field Conduct Sheet 15 Nov 40

Date of last entry in Field Conduct Sheet 13 Jul 44

~~2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

~~3. The accused at the present time is under sentence for~~ ~~commencing on the~~ ~~day of~~

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for [illegible] days in civil custody; and for 21 days in military custody, *i.e.*, [illegible] days in open arrest, 21 days in close arrest; of which [illegible] days were spent in hospital.

5. The present age of the accused is 24 yrs

6. The date of ~~his~~ attestation is 15 Aug 40.

~~enlisting or calling up for military service~~

7. The service which the accused is allowed to reckon is 4 yrs 5 mos.

8. The accused is in possession of† G.V.S.M. & Clasp.

~~9. (If the accused is a warrant officer or N.C.O.). The accused has served continuously without reduction, up to the present date—~~

Date of Promotion.

In the substantive rank of

In the war substantive rank of

~~In the acting rank of~~

†State the military decorations (if any) held by accused.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through*

(*29072) Wt.30721/3761 30,000 8/44 A.& E.W.Ltd. Gp.685

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 25th day of January 1945

Lt Col
A/A/Adj 3 C.D.B.

No. B 4140 Name DEWEY A. | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 15/10/40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAM/196 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing with trial	By whom awarded	Remarks
Niagara	15/11/40	Pte.		A.W.L. 1830 hrs. 15/11/40 - 2359 hrs. 16/11/40	C.S.M. Campbell	7 days C.B. 2 days pay.	18/11/40	Lt.-Col. Greenfield.	Forfeit 3 days Pay under F.R. 21.
"	12/2/41	Pte.		A.W.O.L. 0630 hrs. 12/2/41 - 0630 hrs. 14/2/41	"	14 days det.	14/2/41	"	Forfeit 2 days Pay under F.R.
Allanburg	25/2/41	Pte.		A.W.O.L. 1200 hrs 25/2/41 - 2359 hrs. 27/2/41	"	28 days det.	27/2/41	"	Forfeit 3 days Pay under F.R.
Clifton	5/4/41	Pte.		Conduct to the prejudice of good order & discipline	W.O. Hay	14 days C.B.	7/4/41	"	
Clifton	21/4/41	Pte.		A.W.O.L. from 1700 hrs. 7-4-41 to 0230 hrs 22-4-41	C.S.M. Campbell	21 days det.	22.4.41	Lt.-Col. Greenfield	Forfeit 16 days Pay under F.R. (10)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Naracorte	1-7-41	Pte.		C.W.L. from 2359 hrs - 1-7-41 to 1.45 hrs - 2-7-41 - A.A.15	Sgt. Henderson	6 days C.B.	2-7-41	Major McClement	
Naracorte	2-7-41	Pte		Breaking barracks C.W.L. from 2200 hrs 3/7/41 to 0015 hrs 4/7/41	Sgt. Henderson	6 days C.B.	4-7-41	Major McClement	
Victoria	26-7-41	Pte.		Conduct to prej. [illegible] (with car).		27 days det.	26-7-41	Lt.-Col. [illegible]	
Kingston / Jetmore	2/8/41	Pte.		Neglect to prej. (of [illegible] of Regt. after being warned by superior officer.	C.S.M. Campbell	7 days C.B.	4/8/41	Lt. J. O'Reilly	
Kingston / Jetmore	3/10/41	Pte.		C.W.L. from 2359 hrs. 3/10/41 to 0230 hrs 4/10/41 A.A.15	Sgt. Cuffley	7 days C.B.	6/10/41	Major McClement	

No B 476 [illegible] Name Dean C. | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 15/10/40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom f. .m extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bungalow Jamaica	5/11/41	Pte.		Conduct to Prej. Discipline & Good Order & Military Discipline in that he did at Bungalow Jamaica on the 5th day of November 1941 when on duty as Picket Guard Commander behave himself in a manner to the prejudice of good order & military discipline in that he was found drunk (Two Charges)	Documentary Evidence	14 days C.B.	6/11/41	Lt.-Col. Sinclair.	
Bungalow Jamaica	20/11/41	Pte.		C.W.L. from 2230 hrs. 20/11/41 to 0600 hrs. 1/12/41 - A.W.L. 11 days	C.S.M. Carfhill	5 days C.B.	1/12/41	Lt. Bothell	Forfeits 11 days pay.
Bungalow Jamaica	5/12/41	"		C.W.L. from 2200 hrs 5/12/41 to 0300 hrs 9/12/41 A.W.L. 4 days	Pte. Hughes	5 days C.B.	9/12/41	Major Williams	Forfeits 4 days pay.
Bungalow Jamaica	9/12/41	Pte.		C.W.L. from 2330 hrs 9-12-41 to 2400 hrs 12-12-41 & Failure to arrange leave with Picket Guard Breaking barracks Cpl. & Barrack Orders (A.A. 15 D.(1)(2)-12(4).	Cpl. Hughes & Pte. Powell	28 days detention A.A. 46	24-12-41	Lt.-Col. Sinclair	Total 16 days pay.

(179)

3 CANADIAN INFANTRY TRAINING REGIMENT (C.A.(O)) 3D/11

18 January 1945 194..

I, No. B46460 (Rank) Pte Dewar A. (Name), wish to have an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of ~~an officer~~ A. Dewar if he is available.

(Sgd.) A. Dewar

No B 476 16 Name Dean C. | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 15/10/41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAM/120 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Kingston Jamaica	5/11/41	Pte		Conduct to Prej. (threatening bodily harm without due cause)	Documentary Evidence	14 days C.B.	6/11/41	G-C Sinclair	
Kingston Jamaica	30/11/41	Pte		C.W.L. from 2030 hrs 30/11/41 to 0600 hrs 1/12/41 - A.W.L.	C.S.M. Corbett	5 days C.B.	1/12/41	Capt Bethell	Forfeits 5 days Pay
Kingston Jamaica	5/12/41	"		C.W.L. from 2300 hrs 5/12/41 to 0600 hrs 9/12/41 A.W.L.	Pte Hunter	5 days C.B.	9/12/41	Major Nedermeyer	Forfeits 5 days Pay
Kingston Jamaica	9-12-41	Pte		C.W.L. from 2330 hrs 9-12-41 to 2400 hrs 12-12-41 & Failure to answer defaulters Call. Breaking barracks Co of Bounds (A.W.L. 9/12/41 - 12/12/41)	Cpl. Hughes H/Cpl Pratt	28 days Detention (Pay A.A.A.)	30-12-41	G-C Sinclair	Det 14 days P.D.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Kromme Jaroon	31/5/42	Pte		A.W.L. from 2200 hrs 31/5/42 to 0600 hrs 31/5/42 A.A. 15.	Cpl. Bingham Cpl Graham.	5 days C.B	31/5/42	Capt Attwell	Forfeit 5 days Pay
Ch Petrol Convoy	25-6-42	"		(1) A.W.L. from 0200 hrs 25-6-42 to 0700 hrs 29-6-42 (2) Gross & Disg. Conduct & comply with an Order	Lt Cpl Corbett	5 days d.o. & Pay	29-6-42	A/Capt Sinclair	
Ch Petrol Convoy	26/5/42			A.W.L. from 2040 hrs 26th to 2345 hrs 29/5/42 C.C. 15(2) Act of Sounds A.A. 15(2)	Pte Harrison	10 days C.B.	31/5/42	Maj. McClemont	
Ch Petrol Convoy	12-9-42			A.W.L. from 2247 hrs 12-9-42 to 0600 hrs 13-9-42 Act 15(2)	A/Cpl Clarke	2 days C.B	14-9-42	Capt Attwell	

No 3776[illegible] Name Dunn G. | Sqn, Battery, or Company | Corps C.A.C. | Date of enlistment 15/10/41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3488)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Jamaica	8-9-42	Pte		(1) Abs. from 7.45 hrs 18/8/42 to 0125 hrs 19/8/42 (2) Out of Bounds (3) Breaking Barrack.	Sgt Aitken	14 days A.F.	19-8-42	Lt-Col Lendrum	
Up Park Camp.	15/10 42	Pte		Abs. from 0830 hrs 6-10-42 to 0600 hrs 16-10-42 (A.A. 15(2))	Sgt Anderson	7 days C.B.	17-10-42	Major McClymont	
Up Park Camp	31-10-42			Abs. from 2245 hrs 30-10-42 to 0600 hrs 31-10-42 (A.A. 15(2))	Sgt Brown	10 days C.B.	2-11-42	Major W.P. McClymont	
Up Park Camp	12/11/42	"		Abs. from 2359 hrs 11-11-42 to 2359 hrs 17-11-42 (A.A. 15(2))	Sgt Coleman	7 days C.B.	19-11-42	Major McClymont	

(770)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Up Park Camp	8-12-42	Pte		Conduct to prej. of good order etc. Commit an indecent assault on a C.W.S.	Capt Hill Capt Hill.	5 days C.B.	8-12-42	Maj Gen Mc Clean	
Up Park Camp	9-12-42	Pte		Conduct to the prej. of g.o. Creating a disturbance	Maj Gen C.E. Pte Bliss	14 days I.H.	9-12-42	Lt-Col H.R. Sinclair	
Jamaica	19 Jan 43	Pte		(1) Absent from 22 Dec 42 to 2 p.m. 1st Jan 43 (2) Conduct to the prej. of g.o. (3) Conduct to the prej. of good ord. & discipline	Capt Hill Capt Hill Lt Col Hall	21 days C.B.	2 Jan 43	Lt-Col Sinclair	
Up Park Camp	2 Apl 43	Pte		(1) Absent from 22.2.43 to 1 p.m. 2.4.43 (2) Conduct to the prej. of g.o. (3) Conduct to the prej. of good ord. & discipline	Capt Hall	21 days C.B.	2 April 43	Capt D.F. Cam.	

No 3 H.K.U Name Sam C. | Sqn, Battery or Company | Corps C.E. | Date of enlistment 15/1/40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/Pam5/136 (3438)

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 4. | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Niagara	18 Jun 43	Pte		C.B. from 06 hrs 17 June 43 to 07 hrs 26 June 43	Sgt Inglefield Cpl Bird	28 days C.B.	16 Jun 43	G.C. Lt-Col Semlee	Forfeit 28 days pay F.P. No 2
Field	24 [illegible]	Pte		Neglect to prej. (Negligence in bayonet and slabtard) A.A. 44	Lieut Phillips Sgt Hamilton	7 days C.B.	27 Oct 43	Maj Lewis	
U.K.	12/1/44	"		Conduct to prej. = Talking in parade	Lieut & Adjt C.S.M. Gill	7 days pay	15 Mch 43	G.C. Lt-Col J.D. Rae	
Field	5 Jan 44	Pte		Conduct to prej. = failure to parade	C.S.M. Gill	7 days C.B.	4 Jan 44	G.C. Lt-Col J.D. Rae	
Field	15/4/44	"		See 40 A.A. Comd. to the orig. proc. Name in Cy Offr	C.S.M.	14 days pay	20/4/44	G.C. Lt-Col J.D. Stone	(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27/4/44	Pte		Sec 15(2) QO - A.W.L. from 2330 hrs 15/4/44 - 1145 hrs 17/4/44	Sgt Finnell / Pte Finnell	14 days C.B.	24/4/44	Lt.-Col.	Apld. forfeit 2 days pay under F.W.A.
Field	21 June 44			A.W.L. from 2330 hrs 19 June 44 to 0135 hrs 21 June 44 D.F.D.	Sgt Pte Adams	28 days C.B.	24 June 44	Lt.-Col. Commdg. Coy.	
Field	3/7/44	Pte		Sec 15(2) A.C. - A.W.L. from 2330 hrs 29/6/44 to 1130 hrs 1/7/44	Sgt Forgat / Pte Andrews	21 days C.B. / Forfeit of Good Conduct Pay	7/7/44	Lt.-Col. Commdg. Coy.	Apld. forfeit 7 days F.W.A.
						Certified true extract	18 Jan 45	Lt.-Col. Commdg. Coy.	
						Asst. Adjt. General Canadian L. of C. Troops			

LIST OF WITNESSES

In the case of B46460 Pte Dewar A., A&SH, on the strength of No 3 Cdn Inf Trg Regt.

FOR THE PROSECUTION

1. Captain E.T. Stewart — 3 Cdn Inf Trg Regt

FOR THE DEFENCE

N I L

LIST OF EXHIBITS

In the case of B46460 Pte Dewar A., A&SH, on the strength of No 3 Cdn Inf Trg Regt

EXHIBIT "A" - Certified True Copy of the Declaration of a Court of Inquiry held on 13 Nov 44.

EXHIBIT "B" - Certificate in Accordance with P.C. 2797 of 10 Apr 42 dated 22 Nov 44.

EXHIBIT "C" - Certified True Copy of the Declaration of a Court of Inquiry held on 22 Dec 44.

EXHIBIT "D" - Certificate of Arrest dated 13 Jan 45

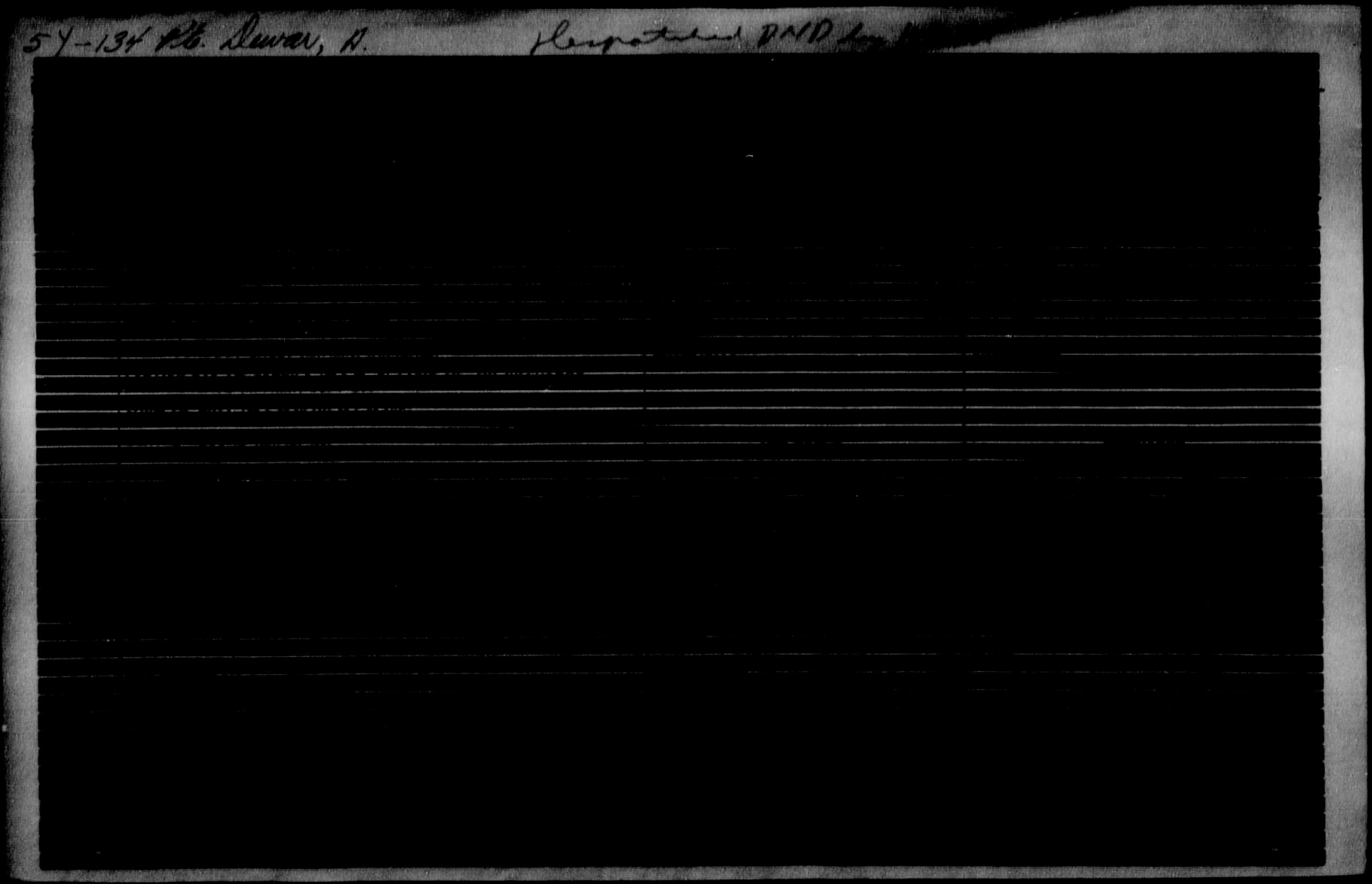
EXHIBIT "E" - Expense Voucher dated 15 Jan 45.

18 January 1945

This is to acknowledge receipt of the u/m which I have received free of charge in connection with my forthcoming trial by F.G.C.M.

1 Copy of Charge Sheet
1 Copy of Summary of Evidence
1 List of Exhibits
1 List of Witnesses.

A. Dewar
.....
B46460 Pte Dewar A.



H N-115

Pt Dewar A.D.

6

37

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B139061 Pte Duncan A D

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Do 9.0.1	NOT Guilty	Not guilty	
2nd	Alt NO 2 Alternative	NOT Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and as loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 19 days, of which 0 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for one year.

(Sgd) Herbert Capt 8 Dec 44. (Sgd) C.O. [illegible]
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) H.E.
(1. AA 57A. Delete if not used.)

(Sgd) H.E. Jefferson Brig.
Date 9 Dec 44. Commanding 10 Cdn Inf Bde.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B139061 Pte Duncan AD	10 Dec 44	[illegible]

Capt.
Adjt. Lincoln & Welland Regt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 160 HN-115

FIELD GENERAL COURT-MARTIAL

CP1456 (to issue of AFA); 60 P & P 2/08 (1909); 4/388

Convened by Order of Brig J.B. Jefferson Comd 10 Cdn Inf Bde dated 3 Dec 1944

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or temporary rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
B139061	Pte	ANDREW DUNCAN	DEWAR	Lincoln & Welld R.

PROCEEDINGS REVIEWED
[illegible] Lieut
6/2/45
REVIEWING OFFICER, 1 CDN CORPS H.Q.

PROCEEDINGS REVIEWED
Date 2/2/45
Capt. J.A.
Cdn Inf Bde H.Q.
Army Old

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 7, 8 Dec 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 15/97

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3) J.1

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1030 hours trial commences. J.1

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO(2).~~ J.1

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to an interpreter? Ans~~ ~~The interpreter is sworn.(1) Do you object to a shorthand writer? Ans~~ ~~The shorthand writer is sworn.(1)~~ J.1

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	A R Herbert	Alg R
Member	Capt	H N MacLean	A-S H & G
Member	Lt	D J Sparling	10 Cdn Inf Bde M.G. Coy
Judge-Advocate	Capt	H A Hansson	HQ 4 Cdn Armd Div
Prosecutor	Capt	W. H. Bow	L. of W. R.
Defending Offr	Lt	A. A. Grossart	L. of W. R.

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Cmdr. Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.) J.1

A8. The accused ..... before arraignment makes(s) (no) ~~no~~ plea. J.1

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB 122A and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. J.1

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; where several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*b*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(3)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 2, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90. 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Evidence on oath. Do you intend to call witnesses on your behalf ? Ans Yes. Are they witnesses as to character only ? Ans No.
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* 895. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 66(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the Several charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(7), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheets(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB* 255 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* (*c*).)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes, I have Ref Ltr
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 363-366. *Overseas AO* 309, 2313, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see insert on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B139061 Pte Andrew Duncan DEWAR, Linc & Welld R, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE (Sec 9(2)AA)

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he in the field at approx 0130 hr 17 Nov 44, when ordered by his superior officer, B40674 A/CSM Campbell W F, to proceed on a patrol, did not do so.

SECOND CHARGE (Alternative) (Sec 40 AA)

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he in the field at approx 0130 hr 17 Nov 44, when ordered by his superior officer, B40674 A/CSM Campbell W F, to proceed on a patrol, said, "I will not do so," or words to that effect.

In the Field
26 Nov 44.

W. T. Gromb Jr
(W T CROMB JR) Lt-Col
Comd Linc & Welld R.

To be tried by Field General Court Martial.

In the Field
3 Dec 44

J. C. Jefferson
(J C Jefferson) Brig
Comd 10 Cdn Inf Bde

Q. R. 104,

CFA95 (In lieu of AFA8)
40/PAR/1697 (2668)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B139061	Pte		Andrew Duncan	DEWAR	Line & Weld R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 2 Dec 44 endorsed by me, ~~(A true copy of which is hereto annexed.)~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not desirable that such offence(s) should be tried by a Special General Court-Martial)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I appoint [illegible] to preside at the trial, and I delegate to him the power to convene any Field General Court-Martial which may be necessary for the trial of any person who may be committed for trial before the Court convened by this Order.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj (Rank.)	A R HERBERT (Must be named. RP 106.)	Alq R (Unit.)

MEMBERS.

Capt (Rank.)	H N MacLEAN	A A S H of C (Unit.)
Lt (Rank.)	D J SPARLING (Named or detailed. RP 106.)	10 Cdn Indep MG Coy (Unit.)

WAITING MEMBER.

Lt (Rank.)	J L SUMMERS (Named or detailed, if any. RP 106.)	29 Cdn Armd Recce Regt (Unit.)

JUDGE-ADVOCATE.

~~CAPT~~ ~~LAC~~ (Rank.)	HAHANSON ~~NIL CURAT~~ (Must be named, if any. RP 106.)	Hq 4 CDN ARMD DIV. ~~Jcn List attd to 2 Cdn Corps~~ (Unit.)

On Active Service in the Fd

in HOLLAND (Country.)

Date 3 Dec 44

(Signed personally. RP 105 fn 2.)

Brig (Rank.)

Commanding 10 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

ARA

MED OFFRS CERTIFICATE
KR (Can) para 557

I certify that I have this day examined No. B-139061 Pte Gunn A.D.
of Lincoln & Welland Reg. and in my opinion he is fit to
undergo trial by court-martial.

J.H. Mallory Capt RCAMC
(I.O.)

Stn Int Div.
Date 10 Dec 44.

MED OFFRS CERTIFICATE
KR (Can) para 557

I certify that I have this day examined No. B-139061 Pte Dewar A.D.
of Lincoln & Welland Regt. and in my opinion he is fit unfit to
undergo trial by court-martial.

H Molloy Capt RCAMC
(IMO)

Sta Field

Date 8 Dec 44

MED OFFRS CERTIFICATE
KR (Can) para 557

I certify that I have this day examined No. _____
of _____ and in my opinion he is fit unfit to
undergo trial by court-martial.

_____
(IMO)

Sta _____

Date _____

Prosecution

B 4067 A/Cpl [illegible] W.T.
Lieut Hills R Sussex.

On 16 night of 16/17 Nov 14 a patrol was to go across the Naos River for the purpose of getting prisoners. ~~At~~ ~~about~~ Sometime before midnight of 16/17 Nov a patrol commanded by Lt Carthew left with 3 boats. Sgt Stimson manages to cross the river with one boat. The other two boats did not get over. and they returned to the houses.

After that Maj. McCutchen ordered the boats carried down to the river again and told me a second attempt to cross. At about 0130 hrs 17 Nov I found that the boats were still in front of the house. I was then across the road where the carrying parties were in a house. I ordered three parties to go on the patrol and the men went out to the boats at once. Then I went down cellar where I found 4 other men who with members of the same patrol. One of them was the accused. I ordered them all to go on the patrol. I told them get up out of the cellar and get going to the patrol but started to carry their boats my order requires immediate obedience. After I gave my order, the accused remained sitting on the floor. and I asked him if he was going. He said "No."

I went across the road for Maj McCutcheon and returned with him. He ordered them to go with the patrol. They prepared and he placed them under close arrest. Maj McCutcheon ordered me to put a guard at the top of the stairs.

X. Crawford. The men gave me as reason for not going. The other was quite right. After they were placed under close arrest Pte Bowie came upstairs and offered to go. The accused did not offer to go.

No Re-cross.

Cross by PA:

As I was going down stairs I talked with the accused & men the patrol was leaving. The patrol went to cross the road, pick up the boats and carry the boats across. Two ops in the dark. ~~White Horse~~ When I gave my order they could have caught up with the patrol, as I caught up with the patrol myself after they had been placed in close arrest.

Question.

After my first order one of the men got up and left but the accused & the other has did not stay

R.P 83 (B) complied with.

Maj N J McCulloch Sworn
R sworn.

I had charge as a police to cross the river on the night of 16/17 Nov 14. The accused was a member of the police. On first attempt to cross was unsuccessful and I ordered a second crossing.

Cpl Cowdell came to my HQ and as a result I went to a house where the accused's section was resting. I found 3 men in the cellar and the accused was one of them. I asked each individually why they not cross & his section and each said he did not want to go because their own pl offr was not there. I told them their own pl offr was on another duty and also told them this was a serious breach of discipline. I then explained the object of the second crossing and ordered them to put their equipment on and join their section. Seven refused to do this and did not do as I ordered. I then ordered Cpl Cowdell to place them under close arrest.

After placing them under close arrest I went upstairs where this section was waiting for them. The section left immediately.

X Exam The accused said he would not go because he had not orders from his own pl comd.

4

Re Rescue:

When I marked the bills with the campbell I found that I retired. If the pocket had left and that our section was waiting for the men at the wharf.

RP 83(B) complied with.

Court adjourned until 09 30 hrs 8 Nov 44.

Court resumes at 09 30 hrs 8 Nov 44.

Depuce.

1WD B 139061 Pte Andrew Dunnon Duncan. Line mills & snow.

at 1700 hrs 16 Nov. 44 I was told by Sgt Stevens I was going on patrol. At 1800 hrs we went to our posns in houses. Cpl Woods returned from an O Gp and told us who was going & to be i/c. Later we carried the boats down. The first boat started out and drifted down stream. So we went up river 400-600 yds to try & drift across when the first boat landed. I was in the last boat and the Offrs i/c was in the boat in front. We tried & keep direction but the boat went in circles. After being out the 2nd 15 minutes we saw shore and landed. We are supposed to know on what shore we were. Coy HQ find a few directing sounds and we found we were on our own sides. We carried our boats back to Coy HQ and stayed in the houses until 24 hrs and first what we were going to do.

About ½ hr later Cpl Woods told us they were starting another patrol. Sgt Stevens had not returned. So I asked Cpl Woods if I could see Maj McCutcheon. Cpl Woods went over to Coy HQ and returned and asked me Maj McCutcheon said to get on with the patrol. I again asked Cpl Woods if I could see Maj McCutcheon as I was not confident in the Offr who was in charge. S/Sgt Campbell came over & said what was the matter. I told him we did not feel confident and he said he would get Maj McCutcheon. Maj McCutcheon came in and I told

him what was the matter. I told him I would go if Sgt Stuart was i/c. He asked us again to go and I said I did not wish to go. The time had S/M campbell came was under close arrest and went out.

Pte Davies went up after him but the S/M sent him back. I started up too but as they had sent Davies down I did not go. I saw a cpl at one time but turned my stripes in because I was scared.

No 6 Exam.

Exam by Jo.

S/M. Campbell gave me an order to go on patrol. The only said are you going on the patrol or not.

I did not go on the last patrol.

Maj McCutcheon did not order me to get my equipment on and join my section. He only said "are you going or not".

RP 83 (2) complies with.

Def Exhibit B 11605 Pte Davies T Line should R. Scott.

This witness desires to criticise any persons in accordance para 95 p 96 M.M.L.

when I started up the steps after S/M campbell I saw R-Scott get up.

No 6 Exam RP 83 (2) complies with.

him what was the matter. I told him I would go if Sgt Stewart was i/c. He asked us again to go and I said I did not wish to go. The three had S/M campbell place us under close arrest and went out.

Pte Dawes went up after him but the S/M sent him back. I started up to but as they had sent Dawes down I did not go. I was a cpl at one time but turned my stripes in because I was wrong.

No Q by Court.

Exam by Jo.

S/M. campbell gave me an order to go on parade. The only words are "are you going on that parade or not."

I did not go on the last parade.

Maj. [illegible] Mc Culloch did not order me to get my equipment on and join my section. The only words "are you going on last".

RP 83 (2) complied with.

Def. B116052 Pte Dawes T Lieut Merrill R. sworn.

This witness adds in his examination at present is attendance para 98 p 96 MML.

when I started up the steps after S/M campbell I saw Pte Dawes get up.

No Q by Court. RP 83 (2) complied with.

7.

Duty of Pros Atty during closing address.

The accused is not discharged under as he was prepared to go but he is bound under the arrest and sworn by privates from going. I took nothing to charge as to the second charge.

Closing address by Pros Atty.

A lawful command was given and it had to be acted upon immediately.

In any event the accused is guilty of the alternative

74. Summation.

The 74 defines the elements of each charge and reads for 1 & 3 P 43 & MCM — also par 11 p 17-18 MCM. Personally don't understand.

ARMY FORM B.200.

"A"

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
Bl 39061	Pte	DEWAR A D	Lincoln & Welland Regt.

1. The following is a *fair* and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given in the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For	Nil	times	AWL 1	times.
For		times		times.
For		times		times.
For		times		times.
For		times		times.

[redacted]

2. The accused has not been previously convicted [redacted] by a court martial or a civil court, [redacted] of the Army Act, are as follows [redacted] at the present time to undergo [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for [redacted] 19 days in military custody, making a total of 19 days, of which No days were spent in hospital.

5. The present age of the accused according to his [redacted] record of service is 21 yrs

6. The date of his [redacted] attestation specified in his [redacted] record of service is 21 Jan 43

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1yr, 308 days

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr & 308 days service.

9. The accused is entitled to reckon 1 yr & 308 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). CVSM

[redacted]

(75000) W1.24004/1750 20,000 10/43 A.& E.W.Ltd. Gp.698
(28000) W1.24004/1439 12,000 1/44

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. 359061 Rank Pte Name DEWAR A D of Lincoln & Welland Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer dispensing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
		The accused has not previously been convicted by FGCM.		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24th day of Nov 44

W. T. Grant Capt.

O.C. 1st Bn. Lincoln & Welland Regt.

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collated from such sources as are available and the paragraph concerned amended accordingly.)

No. B13906 Name DEWAR A D | Sqn., Battery, or Company | Corps CIC | Date of enlistment 21 Jan 43 | C.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

M.F.M. 6 A.F.B. 122 (1025) 11-40 (1025) 33 Q. 1772-41-18

B

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Newmarket	26 Mar 43	Pte		AWL from 2215 hr, 26 Mar 43, until 0940 hr, 29 Mar 43, absent 2 days 2 hr 25 mins	Cpl Everad L/C Belanger	5 days CB	29 Mar 43	Capt Blackstock	for 3 days pay FMAI 149 (1)

"Certified true copy of original Document

Hilary Everard

(R. A. Everard)
Capt-Lincoln & Welland Regt.
Officer having custody of original document"

(P.T.O.)

Shot in Petty Store

Evening requested.

The lamp was stolen by the first police officer who came for his report to go on patrol.

5 Copies

Summary of Evidence

In the case of B 139 061 Private Andrew Duncan Dewar, Lincoln & Welland Regt, a soldier of the Canadian Army Overseas, charged with

Whilst on Active Service, disobeying a lawful command given by his superior officer.

The CO directs that the evidence be taken on oath.

First Witness

B-40674 A/C 1 M Campbell W.F., Linc & Welld R., sworn states:

"I am A/C 1 M of Bty, Linc & Welld R. On 17 Nov 44 at 0130 hrs I came out the back door of 12 pl HQ and met A/Cpl Woods and A/Cpl Tavenner who had been ordered to carry their boats down to the river. This was for a patrol which had been ordered to cross the Maas River that night. I asked them why they had not done so. They replied that their men had refused to go. I went into the house where their

carrying parties were and ordered them all out of the house. They all went out but three men who were in the cellar. I went down cellar and ordered the three men, B 116056 Pte Dannis J., B 139061 Pte Dewar A D and B 16765 Pte Savage J J to go with their corporal. They refused. I warned them that this was a serious thing to do and still they refused. I said "Are you going?", and they said, "No". I went back to the pl HQ and reported to my coy comd, Major W. J. McEachern. He returned with me and ordered the three men out of the cellar, telling them the seriousness of their act and the probable consequences. They still refused. Major McEachern placed them under close arrest and I took their weapons and placed a guard over them."

The accused declines to cross-examine this witness

W. F. Campbell
(signature of witness)

Second Witness

Major M. J. Mc Nicholson, Line 7 Welld R., sworn, states:

"I am coy comd of B coy, Line 7 Welld R. On the early morning of 17 Nov 44 at approx 0130 hrs we were engaged in sending a patrol across the River Maas. The first patrol had failed in its object and new plans were made. When the patrol was ordered out the second time I was informed by B40674 A/C S/M Campbell W & that some men refused to go. He accompanied me to a house where I found B.116056 Pte Dawes J, B.139061 Pte Dewar, A.D. and B.16765 Pte. Savage J.J. I asked them why they were there and they said they did not wish to go with the patrol. I told them this was a serious thing to do and the consequences would be very severe. I then ordered each man individually to go with his section and each one refused to go. I then placed them under arrest and proceeded with the remainder of the patrol."

Cross examined by the accused:

...today I say I would go if we had the
...leadership of our Staff."
A. "Yes, I am told."

Mr. Minute here

Q "Did I not say I would go if we had the leadership of our Sgt?"

A. "Yes, you did."

Mgm McCutcheon

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused: "I desire to give evidence under oath."

The Accused: B 139061 Pte Demar D.D. Line 6 Willd R., sworn, states:-

"I was detailed by A107072 Sgt Stewart S.C, my pl Sgt to go on patrol across the river at about 1200 hrs 16 Nov 44. When the patrol started out the first time Sgt Stewart was with us but the patrol was commanded by Lt. C.E. Carter, a new offr, who had not been in action with the coy before. I had expected Lt W.O. Fraser, my pl comd, would be in charge. The first attempt to cross the river did not go very well and we eventually returned to our coy area. By about 0130 hrs

17 Nov 44 the patrol was being organized to go for the second time. Sgt Stewart who was in another boat on the first crossing had not yet returned and because of the way things had gone on the first crossing I did not want to go with just the new offr. I have been in action with B coy ever since the unit came to France in July 1944. I have great confidence in Lt Fraser and Sgt Stewart.

Norman Stewart.
(Signature of accused)

The accused declined to call witnesses in his own behalf.

I certify that R.P.4 (d) (e) (f) (g) have been complied with.

Taken by me in the fd. in the presence and hearing of the accused this 25th day of November 1944

H.A.C. Ross Capt
(Signature of Offr taking Summary)

SUMMARY OF EVIDENCE

In the case of B139061 Private Andrew Duncan DEWAR, Lincoln & Welland Regiment, a soldier of the Canadian Army Overseas, charged with:

While on Active Service, disobeying a lawful command given by his superior officer.

The CO directs that the evidence be taken on oath.

FIRST WITNESS

B40674 A/CSM Campbell WF, Lincoln & Welland Regiment, sworn, states:

"I am A/CSM of "B" Company Lincoln & Welland Regiment. On 17 Nov 44 at 0130 hrs I came out the back door of No 12 Platoon HQ and met A/Cpl Woods and A/Cpl Tavener who had been ordered to carry their boats down to the river. This was for a patrol which had been ordered to cross the Maas River that night. I asked them why they had not done so. They replied that their men had refused to go. I went into the house where their carrying parties were and ordered them all out of the house. They all went out but three men who were in the cellar. I went down cellar and ordered the three men, B116056 Pte Damico J, B139061 Pte DEWAR AD, and B16765 Pte Savage JJ, to go with their corporal. They refused. I warned them that this was a serious thing to do and still they refused. I said "Are you going?", and they said, "No". I went back to the Platoon HQ and reported to my Company Commander, Major M J McCutcheon. He returned with me and ordered the three men out of the cellar, telling them the seriousness of their act and the probable consequences. They still refused. Major McCutcheon placed them under close arrest and I took their weapons and placed a guard over them."

The accused declines to cross-examine this witness.

W F Campbell
Signature of Witness

SECOND WITNESS

Major M J McCutcheon, Lincoln and Welland Regiment, sworn, states:

"I am Company Commander of "B" Company, Lincoln and Welland Regiment. On the early morning of 17 Nov 44 at approximately 0130 hrs we were engaged in sending a patrol across the River Maas. The first patrol had failed in its object and new plans were made. When the patrol was ordered out the second time I was informed by B40674 A/CSM Campbell WF, that some men refused to go. He accompanied me to a house where I found B116056 Pte Damico J, B139061 Pte DEWAR AD, and B16765 Pte Savage JJ. I asked them why they were there and they said they did not wish to go with the patrol. I told them this was a serious thing to do and the consequences would be very severe. I then ordered each man individually to go with his section and each one refused to go. I then placed them under arrest and proceeded with the remainder of the patrol."

SECOND WITNESS (Continued)

Cross examined by the accused:

Q. "Did I not say I would go if we had the leadership of our Serjeant ?"

A. "Yes, you did."

M J McCutcheon
Signature of Witness

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused: "I desire to give evidence under oath."

The Accused: B139061 Pte Dewar AD, Lincoln & Welland Regiment, sworn, states:

"I was detailed by A107072 Serjeant Stewart SC, my Platoon Serjeant to go on patrol across the river at about 1700 hrs 16 Nov 44. When the patrol started out the first time Serjeant Stewart was with us but the patrol was commanded by Lt C E Cartmel, a new officer, who had not been in action with the company before. I had expected Lt W O Fraser my Platoon Commander, would be in charge. The first attempt to cross the river did not go very well and we eventually returned to our Company area. By about 0130 hrs 17 Nov 44 the patrol was being organized to go for the second time. Serjeant Stewart who was in another boat on the first crossing had not yet returned and because of the way things had gone on the first crossing I did not want to go with just the new officer. I have been in action with "B" Company ever since the Unit came to France in July 1944. I have great confidence in Lt Fraser and Sjt Stewart."

Andrew Dewar
Signature of Accused

The accused declined to call witnesses in his own behalf.

I certify that RP 4 (d) (e) (f) (g) have been complied with.

Taken by me in the field in the presence and hearing of the accused this 25th day of November 1944.

H A C Rose Capt
Signature of Officer
Taking Summary.

SECOND WITNESS (Continued)

Cross examined by the accused:

Q. "Did I not say I would go if we had the leadership of our Serjeant ?"

A. "Yes, you did."

M J McCutcheon
Signature of Witness

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused: "I desire to give evidence under oath."

The Accused: B139061 Pte Dewar AD, Lincoln & Welland Regiment, sworn, states:

"I was detailed by A107072 Serjeant Stewart SC, my Platoon Serjeant to go on patrol across the river at about 1700 hrs 16 Nov 44. When the patrol started out the first time Serjeant Stewart was with us but the patrol was commanded by Lt C E Cartmel, a new officer, who had not been in action with the company before. I had expected Lt W O Fraser my Platoon Commander, would be in charge. The first attempt to cross the river did not go very well and we eventually returned to our Company area. By about 0130 hrs 17 Nov 44 the patrol was being organized to go for the second time. Serjeant Stewart who was in another boat on the first crossing had not yet returned and because of the way things had gone on the first crossing I did not want to go with just the new officer. I have been in action with "B" Company ever since the Unit came to France in July 1944. I have great confidence in Lt Fraser and Sjt Stewart."

Andrew Dewar
Signature of Accused

The accused declined to call witnesses in his own behalf.

I certify that RP 4 (d) (e) (f) (g) have been complied with.

Taken by me in the field in the presence and hearing of the accused this 25th day of November 1944.

H A C Rose Capt
Signature of Officer
Taking Summary.

Pte Dewar J. A. (1st case)

See 111 F for 2nd case

Army Form A.3.

Correspondence to be PINNED here.

PROCEEDINGS REVIEWED

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this twenty fifth day of November, 1941.

Whereas it appears to me, the undersigned, an officer in Command of Corps Royal Canadian Artillery, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable that the Court should be composed of more than one Officer, as there is not a separate Court Martial Officer~~*

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~Only one available to appoint~~
~~Three Officers to form the Court~~
~~A Field Officer as President~~
~~Three Officers having more than one year's~~
~~service~~

~~to the exclusion of each other~~

President.

Rank.	Name.	Regiment.
Major	W.D. Kirk	1 Cdn Svy Regt

Members.

Rank.	Name.	Regiment.
Capt.	C.C. Rolfe.	Cdn Corps The Hamr Cov RCASC.
Lieut.	R.A. MacDonald	Cdn Corps Petrol Park

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed. Hugh Brownfield
~~Commanding~~ (H.C.B. Brownfield) Brigadier
W.C.C. Convening Officer. Cdn Corps

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
L.7508, Pte. DEWAR, J.A., 3 Cdn Tp Carrying Coy., R.C.A.S.C.	First Charge Section 8 (1) Army Act	not Guilty WDKirk	Guilty WDKirk	
	Second Charge Section 40 Army Act	not Guilty WDKirk	Guilty WDKirk	
	Third Charge Section 9 (2) Army Act	not Guilty WDKirk	not Guilty WDKirk	
	See charge sheet annexed marked "G". WDKirk.		Sentence the accused to 42 (forty-two) days detention WDKirk	Confirmed Hornbrownfield

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) Hon Brownfield (Signed) WDKirk Major RCA
(H.O.N. Brownfield) Brigadier
Commanding A/C.C.R.A. Cdn Corps *President.*
Convening Officer (*c*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of November 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~ WDK
4. ~~The officers under instruction~~ WDK

* Omit if not applicable

were duly sworn.

Signed this 28th day of November 1941.

WDKirk Major R C A.
President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (*b*) on page 792 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~President of the Court Martial~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~I direct that the soldier named in the margin be not committed to prison until further orders.~~

~~Where the sentence awarded involves penal servitude or imprisonment, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.~~

Signed this 4th day of December 1941.

Hon Brownfield
Confirming Officer.
(H.O.N. Brownfield) Brigadier
A/C.C.R.A. Cdn Corps

Promulgated and extracts taken in the case of

(*a*) (Dated) 6 DEC 41 (Signed) Harrington Major

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

G.

CHARGE SHEET

No. L/7508, Private Dewar, J.A., 3 Cdn Tp Carrying Coy., R.C.A.S.C., a soldier of the Canadian Army (Overseas), is charged with;

1st Charge: Army Act Sec. 8(1)

WHEN ON ACTIVE SERVICE, USING VIOLENCE TO HIS SUPERIOR OFFICER, BEING IN THE EXECUTION OF HIS OFFICE,

in that he, in the field, on 12 Nov 41, when checked by Lieut. D.A. MacGregor, the Orderly Officer of 3 Cdn Tp Carrying Coy, RCASC, attempted to take by violence one flashlight from the person of the Orderly Officer.

2nd Charge: Army Act Sec. 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he, in the field, on 11 Nov 41, took W.D. motorcycle CC75037, on charge to 3 CDN TP CARRYING COY, without proper authority.

3rd Charge: Army Act Sec. 9(2).

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he, in the field, on 12 Nov 41, did not enter Commons Corner when ordered to do so by Lieut. D.A. MacGregor, the Orderly Officer of 3 CDN TP CARRYING COY, R.C.A.S.C.

E Partington

(E. Partington) Major,
Officer Commanding,
3 CDN TP CARRYING COY,
R.C.A.S.C.

Field
13 Nov 41

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

H Wm Brownfield

(H.W.N. BROWNFIELD)
Brigadier
A/C.C.R.A. Cdn Corps

Field
25 Nov 41

W.D. Kirk
major

PROCEEDINGS
OF A
FIELD GENERAL COURT MARTIAL
HELD IN THE FIELD
ON THE
28th DAY OF NOVEMBER 1941

Trial of No. L-7508 Private DEWAR, James Alexander, 3 Canadian Troop Carrying Company, R.C.A.S.C., Canadian Army (Overseas).

Prosecutor: Lieut. G.V. Hughes, 3 Cdn Tp Carrying Coy., R.C.A.S.C.

Defending Officer: Capt. W.H. Heffernan, Cdn. Corps Tps. Supply Column, R.C.A.S.C.

The order convening the Court was read in the presence of the Accused.

Rules of Procedure 110(A) were then complied with.

Q. "Do you object to be tried by the President, or any Members of the Court whose names you have heard read over?"

A. "No, sir."

The President, Members and Shorthand Writer were duly sworn.

Question to Prosecutor:

Q. "Did the Accused elect to be tried by Court Martial?"

A. "The Accused was remanded to be tried by Court Martial by the Officer Commanding his unit."

The Accused answered his name and number, was duly identified and arraigned on the charges (R.P. 31(B)).

Q. "Are you guilty or not guilty of the first charge against you, which you have heard read?"

A. "Not guilty, sir."

Q. "Are you guilty or not guilty of the second charge against you, which you have heard read?"

A. "Not guilty, sir."

Q. "Are you guilty or not guilty of the third charge against you, which you have heard read?"

A. "Not guilty, sir."

Rules of Procedure 39(A) is complied with. The Accused states that he does not wish to apply for an adjournment.

The Prosecution declined to make an opening address.

FORWARD TO PAGE.....2

The Prosecutor proceeds to call witnesses on the First and Third charges:

1st Witness For Prosecution: Lieut. D.A. MacGregor, Attached to 3 CDN TP CARRYING COY, R.C.A.S.C., having been duly sworn states:

I am Lieut. D.A. MacGregor, attached to 3 CDN TP CARRYING COY, R.C.A.S.C.

EXAMINED BY THE PROSECUTOR:

Q.1 "On the night of the 11-12 November 1941 were you on duty with the 3 Cdn Tp Carrying Coy, R.C.A.S.C.?"

A.1 "Yes, sir."

Q.2 "In what capacity?"

A.2 "As Orderly Officer."

Q.3 "Will you describe what happened about midnight, or shortly after?"

A.3 "I was making the Nightly Rounds, heading towards "B" Section. As I was passing the Church Hall, Tadworth, I noticed a motorcycle parked in front of the building. On my return at approximately 0020 hours the motorcycle was still there and it appeared that two soldiers were about to ride off on it. Its lights were on. I decided to investigate and ordered my driver, Pte. Brown, to stop, when a short distance past the motorcycle. Then I ordered him to reverse the car. As he did so the motorcycle started and passed us proceeding in the direction of "C" Section lines. It went right through the Stop Street at "Chequers Lane", appeared to pause at the end of "B" Section lines and then proceeded to "Commons Corner House", one of "C" Section billets. It was very dark and raining, and I am unable to state whether there were two riders originally on the motorcycle.

"At Commons Corner House Pte. Brown brought up immediately behind the motorcycle and stopped the car on the street. I got out of the car and followed the motorcycle into the lane, which is a circular drive. The driver of the motorcycle, whom I later identified as Pte. Dewar of "C" Section, the Accused, whom I now recognize, parked the motorcycle and started to move out towards the street at the other end of the drive. I ordered him to halt and enquired his name. He adopted a surly attitude and refused to answer. I then identified myself, stated I was Orderly Officer and again repeated my question. He still refused to answer. I then ordered him into Commons Corner House and accompanied him inside. While I was waking a man in a lower room the Accused turned and ran out the door. I followed him to the door and ordered him to halt or I would fire. I was not armed. He halted at the street and I approached him and again ordered him into the house. He refused to obey, stated that he belonged to the Engineers and turned, started off up the street.

"During this conversation I detected that he had been drinking. I turned the light on him and again ordered him to halt. He ~~see~~ proceeded about thirty paces, turned about and said 'So you wont turn that light off, eh?'. He returned, grabbed my torch and attempted to wrest it from me. In the ensuing struggle we moved toward the front of the house. He suddenly let go of the light, ran to the motorcycle and started it. As he attempted to ride the motorcycle out I closed with him and we fell into a pool of water. The Accused immediately placed

FORWARD TO PAGE.....3

1st Witness For Prosecution (Cont.):

"his hand over my mouth. I shouted for Pte. Brown and when he arrived I ordered him to go into the house to obtain assistance. When the men from the house arrived Pte. Dewar ceased to struggle, and we entered the house. "We entered the lower room on the ground floor and immediately I released my grip on the Accused he collapsed on the floor. At no time during the struggle did I strike Pte. Dewar. I then sent for "C" Section Orderly N.C.O. When he arrived I placed Pte. Dewar under close arrest and ordered him to be taken to the Guard Room under escort. Then I went outside accompanied by Pte. McRae. We picked up the motorcycle and examination showed that it was not damaged. Then I ordered Pte. McRae to ride the motorcycle to "C" Section Orderly Room and leave it there in charge of the Guard. Before he moved off with it I enquired as to whos motorcycle it was. It was a 3 CDN TP CARRYING COY. motorcycle. I examined the number of the motorcycle, the last two figures of which were '37'. My enquiries regarding this motorcycle showed it to be on issue to Sgt. Stahl of "C" Section. I then proceeded to "C" Section Orderly Room and there found that Pte. Dewar did not have a late pass, nor did he have authority for the use of the motorcycle."

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q.1 "It was pretty dark that night?"

A.1 "Yes, sir."

Q.2 "When you were proceeding on your rounds as Orderly Officer, was the Orderly Sergeant with you?"

A.2 "He was in the Company Orderly Room."

Q.3 "Is it not customary for your Orderly Sgt. to accompany you?"

A.3 "No sir, not on the night rounds."

Q.4 "You say you saw a motorcycle standing in front of a building and two soldiers preparing to ride off. Were you sitting in the front of back seat of the car?"

A.4 "In the front seat, sir."

Q.5 "When you backed up, how far was the motorcycle behind you?"

A.5 "About twenty-five or thirty yards."

Q.6 "And you say that as you were in reverse the motorcycle shot past you?"

A.6 "That is correct."

Q.7 "You don't know if there were two men on it?"

A.7 "No sir, but it appeared that two men were on it."

Q.8 "The motorcycle shot past you when you were in reverse?"

A.8 "Yes, sir."

Q.9 "By the time your driver stopped the car, changed into low gear and started forward the motorcycle would be some distance past you?"

A.9 "Yes, sir."

Q.10 "You say that there was a stop street and that the motorcycle shot straight through?"

A.10 "Yes, sir."

Q.11 "At that time, were you in high gear, or what?"

A.11 "In high gear, sir."

FORWARD TO PAGE.....4

1st Witness For Prosecution: (Cont.)

Q.12 "You were some distance behind?"
A.12 "Yes, sir, But at all times we could see the rear light."

Q.13 "Did the motorcycle stop at the stop street?"
A.13 "No, sir."

Q.14 "When you reached the stop street, did you stop?"
A.14 "We paused, sir."

Q.15 "When you paused, the motorcycle was still proceeding?"
A.15 "No, the motorcycle paused at the end of "C" Section lines."

Q.16 "Did you see the men get off the motorcycle?"
A.16 "No, sir."

Q.17 "You came up to the billet, "Commons Corner House" and you encountered the Accused, Pte. Dewar?"
A.17 "We followed the motorcycle to the billet, and on arriving there we were approximately ten yards behind."

Q.18 "Where was the driver of the motorcycle?"
A.18 "He got off the motorcycle."

Q.19 "Did you at any time see anyone get off the motorcycle?"
A.19 "Yes sir."

Q.20 "When you got up to the lines the motorcycle had stopped?"
A.20 "The motorcycle paused at the end of "C" Section lines, and when it stopped we were right behind it."

Q.21 "When the motorcycle finally stopped infront of "C" Section lines did you see the Accused get off the motorcycle?"
A.21 "Yes, sir."

Q.22 "When the motorcycle stopped were you coming along in your staff car?"
A.22 "We were stopping at the same time in the lane."

Q.23 "And the motorcycle was some distance ahead?"
A.23 "About thirty feet."

Q.24 "You did not see whether or not the accused, Dewar, got off that motorcycle?"
A.24 "He did, sir, I saw him."

Q.25 "You did not give that evidence in your summary of evidence."
A.25 "It appears that you have taken the wrong interpretation, I said in my summary of evidence that when I reached the spot he was moving across the street, meaning that when I got to where the car was stopped.

Q.26 "You were in a car, and it was very dark, you would have your headlights on and you have already told us that there were possibly two on the motorcycle?"
A.26 "It merely appeared that one way, there may have been one or two."

Q.27 "As far as you know two may have got off the motorcycle when it eventually stopped."
A.27 "No, I was right there, and only one got off."

FORWARD TO PAGE.....5

1st Witness For Prosecution: (Cont.)

Q.28 "When you came up to the accused he was walking towards the street?"
A.28 "Yes sir, I got out of the car as he stopped the motorcycle."

Q.29 "Did your driver stop the motor of the car?"
A.29 "I do not know."

Q.30 "Did you ask your driver to get out of the car with you?"
A.30 "No, sir."

Q.31 "When you came up the the accused, what was he doing?"
A.31 "He was walking across the street."

Q.32 "When you challenged him, did the accused know you?"
A.32 "No, sir."

Q.33 "He did not know your voice?"
A.33 "No, sir, I have not been with the unit very long, so it is very likely he would not have known me."

Q.34 "Did you, as you approached the accused, flash your flashlight on yourself so as to identify yourself?"
A.34 "No sir."

Q.35 "Did you have a greatcoat on?"
A.35 "No, just a mack.".

Q.36 "You put the flashlight on the accused as soon as you got out of the car?"
A.36 "Yes."

Q.37 "In your evidence, which you just gave, you told us you took him in the house to awaken someone and then he ran out of the door and you flashed your light on him, is that right?"
A.37 "Yes, sir."

Q.38 "Would you explain to me what you mean by this: 'We entered the lower room on the ground floor and I released my grip on the Accused' What kind of a grip?"
A.38 "I held him by the arm."

Q.39 "You say he collapsed to the floor?"
A.39 "Yes, sir."

Q.40 "I believe you said there was a pool of water in the front of the billet?"
A.40 "Yes, sir."

Q.41 "Were you wet?"
A.41 "Yes sir."

Q. 42 "Was the accused wet?"
A. 42 "Yes sir."

Q.43 "You were both very wet?"
A.43 "Yes sir."

Q.44 "When you first went into the house, where was Pte. Brown?"
A.44 "He came with me."

Q.45 "In your evidence just now, when Mr. Hughes was examining you, you told us you took the accused into the house and he went with you and then he ran out the door?"
A.45 "When the Accused came in with me at first, Pte. Brown was in the car."

FORWARD TO PAGE 6

1st Witness For Prosecution: (Cont.)

RE-EXAMINED BY THE PROSECUTOR:

Q.1 "When you came up to Commons Corner House after the motorcycle did you lose sight of the driver between the time you saw him stop and the time you set-to with him?"

A.1 "I did not."

Q.2 "What is the total distance from Tadworth Church Hall to the end of the stop street?"

A.2 "About one quarter mile."

Q.3 "And the distance from the stop street to where the motorcycle first appeared to pause?"

A.3 "Approximately 300 yards.

Q.4 "From the time you ~~a~~ saw the motorcycle pause at the stop street, would it be possible for a second passenger to get off the motorcycle without your knowledge?"

A.4 "Yes sir."

EXAMINED BY THE COURT:

Q.1 "When did you first identify the accused on the night of the 11-12 November?"

A.1 "When he entered the room at Commons Corner House for the second time. That was after the men had come out and I obtained his name from the men in the room."

Q.2 "Did you lose sight of the accused from the time the motorcycle stopped until he was identified?"

A.2 "No sir."

Q.3 "Did you lose sight of the rider of the motorcycle between the time you stopped your car and put it in reverse and the time you caught up to it?"

A.3 "I did not see the motorcycle nor rider, but followed the stop light."

Q.4 "Did you have a look at the motorcycle on the night in question?"

A.4 "Yes sir."

Q.5 "Will you tell us what you saw?"

A.5 "I went out to the pool, picked the motorcycle up and the first thing I checked was the Unit serial number--the motorcycle belonged to the 3 Cdn Tp Carrying Coy. I had not been in the unit long, and inspected the number of the motorcycle at the time as I did not know them."

Q.6 "When you went up to the accused the first time did you identify yourself?"

A.6 "I went up to the accused and asked who he was and he refused to answer. I then identified myself and he still refused to give me his name and number."

FORWARD TO PAGE.....7

2nd Witness For Prosecution: D-91926 Pte. Brown, W.H., 3 CDN TP CARRYING COY., R.C.A.S.C., having been duly sworn states:

"I am D-91926 Pte. W.H. Brown of 3 CDN TP CARRYING COY, R.C.A.S.C.

? EXAMINED BY THE PROSECUTOR:

Q.1 "On the night of the 11-12 Nov 41 was it your duty to drive the Orderly Officer?"
A.1 "Yes sir."

Q.2 "While driving him, did Lieut. MacGregor order you to follow a motorcycle sometime after midnight?"
A.2 "Yes sir."

Q.3 "You caught up to it?"
A.3 "No, but I gained on it."

Q.4 "When the motorcycle finally stopped, what did you do?"
A.4 "I just stopped in the car."

Q.5 "Did Mr. MacGregor then get out of the car?"
A.5 "Yes sir."

Q.6 "Will you go on?"
A.6 "I was sitting in the car with the windows closed when after quite a while I heard Lieut. MacGregor call and I went into the yard where he was on the ground with someone. I did not identify the accused. Lieut. MacGregor sent me over for the "G" Section Lorry Piquet Corporal and when I got back they had the accused in the house and the man they had was Pte. Dewar.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q.1 "Did you on the night in question see this motorcycle parked outside this building near a church?"
A.1 "I did, sir."

Q.2 "You noticed it on the way back?"
A.2 "Yes sir."

Q.3 "Were there two men near the motorcycle?"
A.3 "I can not say, sir."

Q.4 "You received instructions to reverse?"
A.4 "I was told to stop."

Q.5 "Did you go into reverse?"
A.5 "I was told to back up, as we had gone past the cycle."

Q.6 "While you were in reverse, did the motorcycle go past you?"
A.6 "Yes, sir."

Q.7 "How many were on the motorcycle?"
A.7 "I could not say."

Q.8 "It would be quite a bit ahead of you when you got started after it?"
A.8 "Yes, it was.)

Q.9 "Would it be quite fair to say that it was quite a bit ahead of you all the time?"
A.9 "Yes sir."

FORWARD TO PAGE.....7

2nd Witness For Prosecution: (Cont.)

Q.10 "By the time the motorcycle stopped could you see who got off?"
A.10 "I could not see who got off."

Q.11 "Were you watching it closely?"
A.11 "As close as I could, it was very dark."

Q.12 "As you stopped, did you see a man come out of the shadows?"
A.12 "I did not, sir."

Q.13 "When you stopped your car and Lieut. MacGregor got out it was very dark?"
A.13 "It was, sir."

Q.14 "Did he go over to the accused?"
A.14 "As far as I know."

Q.15 "How far from where you stopped the car to the door of the house?"
A.15 "About twenty-five to thirty yards."

Q.16 "As you were following the motorcycle could you see if anyone was on it?"
A.16 "No sir."

Q.17 "By the time the motorcycle stopped the driver could easily have slipped away in the shadows?"
A.17 "Yes sir."

RE-EXAMINED BY THE PROSECUTOR:

Q.1 "Up to the time you stopped, did you lose sight of the tail light and you were gaining on it all the time?"
A.1 "Yes sir.

Q.2 "How far behind were you when it crossed the stop street?"
A.2 "I could not say, sir."

3rd Witness For Prosecution:

L-7246 Pte. McRae, F.M., 3 CDN TP CARRYING COY., R.C.A.S.C., having been duly sworn states:

"I am L-7246 Pte. McRae, F.M., 3 CDN TP CARRYING COY., R.C.A.S.C."

EXAMINED BY THE PROSECUTOR:

Q.1 "In which house were you living on the night of the 11-12 Nov 41.?"
A.1 "In the house on the left hand side of the street, I am not sure of the name of it."

Q.2 "Will you tell me what happened that night?"
A.2 "I heard a noise outside my billets and went to see what it was. Lieut. MacGregor told me to fall in and help him in the house with a man. I did not know who he was when I helped him to the door but when I got inside I identified him as the Accused, Pte. Jimmy Dewar. Cpl. Bumstead told me to fall in as escort."

Q.3 "When you went outside the house, tell me what you saw."
A.3 "It was too dark to see anything, sir."

Q.4 "When you helped Lieut. MacGregor in with this person was Lieut. MacGregor holding on to him?"
A.4 "I could not see, sir."

FORWARD TO PAGE.....9

3rd Witness For Prosecution: (Cont.)

Q.5 "When you got him into the house did you notice anything peculiar about the condition of his clothes?"
A.5 "His clothes were wet, it was raining outside."

4th Witness For Prosecution:

L-7354 Pte. Ferrier, A.R., 3 CDN TP CARRYING COY., R.C.A.S.C., having been duly sworn states:

"I am L-7354 Pte. Ferrier, A.R., 3 CDN TP CARRYING COY., R.C.A.S.C."

EXAMINED BY THE PROSECUTION:

Q.1. "In which house were you living ~~on~~ in on the night of 11-12 Nov 41?"
A;1 "Commons Corner House."

Q.2 "You were disturbed that night?"
A.2 "I was awakened by Lieut. MacGregor and Pte. Dewar and Pte. Brown came into the room."

Q.3 "Was there anything peculiar about the condition of Lieut. MacGregor and Pte. Dewar?"
A.3 "I never noticed anything, except that their clothes were a little wet."

THE DEFENCE DECLINED TO CROSS-EXAMINE THIS WITNESS

5th Witness For Prosecution:

L-7108 Cpl. Bumstead, C.H., 3 CDN TP CARRYING COY., R.C.A.S.C. having been duly sworn states:

"I am L-7108 Cpl. Bumstead, C.H., 3 CDN TP CARRYING COY. R.C.A.S.C.

EXAMINED BY THE PROSECUTION:

Q.1 "Were you Piquet Corporal of "C" Section 3 Cdn Tp Carrying Coy., RCASC, on the night of 11-12 Nov 41.?"
A.1 "Yes sir."

Q.2 "You were called out during that night, will you tell the Court in your own words what happened?"
A.2 "I was called out about 0030 hours on the morning of the 12th Nov 41 by Pte. Brown, and reported to Lieut. MacGregor. Lieut. MacGregor ordered me to put Pte. Dewar under close arrest, which I did. I took Pte. Dewar down to the guard room at about 0130 hours, and then reported to H.Q. Orderly Room that I had done so."

Q.3 "How is it that you were called at 0030 hours and it was fully an hour later that you delivered him at the Guard Room?"
A.3 "I took him in and got his blankets and part of his equipment with Lieut. MacGregor's permission."

Q.4 "Did you notice anything peculiar about Lieut. MacGregor and Pte. Dewar?"
A.4 "They were both very wet."

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q.1 "It was pretty dark that night?"
A.1 "Yes sir."

FORWARD TO PAGE.....10

The Prosecutor then proceeded to call witnesses on the Second Charge:

3rd Witness For Prosecution is Recalled:

L-7354 Pte. McRae, F.M., 3 CDN TP CARRYING COY., R.C.A.S.C. duly sworn:

EXAMINED BY THE PROSECUTION:

Q.1 "On the night of the 11-12 Nov 41 Lieut. MacGregor gave you some orders with regard to the disposal of a motorcycle?"

A.1 "I did have, I rode the motorcycle over to the Orderly Room and told the Guard to see that it was not moved."

Q.2 "Did you inspect this motorcycle with Mr. MacGregor?"

A.2 "No sir."

Q.3 "Did you know what the number of this motorcycle was?"

A.3 "No sir."

THE DEFENCE DECLINES TO CROSS-EXAMINE THIS WITNESS

EXAMINED BY THE COURT:

Q.1 "What kind of a motorcycle was it?"

A.1 "It was a Royal Enfield."

Q.2 "How could you tell the make of motorcycle if it was so dark?"

A.2 "I was pretty sure it was an army motorcycle."

Q.3 "Did you see a Unit number on it?"

A.3 "No sir."

Q.4 "Did it have a unit tactical number on it?"

A.4 "I would not say, sir, as you could not see unless there was a light."

Q.5 "Was the motorcycle ridden over to the Orderly Room?"

A.5 "I rode it over, sir."

Q.6 "And you handed it over to the guard?"

A.6 "Yes sir."

Q.7 "You say the motorcycle was kahki coloured, and you say you could not see the number?"

A.7 "It was very dark coloured and there was no nickel plating on it."

Q.8 "Did you get a receipt for it?"

A.8 "No, sir."

1st Witness For Prosecution is Recalled:

Lieut. D.A. MacGregor, Attached 3 CDN TP CARRYING COY., R.C.A.S.C., duly sworn:

EXAMINED BY THE PROSECUTION:

Q.1. "After disposing of Pte. Dewar on the night of the 11-12 Nov. what did you do with the motorcycle?"

A.1 "I had Pte. McRae ride the motorcycle over to "C" Section Orderly Room and told him to leave it with the Guard and that it was not to go out again that night."

Q.2 "You stated that you and Pte. McRae inspected it for damage?"

A.2 "We went outside the house and it was laying on its side in the mud and we picked it up, checked the foot rests headlights, etc, but there was no damage."

FORWARD TO PAGE.....11

1st Witness For Prosecution (cont.)

Q.3 "Did you notice the serial or unit number of this motorcycle?"
A.3 "I noticed the vehicle number and the W.D. number."

Q.4 "Do you remember any of the figures of the W.D. number?"
A.4 "The last two numbers were '37'."

Q.5 "Could you tell what make the motorcycle was?"
A.5 "No, sir."

Q.6 "Was Pte. McRae right with you when this information was noted?"
A.6 "Yes, we both checked it up."

Q.7 "Did you use a flashlight?"
A.7 "No, not when I was with Pte. McRae."

THE DEFENCE DECLINES TO CROSS-EXAMINE THIS WITNESS.

6th Witness For Prosecution: L-7499 Pte. Ross, L.A., 3 CDN TP CARRYING COY, R.C.A.S.C., having been duly sworn states:

"I am L-7499 Pte. Ross, L.A., 3 CDN TP CARRYING COY, R.C.A.S.C."

EXAMINED BY THE PROSECUTION:

The Prosecutor then produced the Despatch Book of "C" Section, 3 Cdn Tp Carrying Coy., R.C.A.S.C., which was accepted, and marked Exhibit "B" by the Court.

Q.1 "Can you tell the Court what that book is?"
A.1 "It is the despatch book of "C" Section."

Q.2 "Are you custodian of this book?"
A.2 "Yes, sir."

Q.3 "Do you keep a record of the movement of the motorcycles in your section?"
A.3 "Yes sir."

Q.4 "Was there authority for a motorcycle to leave the lines after 1700 hours 11 Nov 41?"
A.4 "To the best of my knowledge there was not."

Q.5 "Normally it would be entered?"
A.5 "Yes sir, it would be."

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q.1 "Where is the entry for vehicles to move out in the morning of 11 Nov 41?"

The witness then pointed out these entries.

Q.2 "If an N.C.O. took a motorcycle out to go from one billet to another would he come over and have it entered?"
A.2 "He would if he had permission of the Sergeant."

Q.3 "Every time a vehicle is taken out it is entered?"
A.3 "Yes sir."

Q.4 "It often happens to your knowledge that cycles are taken out without authority?"
A.4 "It might be possible."

FORWARD TO PAGE.....12

6th Witness For Prosecution (Cont.)

RE-EXAMINED BY THE PROSECUTION:

Q.1 "What is the greatest distance to any billet in your lines?"

A.1 "About 350 to 400 yards.

7th Witness For Prosecution: Lieut. A.O. Etches, Administrative Officer, 3 Cdn Tp Carrying Coy., R.C.A.S.C. having been duly sworn states:

"I am Lieut. A.O. Etches, Administrative Officer, 3 Cdn Tp Carrying Coy., R.C.A.S.C."

EXAMINED BY THE PROSECUTOR:

Q.1 "On what authority is a vehicle allowed to be taken out?"

A.1 "I have here the Unit Standing Orders, which states under what authority a vehicle may be taken out of Section Lines."

The Witness then read the Section of Standing Orders dealing with movement of transport to the Court.

This Witness submits a true copy of Unit Standing Orders for 3 Cdn Tp Carrying Coy., R.C.A.S.C., which are marked Exhibit "D" by the Court and attached to the Proceedings.

Q.2 "Under that Section, no vehicle from an operating Section may move without authority of an officer?"

A.2 "That is right, sir."

X. CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q.1 "There are some exceptions to this, are there not?"

A.1 "The only exceptions would be marked in the Vehicle Despatch Books, sir."

Q.2 "How many D.Rs. have you in H.Q. Section?

A.2 "In H.Q. we have been using three D.Rs."

Q.3 "It is a fact that motorcycles do move around, and must get an order before doing so?"

A.3 "Yes, sir, on an authorized movement."

Q.4 "What motorcycles have you in each Section?"

A.4 "There are only two motorcycles which are authorized to be used by operating sections and they are the Sergeant's and one D.R's. Work tickets are made out for these vehicles so that they can move from 0800 hours to 1700 hours daily."

Q.5 "There could have been motorcycles out which come within that rule that night?"

A.5 "There would have to have been a record of them made."

EXAMINED BY THE COURT:

Q.1 "Can you look at that book and tell us what motorcycles were out with authority on the 11 Nov 41?"

A.1 "Yes, but there was no vehicle out with authority after 1700 hours."

Q.2 "These are the latest orders, which were in effect at that time?"

A.2 "Yes, sir."

FORWARD TO PAGE.....13

7th Witness For Prosecution, (Cont.):

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q.1 "How many sections have you in this unit?"
A.1 "Five Sections."

Q.2 "All with motorcycles?"
A.2 "Yes sir."

RE-EXAMINED BY THE COURT:

Q.1 "The motorcycles are supposed to be in at 1700 hrs. each day?"
A.1 "They are checked in at the Section Orderly Room by their rider."

Q.2 "Suppose someone does not come in at 1700 hours who checks on them?"
A.2 "The Corporal on duty all night, they are under guard after 1700 hours."

Q.3 "When they turn the motorcycle in, do they turn in the work ticket and log book?"
A.3 "The Work Ticket is turned into the Orderly Room and cannot be taken out unless entered in the despatch book and signed by an officer."

8th Witness For Prosecution:

L 7132 Sgt. Stahl, W.J., 3 CDN TP CARRYING COY, RCASC having been duly sworn states:

"I am L-7132 Sgt. Stahl, W.J. of 3 CDN TP CARRYING COY., R.C.A.S.C.

EXAMINED BY THE PROSECUTOR:

Q.1 "Where are "C" Section motorcycles kept at night?"
A.1 "In the garage back of one of the houses, locked up."

Q.2 "If they were not locked up in this garage, where would they be?"
A.2 "There was one of the Despatch Rider's motorcycles which is kept in the yard in front of the Orderly Room."

Q.3 "If if was not there, was it out without authority?"
A.3 "Yes sir."

Q.4 "Have you first-hand knowledge of their ever being out of there?"
A.4 "Not first-hand information, sir."

Q.5 "Does motorcycle No. CC 75037 belong to "C" Section?
A.5 "Yes sir."

Q.6 "If there was any authority for that vehicle to be out after 1730 hours, would there be a record of it?"
A.6 "Yes sir, it would be entered in "C" Section Despatch Book."

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q.1 "Show me where there was authority for that vehicle to be out during that day."

The witness pointed out entry giving authority.

Q.2 "Are you in charge of "C" Section?"
A.2 "I am Sergeant of "C" Section."

FORWARD TO PAGE.....14

8th Witness For Prosecution (Cont.)

Q. 3 "How many motorcycles have you in your section?"
A. 3 "At the present time, we have five."

Q.4 "Do they often go out without authority?"
A.4 "Not to my knowledge."

Q.5 "This particular night, were they locked in the garage?"
A.5 "They were supposed to be locked in the garage."

EXAMINED BY THE COURT:

Q.1 "On whose charge was motorcycle WD No. CC 75037?"
A.1 "Pte. Urquhart, D.G.".

RE-EXAMINED BY THE PROSECUTOR:

Q.1 "Was Pte. Urquhart in "C" Section at that time?"
A.1 "Yes sir."

RE-EXAMINED BY THE COURT:

Q.1 "When he is charge of a vehicle has anyone else authority to ride it?"
A.1 "Not unless something urgen comes up and he is not around."

Q.2 "Will you tell us Sergeant, who makes entries in this book?"

A.2 "Pte. L.A. Ross, sir."

Q.3 "Is he the only one?"
A.3 "Yes sir."

Q.4 "Then it cannot move without his entering it?"
A.4 "It is possible, but it would be without authority."

Q.5 "Who was on duty in the Orderly Room that night?"
A.5 "I could not say, sir."

5th Witness For Prosecution is Recalled:

L-7108 Cpl. Bumstead, C.R., 3 CDN TP CARRYING COY, R.C.A.S.C. duly sworn:

EXAMINED BY THE PROSECUTION:

Q.1 "Were you the Corporal on duty on the night of 11-12 Nov 41?"
A.1 "I was sir."

Q.2 "Did anyone come to you for authority to use a motorcycle that night?"
A.2 "No sir."

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q.1 "Where were the motorcycles kept at night?"
A.1 "In a garage."

Q.2 "Were you looking after them?"
A.2 "No sir, I was not."

Q.3 "Then it was possible for a motorcycle to be taken out without authority and without your knowledge?"
A.3 "Yes sir."

FORWARD TO PAGE.....15

5th Witness For Prosecution (Cont.)

RE-EXAMINATION BY THE PROSECUTION:

Q.1 "As well as being Duty Corporal you were Corporal of the Vehicle Piquet and that includes all vehicles except the staff car?"

A.1 "Yes sir."

EXAMINED BY THE COURT:

Q.1 "What are your hours of duty as Duty Corporal?"

A.1 "From 1000 hrs one day to 1000 hrs. the next."

Q.2 "When Pte. McRae took the motorcycle to the Orderly Room, was it turned over to you?"

A.2 "No sir."

Q.3 "Did Pte. McRae turn the motorcycle over to you sometime during the night of 11-12 Nov 41?"

A.3 "No sir."

RE-EXAMINED BY THE PROSECUTION:

Q.1. "Could Pte. McRae have brought the motorcycle to the Guard without your knowledge?"

A.1 "Yes sir, it could have been done while I was away with the prisoner."

The Prosecution is closed.

DEFENCE:

The accused is informed of his rights in accordance with R.P. 40 (A) and Note 2 on page 544 of the Manual of Military Law, 1929 Edition.

The accused is asked the following questions:

Q.1 "Do you apply to give evidence yourself as a witness?"

A.1 "Yes sir."

Q.2 "Do you intend to call any other witness in your defence?"

A.2 "Yes sir."

Q.3 "Is he a witness as to character only?"

A.3 "No, he is a witness to facts."

The Defence proceeds to call witnesses.

1st Witness For Defence:

The Accused, L-7508 Pte. Dewar, J.A., 3 CDN TP CARRYING COY., R.C.A.S.C., having been duly sworn states:

"I am L-7508 Pte. Dewar, J.A., of 3 CDN TP CARRYING COY. R.C.A.S.C."

EXAMINED BY THE DEFENDING OFFICER:

Q.1 "How old are you Dewar?"

A.1 "Twenty-one, sir."

Q.2 "How long have you been with the Troop Carrying Coy.?"

A.2 "Ever since it was organized."

Q.3 "Did you on the night of the 11th or on the morning of the 12th November 1941 take a motorcycle out of the lines

FORWARD TO PAGE.....16

1st Witness For Defence (Cont.)

or out of ~~th~~ any garage of your unit?"

A.3 "No sir."

Q.4 "Did you ride on a motorcycle that night?"

A.4 "No sir."

Q.5 "Evidence has been given that you were seen outside a billet somewhare around 0030 hours on the morning of the 12th November, will you tell the Court what you were doing outside the billet, where you came from and what your purpose was?"

A.5 "On the night of the 11th Nov. 41 I went to bed at 2330 hours with a bad pain in my ankle. I had just come out of hospital and it still bothered me. I got up and went to get a cigarette. I had none, and as Pte. Thompson had told me during the day that I could get cigarettes from him I got dressed and went to the other house to get some. On my way out, coming back, someone came up to me and asked where I was going and who I was, but he did not tell me who he was. I did not know what to do so turned to go back in the house, and he started at me. Someone grabbed me and ~~h~~ fell on ~~m~~ into some water and the next thing I knew was that I was in the house and the Corporal putting me under arrest. I asked him what he put me under arrest for.

Q.6 "Did you know Lieut. MacGregor?"

A.6 "No sir, I had never seen him before."

Q.7 "When this person asked you what your name and number and where you were going, did you know it was your superior officer?"

A.7 "No sir, it was so dark I could not see who he was."

Q.8 "Evidence has been given in the Court that when you came into the house you collapsed on the floor, do you remember being brought in?"

A.8 "No sir."

Q.9 "Do you belong to "C" Section?"

A.9 "Yes sir."

Q.10 "What billet did you live in?"

A.10 "Moorlands Cottage."

Q.11 "How far is that from Commons Corner House?"

A.11 "About five hundred yards."

Q.12 "When you came out of the house you had been up to see Pte. Thompson?"

A.12 "Yes sir."

Q.13 "When you came out of the house and were stopped, what did you do?"

A.13 "I did not know who it was, nor what to do, so I went to go back in the house."

Q.14 "Did you make any attempt to take the flashlight from him?"

A.14 "No SIR."

Q.15 "Did you disobey any order to go back into the house?"

A.15 "No sir."

FORWARD TO PAGE.....17

1st Witness For Defence, (cont.)

CROSS-EXAMINED BY THE PROSECUTION:

Q.1 "AT what house did you visit Pte. Thompson?"
A.1 "Commons Corner House."

Q.2 "You said you got a cigarette from him?"
A.2 "A package, sir."

Q.3 "When you came out of Commons Corner House, after getting these cigarettes, did you hesitate at the door?"
A.3 "No sir."

Q.4 "Did you hear or see a motorcycle?"
A.4 "No sir."

Q.5 "Or have a flashlight turned on you?"
A.5 "No sir."

EXAMINED BY THE COURT:

Q.1 "What time did you say you went for the cigarettes?"
A.1 "At 0030 hours on the 12 Nov 41."

Q.2 "How far was it from where you were sleeping to the house where Pte. Thompson slept?"
A.2 "About 500 yards."

Q.3 "With your sore ankle you went all that way over for a cigarette?"
A.3 "Yes sir, I walked over there as it eased the pain to move on it."

RE-EXAMINED BY THE DEFENDING OFFICER:

Q.1 "While you were in hospital did you have any occasion to get up with your ankle?"
A.1 "Sometimes when it pained I used to walk the corridor to cut down the swelling and pain."

2nd Witness For Defence:

L-7732 Pte. Thompson, A.L., 3 CDN TP CARRYING COY., R.C.A.S.C., having been duly sworn states:

"I am L-7732 Pte. Thompson, A.L., of 3 CDN TP CARRYING COY., R.C.A.S.C.

EXAMINED BY THE DEFENDING OFFICER:

Q.1 "Are you with the 3 Cdn Tp Carrying Coy.?"
A.1 "Yes sir."

Q.2 "On the night of the 11 Nov 41 or the early morning of 12 Nov 41 did anyone visit you, and if so, what did they come for and what did they say?"
A.2 "Yes sir, Pte. Dewar came and got some cigarettes. He came up to my room,.and he told me that he had been ~~was~~ unable to sleep and came over for the walk."

Q.3 "Did he give any reason for being unable to sleep?"
A.3 "Yes, he said his ankle was bothering him. He had hurt it in an accident."

Q.4 "Did you see Dewar again that night?"
A.4 "Yes sir, at 0100 hours there was quite a commotion downstairs so I came down and found Lieut. MacGregor coming into the house with Pte. Dewar, and then put him under arrest."

FORWARD TO PAGE.....18

2nd Witness For Defence (Cont.):

Q.5 "How long was it before they came in that he got the cigarettes?"
A.5 "About five minutes."

CROSS-EXAMINED BY THE PROSECUTION:

Q.1 "What time did you say Dewar got the cigarettes?"
A.1 "About five-to-one."

Q.2 "And five minutes later you heard a commotion?"
A.2 "Yes sir."

Q.3 "I just want to point out that this witness , in his summary of evidence said that he heard a commotion at 0100 hours, and refers not at all to the previous confab. and giving of the cigarettes. What did you do when you came downstairs?"
A.3 "I came down in my night clothes and went into Cpl. Cooper's room and borrowed a pair of trousers and shoes from another fellow and went into the room into which Dewar was being brought."

RE-EXAMINED BY THE DEFENDING OFFICER:

Q.1 "You say you gave evidence at the summary of evidence and you did not mention about the cigarettes at that time, you might tell the Court why you did not."

A.1 "Pte. Dewar is a good friend of mine and when I saw Lieut. MacGregor bring him in I did not wish to be even a witness to it, and did not like to say that he had been out of billets to see me, as I understood he would be charged with A.W.L."

EXAMINED BY THE COURT:

Q.1 "You say he is a friend of yours and yet you did not say anything in the summary of evidence about the cigarettes?"
A.1 "It was the very next morning and I understood that he was being charged with A.W.L."

The Prosecutor addresses the Court upon the evidence for the Prosecution and the evidence of the Accused as follows:

"Dealing with the first charge, you have before you Lieut. MacGregor's statement that he followed the motorcycle from the time he got in high gear until it stopped at Commons Corner House, never losing sight of it; challenged the Accused, who tried to take his flashlight from him when he turned it on the Accused, finally getting the accused in the house and having him arrested.
Pte. Brown was driving Lieut. MacGregor, pursued the motorcycle when ordered to do so and stayed in the car when Lieut. MacGregor got out. When Lieut. MacGregor called to him, he got out of the car went into the yard and found them both on the ground, he then went to get help. Then Pte. McRae had come down and assisted Lieut. MacGregor in with the accused.
Pte. Ferrier states that he was also awakened by a commotion came downstairs and saw the Accused brought in by Lieut. MacGregor, and that the Accused clothing was very wet. Pte. Thompson also says he was awakened by a disturbance, at the same time he went down and saw the accused brought in.

FORWARD TO PAGE.....19

Closing address by Prosecution (Continued).

"Lieut. MacGregor's statement is straightforward and as you have seen by the evidence is fully corroborated.
"In regard to the third charge, disobeying a lawful command, Lieut. MacGregor's driver who was in the car had the windows closed, and there was noone else around, here I can only assume that Mr.MacGregor gave some order to Pte. Dewar, which he would not obey.
"With regard to the second charge, that of having a W.D. vehicle out without authority: We have I think, shown in the evidence that a W.D. vehicle on charge to the 3 Cdn Tp Carrying Coy., R.C.A.S.C. having the last two figures of the W.D. No. as '37' was out of the area, and we have shown that the man who was seen to get off the motorcycle was the Accused, Pte. Dewar, sometime after midnight on the night 11-12 Nov 41. We have established that this motorcycle belonged to "C" Section, that there was no authority for any motorcycle to leave "C" Section after 1700 hours. It has been shown that it is possible for a motorcycle to get out without authority, that I think is what happened, the motorcycle was out without authority and ridden by Pte. Dewar.

Closing address by Defence:

The Defending Officer makes the following address:

In the Case before you we have the evidence of an Officer, whom I have nothing to say against, and you have the evidenc of a Private soldier. The highest court which a soldier can go to is a Court Martial, and the results of this case, therefore, lie entirely in your hands.
"In this case you have the evidence of one Lieut. MacGregor against the word of one soldier, evidence which is not sufficient to make sentence on any of the counts.
"I will take my question to the witness "Brown", who ~~is~~ was in the best position to be a witness of this case, I asked him the question 'Aperson on the motorcycle could have got off the motorcycle and disappeared', his answer was 'Yes'. ~~When~~ Then we have a motorcycle which dashed past him and Brown endeavours to follow it. As a driver, used to night driving and he says he was quite a distance behind, then my submission is that when the motorcycle stopped the man disappeared into the dark. Then Lieut. MacGregor came out of the car and encountered the Accused, Dewar. I also submit that he did not see the Accused get off the motorcycle and I am also submitting that the accused himself said that he did not know MacGregor, and MacGregor says he did not know Dewar.
"I also submit that under Section 5 on Page 433 M.M.L., that under Sub-Sec. 3 on the 5th line:'The Court should be satisfied, before convidtion, that the accused knew the person with respect to whom the offence was committed to be a superior officer. If the superior did not wear the insignia of his rank, and was not personally known to the accused, evidence would be necessary to show that the accused was otherwise aware of his being his superior officer'. My submission to the Court is that first, my client did not take the motorcycle and knows nothing about it, and the evidence is borne out by Pte. Brown's statement. I ask you to accept that [redacted]
He did not see anyone get off the motorcycle and I ask you to take Brown's evidence as he is x the one most liable to have been a witness. Any tussle which took place, and which actually happened, and which there was no witness to same, until Pte. Brown was called. When he went over to the yard they were down in the water.
"The same could apply to Section 9(2), page 647 M.M.L. 'The President should deal with 9(1) etc.'"

FORWARD TO PAGE 20.

Closing address By Defence, (Cont.)

"Both the 1st and 3rd charges in my submission fall by the ground and I ask the Court to rely on that citation I gave from Page 433 of the M.M.L., that Dewar did not know it was his superior officer and I am also submitting that there is not sufficient evidence to show that the motorcycle was or was not out with proper authority.

"You have not got corroboration of what took place outside--the witnesses do not know what took place outside. "There are only three men in this picture, Lieut. MacGregor Pte. Dewar and Brown. Brown states that he saw nothing, until called, and finding the accused and MacGregor on the ground. Dewar, whose ankle was bothering him wanted a cigarette, which would ease the pain a bit. He goes out from one billet to another to get cigarettes from a friend, who during the day had offered them. You might say that walking on a sore ankle was peculiar, but I submit that all cases are different, and the way of easing this pain would depend on the person or type of case.

"Why did Pte. Thompson give evidence at the summary of evidence about the cigarettes? I submit that it was because he understood that the accused was being brought up on an AWL charge for being absent from his billets, and as you know, there is an unwritten law that one soldier will not tell more than he is asked under oath about another soldier.

"On the whole picture of this case I really think that the Court should dismiss every charge against the accused. "The Accused is entitled to the benefit of a reasonable doubt. On Page 102 of Practical Digest of Military Procedure it sets out the Doctrine of Reasonable Doubt as in Page 56 of the M.M.L.

"When you sit on a Court or Jury box there must be a moral certainty that convinces you beyond any doubt that the accused is guilty. If there is the slightest doubt in your mind it is your duty to have no hesitation to acquit the accused and I submit that there is a moral uncertainty that the accused committed any of these offences and I ask you to acquit the accused on all three charges."

The Court then closed for consideration of finding.

The Court being re-opened, the accused was again brought before it and a finding of Not Guilty of the Third Charge was read to him.

Question to the Accused:

Q. "Do you wish to make any statement in mitigation of punishment?"

A. "No sir."

Q. "Do you wish to give evidence yourself or to call any witnesses as to character?"

A. "No Sir.

Question to the Prosecutor, by the Court:

"Have you any evidence to produce as to the character and particulars of service of the accused?"

The Prosecutor produced Certified True Copy of this soldier's N.Y.M. 6, which was accepted by the Court and marked Exhibit "C".

EXHIBIT "X" WDK "A" WDKirk Maj.

MEDICAL OFFICER'S CERTIFICATE

I CERTIFY that No. L 7508 DEWAR. J. Reg't. 3 Cdn. T.C.C., RCAS C.

is fit to undergo trial by Court-martial.

Signature of Medical Officer J. Hamilton Magee

6 Can. C.C.S. R.C.A.M.C.

Date NOV 28 1941

WDKirk Maj.

WO Kirk
Mag?

SUMMARY OF EVIDENCE in the case of No. L-7508, Private Dewar, J.A., 3 Cdn Tp Carrying Coy., R.C.A.S.C.

By direction of the Commanding Officer the Summary of Evidence is taken on oath by Lieutenant A.O.Etches, 3 Cdn Tp Carrying Coy., R.C.A.S.C.

1st Witness for the Prosecution.

No. L-7108, Corporal Bumstead, C.R., 3 Cdn Tp Carrying Coy., R.C.A.S.C., having been duly sworn, states :-

"On 11 Nov 41 I was Piquet Corporal in "C" Section, 3 Cdn Tp Carrying Coy. On taking Tattoo at 2300 hrs Pte. Dewar, whom I recognize, was in billets.

At 0030 hrs, 12 Nov 41, Pte. Brown came to the Orderly Room to get me to go to Commons Corner House, where I met Lieut. MacGregor, and was ordered by him to put Pte. Dewar under arrest, which I did. I called Pte. McRae and Pte. Selkirk to be escort to take Pte. Dewar to the Guard Room. I handed Pte. Dewar to the Guard Corporal at 0130 hrs, 12 Nov 41, and then reported to the H.Q. Orderly Room that I had done so."

C.R.Bumstead.....
(C.R.Bumstead) Corporal,
3 Cdn Tp Carrying Coy.RCASC.

The accused declines to cross-examine this witness.

2nd Witness for the Prosecution.

No. B-82577, Private Grigsby, F.G., 3 Cdn Tp Carrying Coy., R.C.A.S.C., having been duly sworn, states :-

"I was in Moorlands House at 2300 hrs, 11 Nov 41 when Tattoo was called and I was talking to Pte. Dewar at that time."

F.G.Grigsby..
(F.G.Grigsby) Private,
3 Cdn Tp Carrying Coy.,RCASC.

The accused declines to cross-examine this witness.

3rd Witness for the Prosecution.

Lieutenant D.A.MacGregor, 1 R.C.A.S.C. Holding Unit, (attached 3 Cdn Tp Carrying Coy., R.C.A.S.C.), having been duly sworn, states :-

"I am Lieutenant D.A.MacGregor, attached to 3 Cdn Tp Carrying Coy., R.C.A.S.C.

While making my rounds as Orderly Officer on the night of 11/12 Nov 41, I passed the church in Tadworth on the way to "B"Section. In the darkness I noticed a Motor Cycle parked on the road in front of the church. On my return from "B"Section at approximately 0020 hrs I noticed that the Motor Cycle was still there. Its lights were on and it appeared that two soldiers were about to ride off on it. I decided to investigate and having stopped some distance past it I ordered my driver, Pte. Brown, to reverse. As we did so the M/C passed us and proceeded at a fast pace straight through the stop street in the direction of "C" Section lines. Due to the darkness and poor visibility I am unable to state

continued...../2

3rd Witness. (cont'd) that there were two riders. I ordered Pte. Brown to follow. The M/C stopped at the end of "C" Section vehicle lines and then moved on again. It turned in at Commons Corner House, one of "C" Section billets, and I stopped on the street.

The driver parked the M/C in a pool of water in front of the house and when I reached the spot was moving toward the street. I ordered him to halt and inquired his name. I detected that he had been drinking. He adopted a sullen attitude and refused to give it. I then identified myself, stated that I was Orderly Officer and repeated my question. He still refused to answer so I ordered him to enter the house. He did so and I entered with him. While I was waking a man in a lower room the driver of the M/C, whom I later identified as Pte. Dewar of "C" Section, turned and ran through the door. I followed and at the door ordered him to halt or I would fire. I was not carrying arms. He stopped at the gate and when I approached and ordered him into the house he adopted a threatening attitude and refused to obey. He then stated that he was from the Engineers and did not belong there anyway and then turning, started up the street. I turned my light on him and again ordered him to halt. After he had proceeded about 20 yards he stopped and said, "You won't turn that light off, eh?" and returning, grasped the torch and attempted to wrest it from me. In the ensuing struggle we moved from the street toward the front of the house. He suddenly let go of the light, ran to the M/C, started it and prepared to ride off. As he did so I closed with him, he, I and the M/C landed in the pool of water. He attempted to place a hand over my mouth to stop my shouting for assistance. I shouted for Pte. Brown, as I did so Pte. Dewar made a determined effort to escape. When Pte. Brown arrived I ordered him to get assistance from the house. Until the arrival of the men from the house Pte. Dewar continued his efforts to escape and I had some difficulty in detaining him. When the men arrived, however, he ceased struggling and agreed to enter the house. We entered the first room of the ground floor, I released my grip on him and he collapsed to the floor. During the struggle I did not at any time strike Pte. Dewar. I sent Pte. Brown for "C" Section Orderly N.C.O. and when he arrived I placed Pte. Dewar under close arrest and ordered him to be taken to his room for a change of clothing and then to the Guard Room. Pte. Dewar did not have authority for the use of the M/C, nor did he have a late pass."

9.2

D.A. MacGregor Lieut

(D.A.MacGregor) Lieutenant,
1 R.C.A.S.C. Holding Unit.
(attached 3 Cdn Tp Carrying
Coy., R.C.A.S.C.)

Cross-examined by the accused.

Q.1. "I would like to know if you have any witnesses to prove this."

A.1. "In part, yes."

4th Witness for the Prosecution.

No. D-91926, Private Brown, W.H., 3 Cdn Tp Carrying Coy., R.C.A.S.C., having been duly sworn, states :-

"I was driving the Orderly Officer when he was making his last rounds for midnight passes on the night of 11/12 Nov 41. When coming up from "B" Section Mr. MacGregor spotted a M/C on the side of the road at the church, Tadworth. He asked me if it were our bike and I said I did not think so, but he told me to stop it. The bike was not travelling very fast. We followed the bike over to "C" Section lines. Mr. MacGregor went in the yard of the house on the left by the corner. Later, Mr. MacGregor called me. He and the accused were both on the ground, and Mr. MacGregor told me to get the Corporal of the guard for "C" Section. I went over and got Cpl. Bumstead and we came over to the house again and Mr. MacGregor told the Corporal to put the man under arrest. I recognize the accused as Pte. Dewar."

W.H. Brown
(W.H.Brown) Private,
3 Cdn Tp Carrying Coy.RCASC.

The accused declines to cross-examine this witness.

5th Witness for the Prosecution.

No. L-7246, Private McRae, F.M., 3 Cdn Tp Carrying Coy., R.C.A.S.C., having been duly sworn, states :-

"At about 0100 hrs, 12 Nov 41, I heard a noise outside my billets on High Street, the last left hand house going south. I went outside to see what the trouble was and I saw the Orderly Officer for the day, Lieut. MacGregor. He told me to take a man into the house. I helped him take the man, whome I now recognize as Pte. Dewar, into the house. They were both wet. Pte. Dewar lay down on the floor. Cpl. Bumstead came in and told me to fall in and escort Pte. Dewar to the Guard Room, which I did."

F.M. McRae
(F.M.McRae) Private,
3 Cdn Tp Carrying Coy. RCASC.

The accused declines to cross-examine this witness.

6th Witness for the Prosecution.

No. L-7354, Private Ferrier, A.R., 3 Cdn Tp Carrying Coy., R.C.A.S.C., having been duly sworn, states :-

"I was in my room in Commons Corner when Lieut. MacGregor and Pte. Brown brought Pte. Dewar, whom I now recognize, into my room at about 0020 hrs, 12 Nov 41. Their clothes were wet."

A.R. Ferrier
(A.R.Ferrier) Private,
3 Cdn Tp Carrying Coy. RCASC.

The accused declines to cross-examine this witness.

7th Witness for the Prosecution.

No. L-7732, Private Thompson, A.L., 3 Cdn Tp Carrying Coy., R.C.A.S.C., having been duly sworn, states :-

"I heard a commotion at 0100 hrs, 12 Nov 41, downstairs in Commons Corner House. I went down to investigate and Lieut. MacGregor brought Pte. Dewar, whom I recognize, into the room. I stayed there with them while Pte. Brown went for the Orderly Corporal. They were both wet. I returned to my bed after the Orderly Corporal arrived."

A.L. Thompson
(A.L.Thompson) Private,
3 Cdn Tp Carrying Coy. RCASC.

The accused declines to cross-examine this witness.

8th Witness for the Prosecution.

No. L-7022, Corporal Cooper, A.M., 3 Cdn Tp Carrying Coy., R.C.A.S.C., having been duly sworn, states :-

"On 11 Nov 41 I was Coy. Guard Commander. At about 0030 hrs, 12 Nov 41, Pte. Dewar, whom I recognize, was placed in my custody by Cpl. Bumstead. Lieut. MacGregor visited the Guard Room at about 0055 hrs to see that Pte. Dewar had been properly delivered. The accused was wet, it was raining."

A.M. Cooper
(A.M.Cooper) Corporal,
3 Cdn Tp Carrying Coy. RCASC.

The accused declines to cross-examine this witness.

3rd Witness for the Prosecution.

Lieutenant D.A.MacGregor, attached 3 Cdn Tp Carrying Coy., R.C.A.S.C., having been recalled, states :-

"After having given orders as to Pte. Dewar to Cpl. Bumstead I went outside the house, accompanied by Pte. McRae. We picked up the M/C, inspected it for damage, and on Pte. McRae's suggestion, I ordered him to ride it to "C" Section Orderly Room and leave it there to be looked after by the guard. It was a 3 Cdn Tp Carrying Coy M/C."

D.A. MacGregor Lieut.
(D.A.MacGregor) Lieutenant,
1 R.C.A.S.C. Holding Unit,
(att 3 Cdn Tp Carrying Coy.RCASC)

Cross-examined by the accused.

Q.1. "Do you know the number of the M/C?"
A.1. "I looked at the number at the time and on questioning one of the men there was told that the bike belonged to Sgt. Stahl. I did not remember the number of the machine in the morning, but on enquiring from Sgt. Stahl I was informed that he had identified the machine as CC75037."

5th Witness for the Prosecution.

No. L-7246, Private McRae, F.M., 3 Cdn Tp Carrying Coy., R.C.A.S.C., having been recalled, states :-

"There was a M/C lying outside my billet and Lieut. MacGregor told me to have it put under guard. I got on it and rode it to the Orderly Room and left it there. The guard was there and I told them to see that it did not go out."

F.M.McRae.....
(F.M.McRae) Private,
3 Cdn Tp Carrying Coy. RCASC.

The accused declines to cross-examine this witness.

9th Witness for the Prosecution.

No. L-7132, Sergeant Stahl, W.J., 3 Cdn Tp Carrying Coy., R.C.A.S.C., having been duly sworn, states :-

"The bike which I was informed by Pte. McRae he had brought up to Moorlands Cottage on the morning of 12 Nov 41 I identified as M/C CC75037."

W.J.Stahl.....
(W.J.Stahl) Sergeant,
3 Cdn Tp Carrying Coy. RCASC.

Cross-examined by Lieut. A.O.Etches.

Q.1. "Can you state whether M/C CC75037 was authorized to be away from "C" Section Orderly Room at any time after 1700 hrs on the night of 11 Nov 41?"
A.1. "It was not authorized to be away."

Q.2. "Have you any documentary evidence to prove this?"
A.2. "Yes, sir. The vehicle despatch book and AFG 3518."

AFG 3518 is submitted as Exhibit "A".

The accused declines to cross-examine this witness.

1st Witness for the Prosecution.

No. L-7108, Corporal Bumstead, C.R., 3 Cdn Tp Carrying Coy., R.C.A.S.C., having been recalled, is cross-examined by Lieut. A.O.Etches :-

Q.1. "Were you Guard Corporal for "C" Section 11/12 Nov 41?"
A.1. "Piquet Corporal."

Q.2. "Does Moorlands House lie in the area of your piquet?"
A.2. "Yes, sir, that is where the Orderly Room is."

Q.3. "At any time on the morning of 12 Nov 41 after 0200 hrs, did you see a M/C at Moorlands?"
A.3. "Yes, sir."

Q.4. "How many?"
A.4. "Two bikes."

Continued...../6

1st Witness recalled. (Cont'd)

Q.5. "When were those bikes put there?"
A.5. "One was a non-runner and was there from the evening of 11 Nov 41. The other was put there after D.R. duties."

Q.6. "Was it there all evening?"
A.6. "To the best of my knowledge."

Q.7. "Was it there when you went to Commons Corner at about 0100 hrs?"
A.7. "To the best of my knowledge, yes."

Q.8. "Did you at any time on night of 11 Nov 41 hear that a M/C had been taken from Moorlands House?"
A.8. "No,sir."

Q.9. "How many bikes were there in the morning?"
A.9. "Two."

Q.10. "Was one placed under your guard's protection during the early morning of 12 Nov 41?"
A.10. "Not that I know of."

The accused declines to cross-examine this witness.

The accused, having been duly cautioned in accordance with Rule of Procedure 4(E), declines to make any statement or give evidence on oath.

The accused desires, should his case be remanded for Court Martial, to have an officer from another unit defend him.

Certified that Rule Of Procedure 4 (C) (D) (E) and (F) have been complied with.

Taken down by me in the presence and hearing of the accused this 13th day of November, 1941, in the Field.

.....
(A.C. Barnes) Lieutenant,
3 Cdn Tp Carrying Coy.,
R.C.A.S.C.

Exhibit "B"
Tostevin
Maj.

DESPATCH

Dispatch Book

Army Book 165

LEDGER.

(Without Printed Headings.)

For use—

(*a*) as an **EQUIPMENT ACCOUNT** by units holding on charge a small number of articles of equipment, or for whom no special form of ledger is provided, *e.g.*

Land or Water Transport;
Troops on board Ship;
Detachments of R.A.S.C., R.A.M.C., R.A.O.C., R.A.P.C., &c.

or

(*b*) as a **PETROL &c. ACCOUNT.**

Unit .....

Ship or Station .....

From ..... 19 ... *to* ..... 19 ...

W1.39755/1235 55,000 Bks. 2/41 CT&SoLtd S1-5664.

ARMY BOOK 165.

LEDGER.

(Without Printed Headings.)

For use—

(*a*) as an **EQUIPMENT ACCOUNT** by units holding on charge a small number of articles of equipment, or for whom no special form of ledger is provided, *e.g.*

Land or Water Transport;

Troops on board Ship;

Detachments of R.A.S.C., R.A.M.C., R.A.O.C., R.A.P.C., &c.

or

(*b*) as a **PETROL, &c., ACCOUNT.**

Unit .....

Ship or Station .....

From ..... 19 **to** 19

1

RECEIPTS.

Date. Nov.	No. of Voucher. WORK TICKET No	Received from VEHICLE. Cat. No / State	Nature	Authority	Time Out	Time In	Driver
11	32	C2219247	unit Duties	Lieut Taylor	08[00]	17[00].	Taggart
11	40	5037 ~~79554~~	" "	Lieut Taylor	07[00]	11[00].	Sutherland
11	36	73123	" "	Lieut Taylor	09[00]	14[30].	Burdett
11	15	196122	Band Parade	Part 3 Div	11[00]	12[00].	Craig
"	23	195771	Band Parade	" " "	11[00]	12[00].	McRae
"	6	196244	W/S	Lieut Taylor	15[30]	16[00].	McRae
"	2	195790	W/S	Lieut Taylor	16[00]	17[00].	Seaton
12	32	C2219247	unit Duties	Lieut Taylor	08[00]	18[45]	Taggart
12	31	195745	W/S	W/S Charles	08[00]	12[00]	McRae
12	25	196225	W/S	W/S "	07[00]	12[00]	Munro
12	29	196094	W/S	W/S "	08[00]	12[00]	Welsh A.
12	26	194101	W/S	W/S "	08[00]	12[00]	Lynch
12	33	75037	unit Duties	Lieut Taylor	07[00]	17[30]	Angabat
12	15	196122	Swivel Parade	Lieut Taylor	13[30]	15[30]	Benoit
12	~~17~~	~~195756~~	~~Swivel Parade~~	Lieut Taylor	13[00]		Foto
12	13	195767	Swivel Parade	Lieut Taylor	13[00]	15[30]	Edwards
13	32	C2219247	unit Duties	Lieut Taylor	07[00]		Taylor
13	2	195790	W/S	Lieut Taylor	08[30]	13[30]	Sutherland
13	27	196020	W/S	Lieut Taylor	08[30]	16[30]	Hudson
13	28	196220	W/S	Lieut Taylor	08[30]	16[00]	Howard
		195787	W/S	Lieut Taylor	08[00]	16[00]/11	Sutherland

Total Receipts ...
Total Issues ...

ISSUES.

Date. Nov	No. of Voucher. Work Ticket No	Issued to. Vehicle	Nature	Authority	Time Out	Time In	Driver	Miles	Pet.
13	36	75123	D.R.	Lieut Taylor	08[m]	1700	Urquhart		
14	1	175765	Wireless	Lieut Taylor Rd	08[m]	1730	Bulmer	65	9.
14	5	176128	" "	" "	08[m]	1730	Harris	54	8
14	6	176241	" "	" "	08[m]	1700	Rowe 99	45	10
14	32	C2219247	Unit Radio	" "	08[m]	1900	Taylor		
14	21	175791	Radio	Messenger HQ	13[m]	14[m]	Goldbird		
14	20	193723	Radio	" "	13[m]	15[m]	Taylor		
14	19	195981	Yaesu	Lieut Taylor	13[m]	15[m]	TOPD		
15	1	175765	Wireless	Lieut Taylor	08[m]	14[m]	Bulmer	36	5.
15	5	176128	" "	Lieut Taylor	08[m]	14[m]	Harris	31	3.
15	32	C2219247	Unit Radio	Lieut Taylor	08[m]	17[m]	Taylor		
15	33	75037	D.R.	Lieut Taylor	08[m]	17[m]	Urquhart		
15	38	74412	D.R.	Lieut Taylor	08[m]	17[m]	Bulmer		
16			Asec	Lieut Taylor	03[m]	07[m]		216 Miles	
16			Base	Lieut Taylor	03[m]	07[m]		Petrol 43 gal	
16	32	C2219247	Unit Radio	Lieut Taylor	08[m]	19[m]	Taylor		
16	5	176128	Wireless	Lieut Taylor	13[m]	2[m]	Harris	71	11
16	3	175729	" "	Lieut Taylor	13[m]	2[m]	Brown 99	70	11.
17	32	C2219247	Unit Radio	Lieut Taylor	08[m]	0900	Taylor		
17	33	75037 Total Issues	D.R.	Lieut Taylor	08[m]	1730	Urquhart	70	

RECEIPTS.

Date. Nov.	No. of Voucher. Work Ticket No	Received from Vehicle. Cat. No / State	Nature	Authority	Time Out	Time In	Driver
11	32	C2219247	Unit Duties	Lieut Taylor	08[illegible]	19[illegible]	Sergeant
11	40	75027	" "	Lieut Taylor	08[illegible]	11[illegible]	Sergeant
11	36	75123	" "	Lieut Taylor	08[illegible]	14[illegible]	Bennett
11	15	196122	Bush Parade	Part 2DA	0[illegible]	12[illegible]	Bennett
"	23	195781	Bush Parade	" "	0[illegible]	12[illegible]	Craig
-	6	196244	W/S	Lieut Taylor	15[illegible]	16[illegible]	McRae
11	2	195770	W/S	Lieut Taylor	16[illegible]	17[illegible]	Seaton
12	32	C2219247	Unit Duties	Lieut Taylor	08[illegible]	18[illegible]	Sergeant
12	31	195745	W/S	W/S Bramley	08[illegible]	12[illegible]	McRae
12	25	196225	W/S	W/S "	08[illegible]	12[illegible]	Munro
12	29	196094	W/S	W/S "	08[illegible]	14[illegible]	Nelson
12	26	196101	W/S	W/S "	08[illegible]	12[illegible]	Lynch
12	33	75027	Unit Duties	Lieut Taylor	08[illegible]	17[illegible]	Urquhart
12	15	196122	Swords Parade	Lieut Taylor	13[illegible]	15[illegible]	Bennett
12	14	195856	Swords Parade	Lieut Taylor	13[illegible]		Foley
12	13	195767	Swords Parade	Lieut Taylor	13[illegible]	15[illegible]	Edwards
13	32	C2219247	Unit Duties	Lieut Taylor	08[illegible]		Sergeant
13	2	195790	W/S	Lieut Taylor	08[illegible]	13[illegible]	Sutherland
13	27	196020	W/S	Lieut Taylor	08[illegible]	14[illegible]	Anderson
13	28	196022	W/S	Lieut Taylor	08[illegible]	16[illegible]	Howard
13		195787	W/S	Lieut Taylor	08[illegible]	16[illegible]	Sinclair

Total Receipts

Total Issues

LEDGER.

(Without Printed Headings.)

For use—

(*a*) as an **EQUIPMENT ACCOUNT** by units holding on charge a small number of articles of equipment, or for whom no special form of ledger is provided, *e.g.*

Land or Water Transport;

Troops on board Ship;

Detachments of R.A.S.C., R.A.M.C., R.A.O.C., R.A.P.C., &c.

or

(*b*) as a **PETROL, &c., ACCOUNT.**

Unit _____

Ship or Station _____

From _____ **19** **to** _____ **19**

RECEIPTS.

Date. Nov	No. of Voucher. Work Ticket No	Received from. Vehicle Cat. No.	Nature	Authority	Time Out	Time In	Driver
17	1	195765	W/S	Unit Duties	10'S	16[h]	Baker
17	3	195979	W/S	" "	10'S	18/10-00	Brown JA
17	5	196128	W/S	" "	10'S	16[h]	Morris
18	40	C74434	D R	Lieut Taylor	08.30	1230	Urquhart
18	32	C221924?	Unit Duties	Lt Taylor	0900	18.30	Doggett.
18.	6	196241	W/S.	" "	0900	0900	Rogers.
18	4	195948	"	" "	1900	0900	Lisik
18	7	196104	"	" "	0900	15[h]	Hague
18	8	196036	"	" "	0900	1100	Douglas
18	9	195993	"	" "	0900	1100	Meiers
18	10	195970	"	" "	0900	1100	O'Connell.
18	36	75123	D R Duties		1000	16-30	Bernatchez.
18	37	75124	Unit Duties Unit Duties always	Lt Taylor	11 00	1200	Graham.
18	19	195958	Potatoes	" "	8-00	14 00	Topp.
18	19	195958	"	"	1600	16-30	Topp.
18	15	196122	6 duty po.	"	16-30		Benoit.
18	28	196120	" "	"	16.30		Howard
19	40	Total C74434	D R. Duties	Lt Taylor	0730	1100	Urquhart
19	32	C221924?	Unit Duties	Lt Taylor	0730	1500	Doggett
		Deduct Total Issues					
		Remain					

ISSUES.

Date. Nov	No. of Voucher. Work Thro' No	Issued to. Vehicle	Nothing	Authority	Time Out	Time In	Driver	Miles	Pet.
13	36	75123	D.R.	Lent Tyke	08[00]	1700	Urquhart		
13				Lent Tyke 2d	08[00]	17[30]	Bateman	65	9.
14	1	175965	Wm Sobel	Lent Tyke 2d	08[00]	17[30]	Harris	54	8
14	5	196128	" "	" "	08[00]	17[30]	Ron 99	45	10
14	6	196141	" "	" "	08[00]	19[00]	Tucker		
14	32	C2219247	Unit Pool				Seaford		
14	21	175991	Asbestos	Mercy HQ	13[00]	14[00]			
14	20	193773	Asbestos	" "	13[00]	15[00]	Tucker		
14	19	195981	yes	Lent Tyke	13[00]	15[00]	TOPP		
15	1	175965	Wm Sobel	Lent Tyke	08[00]	16[00]	Bateman	36	5.
15	5	196128	" "	Lent Tyke	08[00]	16[00]	Harris	31	5.
15	32	C2219247	Unit Pool	Lent Tyke	08[00]	19[00]	Tucker		
15	33	75037	D.R.	Lent Tyke	08[00]	17[00]	Urquhart		
15	38	74412	D.R.	Lent Tyke	08[00]	17[00]	Ellis		
16			Asbestos	Lent Tyke	05[00]	07[00]		216 Miles	
16			Base	Lent Tyke	05[00]	07[00]		(Petrol 43 gal	
16	32	C2219247	Unit Pool	Lent Tyke	08[00]	19[00]	Tucker		
16	5	196128	Wm Sobel	Expeditions	13[00]	20[00]	Harris	71	11
16	3	195979	" "	Expeditions	13[00]	16[00]	Bateman	70	11.
17	32	C2219247	Unit Pool	Lent Tyke	08[00]	0900	Tucker		
17	33	75092	D.R.	Lent Tyke	08[00]	17[30]	Urquhart	70	

Total Issues

ISSUES.

Date.	No. of Voucher. Work Ticket No.	Issued to. Vehicle	Nature	Authority	Time Out.	Time In	Driver
NOV.							
19	11	195874	W/D.	Lt. Taylor	08.45	21 11.00	Parkinson.
19	12	195953	W/D.	Lt Taylor	0845	12.00 19.	Hallet.
19	19	196058	W/D.	Lt. Taylor	0845	19 12.00	Peterson
19	13	195969	W/D.	Lt. Taylor	0845		McKinnon
19	34	75038	Unit Duties	Lt Taylor	07.00	12.00	Young.
19	35	75039	" "	Lt. Taylor	07.00	16.00	Cooper
19	7	196104	Spare Parts	Lieut Taylor	14.30	17.00	A Hayes
19	29	196094	" "	Lieut Taylor	14.30	17.00	Walsh
20	32	C221747	Unit Duties	Lieut Taylor	08.00	18.00	Taggart
20	33	75037	DR.	Lt Taylor	08.00	18.	Hazlett
20	28	195753	Guard	Lt Taylor	18.00	17.30	Hallet
20			Unit Duties	Lieut Taylor	08.00	16.00	Taggart
21	32	C221747					Mullen
21	19	196027	W/S	" "	09.00	16.00 21	Mills
21	16	196126	W/S	" "	09.00	15.00	Craig
21	22	196064	W/S	" "	09.00	16.00 17.00	Faulk
21	18	196101	W/S	" "	13.00		Baker
21	1	195765	Escort 119		12.30	16.30	
21	2	195770	" "		12.30	18.00	
21	3	195874	" "		12.30	17.00	
21		195948	" "		12.30	17.00	
21	4	195948	" "		12.30	17.00	Morris
21	5	196126 Total Issues	" "		12.30	15.00	Olsen 40
21	6	196240					

3

RECEIPTS.

Date.	No. of Voucher.	Received from.				Time Out	Time In	Driver.
Date	Time No.	Vehicle	Nature	Railway				
		Cat. No.						
21	27	196020	Depot	Sand Light		07[30]	24[00]	Jensen.
			Penrith	Sand Light		13[00]	14[00]	Todd.
29	19	195758	Penrith	Sand Light		07[00]		Taggart.
22	38	C2219747	Penrith	Sand Light		08[00]	18[00]	Wright.
22	33	75037	DR	" "		08[00]	11[00]	Todd.
22	19	195781	HQ	Sand Light		08[00]	11[00]	Jackson
22	19	195791	HQ	Sand Light		08[00]	11[00]	Morris
23	5	196128						Corbett
23	2	195770						Lanham
23	30	195787	Leave to					Watson
23	29	196094	Holland					Henderson
23	27	196020		12[00] hrs				Munro
23	25	196225	"					Lynch
23	26	196101						Stott
23	32	75037	Unit Duties			08[30]	16[00]	Taggart
23	32	C2219747	Unit Duties			08[00]	18[00]	Taggart
24	32	C2219747	Unit Duties			08[00]	18[00]	Wright
24		196057	L/S	Sandlight		07[30]	16[00]	Jackson
24		195791	L/S	" "		07[30]	16[00]	Todd
24		[illegible] Rpts	L/S	" "		08[00]	16[00]	Todd
24	35	[illegible] Issues	DR	" "		08[00]	1730	Wright
25	33	[illegible]	DR	" "		08[00]		Taggart
25	32	C2219747						

ISSUES.

Date.	No. of Voucher	Issued to.			Time out	Time in	
Date	Issued No	Initials	Nature	Authority			Division
25	23	195781	W/S	Lehigh	6 PM	16 AM	Jacobs
25	23	195779	Coal	" "	1 PM	8 PM	Brown JR
26	3	195779	Tool Check	" "	08 AM	16 AM	Brown JR
26	32	2205247	W/S	" "	08 AM	16 AM	Hallett
26	35	75039	Workclothes	" "	08 AM	16 AM	Urquhart
26	11	195814	D.O.S.T.	J.C. McGuyer	06 AM	16 PM	Parkinson
26	9	195793	" "	" "	"	16 PM	Mercer
26	10	195790	" "	" "	"	14 PM	Osmond
26		195969	" "	" "	"	17 PM	Edwards
26	17	196058	" "	" "	"	18 PM	Robertson
26	18	196102	" "	" "	"	18 PM	Faulds
26	38	74912	D.R.	Lehigh	08 AM	12 PM	White
26	20	196059	Safety Suits	Lehigh	1 PM	16 PM	Brown JR
26	12	195953	Coal	Lehigh	15 AM	16 PM	Hallett
26	12	195953	Workclothes	Lehigh	08 AM	19 PM	Hallett
27	12	195953	Workclothes	Lehigh	08 AM	17 PM	Urquhart
27	34	75038	D.R.	" "	08 AM	17 PM	Parker
27	10	195979	Tools	W/S Lehigh	9 AM	17 PM	Graham
27	37	75124	Workclothes	" "	14 AM	17 PM	Robertson
28	1	195765	Powder	Lehigh	08 AM		
					26		
		Total Issues					

Exhibit "D" Wilkinson Maj.

STANDING ORDERS
Issued

1 Nov 41. Major K. Pestington, Officer Commanding.
No. 3 Odn. Troop Carrying Coy, R.A.S.C.

1. EFFECTIVE
These Orders come into effect immediately and supersede all previous Orders.

2. DISCIPLINE
(a) Dress - unless otherwise ordered fatigue clothing will be worn within the Unit Area from Reveille to 1630 hrs.
Walking Out Dress/ with dress serge, gaiters, Field Service caps, Respirators slung, great coats optional.
For other parades see Part I Orders.
A high standard of efficiency in the matter of turnout is demanded at all times.

3. SICK PARADES
Will be at the M.I.R. 9th Cdn. Field Ambulance, "A" Coy, at 0830 hrs. daily unless otherwise ordered.

4. DENTAL PARADES
Will be at the Dental clinic at H.Q. as per Part I Orders.

5. TRANSPORTATION
(a) No vehicle to be moved from the parking areas without a work ticket signed by an officer. All M/Cs are grounded, unless required for convoy or other special duty, with the following exceptions: Section Sgts. 1 M/C 1 D.R. M/C from each operating section, O.C.'s M/C and 2 D.R.s of H.Q. Section and the M.I.R's M/C from morning sections. All M/Cs with the exception of necessary D.R. M/C H.Q. Section are grounded after 1700 hrs daily until the following Reveille.

6. BILLETS
(a) Observance of billets is imperative at all times. Beds and kits will be laid out daily before First Parade.
(b) Latrines, wash houses and bath tubs will be thoroughly cleaned daily, and used only for the purpose for which they are intended.
(c) Fires will not be lighted in billets before 1600 hrs unless special permission has been granted by H.Q.S.
(d) Gas fires will not be used in billets.
(e) One man will be detailed as Room's Orderly in each billet. Room Orderly is responsible to see that premises are not left unattended at any time.

7. BOUNDS
West of Todworth and Walton-on-the-Hill are in bounds. A pass will be required by Other ranks proceeding out of this area.

8. A.T.S. DUTY PASSES
A table of after duty passes up to 2300 hrs will not exceed 50% of the Unit strength in any one day and not more than 5% of the Unit strength for passes up to 2359 hrs.
All sections will send in to H.Q. by 1600 hrs daily a list of those granted late passes. Those returning from late passes will book in their passes as follows:
W.O.'s & Sgts and personnel of "A" Section living in Bromley House will turn in their passes to H.Q. Orderly Room.
All other personnel to their respective section Orderly Rooms.
Personnel failing to turn in their passes will be counted A.W.L. from expiration of pass until First parade the next morning.
Applications for daily passes must be submitted not later than 0830 hrs. for the day on which the pass is required.

9. POSTAL SERVICES
All sections will appoint a definite mail orderly who will call for incoming mail at H.Q. at 1600 hrs daily. Outgoing mail will be turned in to H.Q. Postal Clerk before 1600 hrs. daily.

(OVER)

10. BLACKOUTS
N.C.Os i/c billets are responsible that blackouts are properly adjusted during blackout time daily.

11. SALUTING
(a) Individual & Men carrying rifles
A soldier will carry his rifle at the Slum position and salute with the Officer by turning his head and eyes to the right or left as the case may be.
(b) Sentries and Piquet
A soldier acting as sentry or piquet who is standing at ease, will spring to attention when his post is visited by an Officer of any rank or by an armed or unarmed party.
(c) Walking Out (on and off duty)
Walking Out (on and off duty) compliments will be paid by soldiers with the exception above (b) full to all officers at all times by saluting smartly with the right hand, as laid down in the manual of Elementary Drill(All Arms).
Strict adherence to this order is expected at all times.

For(E. Martington) Major,
Officer Commanding,
No. 5 Gdn. Troop Carrying Coy.,
R.C.A.S.C.

EXHIBIT C

No. L7508 Name DEWAR James Alexander | Sqn., Battery, or Company No. 3 Cdn. Tp.Carrying Coy. | Corps R.C.A.S.C. | Date of enlistment 3/1/40 | Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Blenheim Camp	29/6/40	Pte		15(1)A.A. A.W.L 79 hrs.20 minutes (Rear party 1 C.A.F)	Lt.Porter	Reported to Ffts 20 dys pay	12/7/40	Lt.Col. Miles	
On July 3/40 the above rec'd entry was transfered from previous sheet which was destroyed 4 Jul 40.									
Field	30/7/40	Pte		9(1)A.A. Disobeying in such a manner as to show wilful defiance to command by his superior officer	Cpl.Hadasbeck Cpl.Barton	Deprived of 5 dys pay	1/8/40	Major Purcell	
Field	3/12/40	Pte.		(1) Sec 19 A.A. Drunkeness (2) Sec 10(2) A.A. Disorderly conduct becoming involved in an altercation and creating a disturbance.	Documentary Cpl.Calderbank	Warned Awarded 27 dys detention	5/12/40 5/12/40	Major Purcell Major Purcell	

(P.T.O.)

W.O. Kirk
Maj.

SHORT STATEMENT AS TO PARTICULARS OF SERVICE OF THE ACCUSED

The accused has been in confinement awaiting trial on the present charges for No days in Civil Custody and Sixteen days in military custody making a total of Sixteen days of which No. days were spent in hospital.

The present age of the accused according to his attestation paper is Twenty-one.

The date of his attestation specified in his attestation paper is 3 Jan 40.

The accused is in possession of, or entitled to no military decoration or military reward, ~~or is in possession of or entitled~~ to

I hereby certify that the foregoing particulars are true extracts from the Regimental Books in my custody.

A.D.K. Lund
Lieut.
Offr. Comdg.
8 Can. Fd. Survey Coy. R.C.A.S.C.

EXHIBIT "C"

No. L7508 Name DEWAR James Alexander | Sqn., Battery, or Company: No. 3 Cdn. Tp. Carrying Coy. R.C.A.S.C. | Date of enlistment: 3/1/40 | G.C. Badges | Service or Proficiency Pay | M.F.P.S. (A.F.) Soldier's H.C.

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk: N/A | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc.) | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Blenheim Camp	29/6/40	Pte		15(1)A.A. A.W.L 79 hrs.20 minutes (Rear party 1 C.A.P)	Reported to Lt.Porter	Ffts 20 dys pay	12/7/40	Lt.Col. Miles	
On July 3/40 the above regt'l entry was transfered from previous sheet which was destroyed 4 Jul 40. this soldier completed 6 months service and in accordance with R.O. &L C.A.S.F(Overseas)									
Field	30/7/40	Pte		9(1)A.A. Disobeying in such a manner as to show wilful defiance to command by his superior officer	Cpl.Hadesbeck Cpl.Barton	Deprived of 5 dys pay	1/8/40	Major Purcell.	
Field	3/12/40	Pte.		(1) Sec 19 A.A. Drunkeness (2) Sec 10(2) A.A. Disorderly conduct becoming involved in an altercation and creating a disturbance.	Documentary Cpl.Calderbank	Warned Awarded 27 dys detention	6/12/40 6/12/40	Major Purcell Major Purcell	

(P.T.O.)

	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
[illegible]	11 Aug 41	Pte		40.A.A. improper possession of V.D. M/C- having no work order carrying pillion passenger also not having drivers license or pass	Documentary Met. Police Kenley	14 dys F.P. Ffts 14 days ay-F.R.& I 149(1)(e)	12 Aug 41	Major Partington	

Certified a true and correct copy of the original Field Conduct sheet

Partington

(E. Partington) Maj.
O.C. Station Hq. Carrying Coy.
R.C.A.S.C.

FFF1

GNR DEWAR 5 M.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M2189 Gnr Stanley Mackenzie DEWAR, 8 Cdn Fd Regt (SP)

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	guilty	guilty	
2nd	guilty	guilty	
3rd	guilty	guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and re loss of kit see RP 44 fn 6.)

At present under sentence for FP beginning on (date) 16 Jan 44 (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer FP for 90 days and to forfeit 90 days pay.

(Sgd) W M W Shaw Capt — Judge-Advocate, if any.
14 Feb 44 — Date awarded.
(Sgd) J T Lagimodiere — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 2, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:
I confirm the findings and sentence but remit 45 days of the sentence.
~~I direct that the accused be not promulgated by parade or otherwise hereafter until further ordered.~~ (1. AA 57A. Delete if not used.)

(Sgd) H R Sparling Brig
Date 14 FEB 44 — Commanding RCA, 5 Cdn Armd Div — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
M-2198 Gnr. DEWAR S.W.	16 Feb 1944.	John C. Young Capt Adjt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.H. FFF1

FIELD GENERAL COURT-MARTIAL

OPA86 (To Issue of AFA2) 40-P & S-1608 (2864)

Convened by Order of Brig H R Sparling Comd RCA 5 Cdn Armd Div dated 12 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M2189	Gnr	Stanley Mackenzie	DEWAR,	8 Cdn Fd Regt (SP)

PROCEEDINGS REVIEWED
J.C. Sinclair Lieut
24 Mar 44 Rev 3
REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL. 059

Held in the Fd in (country) Italy on (date(s)) 14 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to an interpreter? Ans~~
~~The Interpreter is sworn.(1) Do you object to a shorthand writer? Ans~~
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J T Lagimodiere	11 Cdn Fd Regt
Member	Capt	F T Laugher	4 Cdn A Regt
Member	Capt	L C MacIagheen	" " "
Judge-Advocate	Capt	W M W Shaw	HQ 5 Cdn Armd Div
Prosecutor	Capt	W K G Savage	8 Cdn Fd Regt
Defending Offr	Lt	J R Wellington	8 " "

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused before arraignment makes(s) (no) (~~a~~) plea. Nil

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (was) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~adjourned and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No, Sir .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~plea~~ plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes his (their) plea(s) to ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex *A*, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A), (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP* ~~113~~ *115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(2) (a), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No, Sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex *B* and Ex *C* respectively.(3)
(1. *MFB 353 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes, I do, Sir .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 120. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 130, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 64(1)(b), 66(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see insets on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, M-2189 Gunner Stanley Mackenzie DEWAR, 8 Cdn Fd Regt (SP) R.C.A. a soldier of the Canadian Army (C.M.F.) is charged with:-

1st Charge
Sec. 9 (2)
A.A.

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he,

in the Field, at about 2000 hrs 4 Feb 44, whilst undergoing Field Punishment, when ordered by Lieut L. S. Johns to transfer his kit from 61st Bty guard tent to the Regimental Guard Tent, did not do so.

2nd Charge
Sec. 8 (2)
A.A.

WHEN ON ACTIVE SERVICE, USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER

in that he,

in the Field, at about 2000 hrs 4 Feb 44, whilst undergoing Field Punishment, when ordered by Lieut L. S. Johns, to transfer his kit from 61st Bty Guard Tent to the Regimental Guard Tent, replied in violent and insubordinate language.

3rd Charge
Sec.19.
A.A.

WHEN ON ACTIVE SERVICE DRUNKENNESS,

in that he,

in the Field, at approx 2000 hrs 4 Feb 44 was drunk.

Dated 11 Feb 44.
In the Field.

A.H.Birks
(A. H. Birks) Lt-Col. RCA.
Cmdg., 8 Cdn Fd Regt (SP) R.C.A.

To be tried by Field General Court-Martial.

H.A.Sparling
(H.A. Sparling) Brig
CRA 5 Cdn Armd Div

Dated 12 Feb 44.
In the Field.

FIELD GENERAL COURT-MARTIAL

CFA 55 (In lieu of AFA 3)
40/PAS/1697 (2nd 3)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
R-2189	Gnr		Stanley Mackenzie	DEWAR	8 Cdn Fd Regt(SP)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has ([illegible]) committed the offence(s) set forth in the Charge Sheet[s] attached and on [illegible] (date) 12 Feb 44 endorsed by me, [illegible], "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ([illegible])
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person[X], and to consist of the Offrs appointed or detailed hereunder.

[illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	L.J. Lagimodiere (Must be named. RP 106.)	17 Cdn Fd Regt (Unit.)

MEMBERS.

Capt.	T.T. Taugher	4 Cdn A Tk Regt
Capt. (Rank.)	L.C. Van Tighen (Named or detailed. RP 106.)	4 Cdn A Tk Regt (Unit.)

WAITING MEMBER.

Lieut (Rank.)	To be detailed by (Named or detailed, if any. RP 106.)	5 Cdn LAA Regt (Unit.)

JUDGE-ADVOCATE.

Capt. (Rank.)	W.N.W. Shaw (Must be named, if any. RP 106.)	HQ 5 Cdn Armd Div (Unit.)

On Active Service in the Fd

in ITALY (Country.)

Date 12 Feb 44

H.W. Sterling
(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding RCA, 5 Cdn Armd Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

[illegible]

Def offr in mitigation :-

Knew Gnr Dewar in 61 Bty - he is a signaller at RHQ - quite efficient & good soldier - entries in crime sheet are all of minor nature - Enlisted '39 - only 8 charges in last year, 4 of which being for offences recently committed at one time. Was under influence of liquor when these happened - on day these happened bty packed & go into action & unpacked again.

Dewar wants to get this over, serve his punishment & get back with the unit.

W.M.W. Shaw
Capt

M-2189 Gnr Stanley Mackenzie DEWAR 8 Cdn Fd

fit

M. Cohen Capt.
(M. Cohen) Capt RCAMC
Medical Offr 8 Cdn Fd Regt

MFG 321

W.M.W.S.

LIST OF WITNESSES

1st Witness for the Prosecution	K-5095 L/Bdr Taylor, T. 61st Fd Bty, 8 Cdn Fd Regt (SP) R.C.A. Cdn Army (C.M.F.)
2nd Witness for the Prosecution	Lieut L. S. Johns 61st Fd Bty, 8 Cdn Fd Regt (SP) R.C.A. Cdn Army (C.M.F.)

REQUEST FOR DEFENDING OFFICER

I desire the Convening Officer to detail an officer to represent me at my forthcoming trial by Field General Court-Martial.

I desire the services of _____ if he is available.

(L. M. Olivier)
Signature of Accused

Witness

Exhibit "H"

SUMMARY OF EVIDENCE IN THE CASE OF:-

NUMBER - M-2189

RANK - Gunner

NAME - Dewar, Stanley MacKenzie

UNIT - 61st Field Battery,
8th Field Regiment,R.C.A.

The Commanding Officer directs the evidence be taken on oath.

FIRST WITNESS - K-5095 L/Bdr.Taylor,T., having been duly sworn,states:-

I was on 4 Feb.44,and still am, a L/Bdr. in 61st Field Battery, 8th Field Regiment, R.C.A. I am acquainted with the accused M-2189 Gnr.Dewar,S.M., whom I recognise here. On 4 Feb.44, I was N.C.O. i/c Battery Guard. At approximately 2000 hrs., 4 Feb.44., Lieut. L.Johns, the Battery Orderly Officer,ordered me to take all prisoners in my charge to the Regimental Guard Tent. I ordered Gnr.Dewar, who was a prisoner undergoing Field Punishment, to pack his kit and be prepared to proceed to the Regimental Guard tent. He refused, saying that he wouldnt take any orders from anybody with one stripe. I laid a charge against him. Lieut.Johns then ordered him to get his kit together and he again refused saying to Lieut.Johns "I wont take any orders from any two pip bastards or one stripe cocksuckers" or words to that effect. I placed another charge against him.
He was, in my opinion, under the influence of alcohol

The accused declines to cross-examine the witness.

T.Taylor

(T.Taylor) L/Bdr. K-5095
61st Field Battery,
8th Field Regiment,R.C.A.

SECOND WITNESS -Lieut.L.Johns,having been duly sworn,states:-

I was on 4 Feb 44,and still am, a Section Commander in "A" Troop,61st Field Battery, 8th Field Regt.,RCA. I am acquainted with the accused M-2189 Gnr.Dewar S.M. whom I recognise here. On 4 Feb.44, I was Battery Orderly Officer. At approximately 2000hrs I was ordered by Major Doohan 2 i/c of 8th Field Regiment,R.C.A., to see that the accused,who was a prisoner undergoing, Field Punishment and his kit were transferred to the Regimental Guard Tent from the Battery Guard Tent. The N.C.O. i/c Guard, L/Bdr.Taylor,T. told me that the accused had refused to move his kit and go with the escort to the Regimental Guard Tent. I ordered the prisoner personally,to pick up his kit and go with the escort to the Regimental Guard tent. The accused refused to do so,saying that he would not take any orders from any two pip bastards or one stripe cocksuckers,or words to that effect.He then proceeded to call me a cocksucker and a bastard,or words to that effect.
In my opinion the accused was under the influence of liquor.
The accused declines to cross-examine the witness.

L.Johns

(L.Johns) Lieut., R.C.A.
61st Field Battery
8th Field Regt., RCA.

SUMMARY OF EVIDENCE cont'd.

The accused was warned as follows:-

"Do you wish to make any statement or give evidence upon oath?. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The Accused:- "I have nothing to say at this time."

J. M. Dewar

(M-2189 Gnr. Dewar, J.M.)
61st Field Battery,
8th Field Regiment, R.C.A.

The accused declines to call witnesses on his behalf.

I certify that R.P.4, has been complied with.

Taken by me, In the Field, in the presence and hearing of the accused, on the 7th Day of February, 1944.

W. K. Savage Capt.

(W.K.O. Savage) Capt., R.C.A.
61st Field Battery, R.C.A.

wmas

Exhibit C

CERTIFIED TRUE COPY

MFM 6
(AFB 122)
40/P&S/136 (3438)

No M-2169 Name DEWAR, STANLEY MACKENZIE | Sqn, Battery or Company | Corps | Date of enlistment 14/12/39 | GC Badges | Service or Proficiency Pay | Character

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Cobham	26 Dec 40	Gnr		W.O.A.S.Absenting himself without leave from 0830hrs.26 Dec.40 until 1630 hrs. 26 Dec.40	B.S.M.Watt.J.A.	7 days C.B.	28 Dec. 40	Major F.A. Ford	forfiets one days pay
In the field	5/5 41	Gnr		W.O.A.S. did give out an order when on duty as telephone operator which he had not received	Lieut.J.C. Stewart Gnr.Bergman Bdr.Derry Sgt.Woodhouse	Admonished	8/5/41	Lieut.Col. E.C.Plow	
In the field	28 May 41	Gnr		W.O.A.S.Sec.40 A.A.Conduct to the prejudice,etc.in that he contrary to Regt.Orders #c-4 dated 14 May 41 was riding pillion on Mc.W.D.#C439298	Documentary	14 days Field Punishment	4 Jun 41	Lieut.Col. E.C.Plow	

(PTO)

CERTIFIED TRUE COPY

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28 May 41	Gnr		W.O.A.S. Sec.40 A.A.Conduct to the prejudice etc.,in that he, was outside the Regimental area without his repirator and steel helmet	Sgt.Woodhouse Documentary (On all charges)	14 days Field Punishment	4 Jun 41	Lieut.-Col. E.C.Plow	
				W.O.A.S.Sec.25(3)A.A.Making a statement to the civilian police knowing it to be false.	Documentary				
				W.O.A.S. Sec.15(5)A.A.When in billets being found beyond the limits fixed by Regt.Orders No. 224, 22 Sept. 40 without a pass	Documentary				
Field	16/7 41	Gnr		W.O.A.S. A.W.L. 2230 hrs 16/7/41 to 1930 hrs 17/7/41 R.A.Sect.15	BSM McMillan Sgt.McCauley Bdr.Derry		18/7/41	Capt.G.P. Cowan	Forfeits one days pay
Field	14 Nov 42	Gnr		W.O.A.S. Sec.15(1)A.A.Absent without leave from 2300hrs until 0945hrs 15 Nov.42.Absent10hrs 45 mins	L/Sgt Walker C.A. Bdr.Conn R.J.	7 days C.B.	16 Nov.42	Major W.P. DOOHAN	Forfeits 1 days pay F R & I

M.F.M. 6
(A.F. B.122)
40/P & S/136 (2966)

No. M-2169 Name Dewar, Stanley MacKenzie | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5 Dec 43	Gnr		WOAS Sec 15(1)A.A. AWL from 2130hrs 5/12/43 until 2320 hrs 5 Dec.43 absent 1 Hr 50 mins	Sgt.Grant M.C. L/Bdr.Marsolais	7 days C.B.	7 Dec 43	(G.E.Ward) Maj.R.C.A.	Forf 1 days pay R.R. & I 149
Field	12 Jan 44	Gnr	(1)	(1)WOAS Sec 11 A.A. neglecting to obey Pt.I orders; was in town of GRAVINA after curfew	Lieut.H.H. Hillyard Documentary	28 days Field Punishment Forfeits 28 days pay, R.R. & I 149(2)	10 Jan 1944	L.M.Jones Lt.Col.	Forfeits 28 days pay R&I 149(2)
	12 Jan 44	Gnr	(1)	(2)WOAS Sec 15(1)A.A. AWL; absent from Tattoo Roll Call at 2130hrs 12 Jan 44 to 2330hrs 12 Jan.44 (Absent 2 hours)	L/Sgt.Krause M.F.				
	12 Jan 44	Gnr		(3)WOAS Sec 19 A.A. Drunkeness; was found in town of GRAVINA at 2330hrs 12 Jan.44 in a drunken condition					
	12 Jan 1944	Gnr		(4)WOAS Sec 40 A.A. conduct to the prej. etc. - did cause a disturbance in town of GRAVINA at 2330 hrs 12 Jan 44					

(P.T.O.)

M-2189 Gnr. Dewar, Stanley MacKenzie

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	On Jan.14 1944 in the Field under supervision of					acted as blood donor			
						CERTIFIED TRUE COPY According to the Records in my possession (J. A. Pringle) Capt RCA. Adjt., 8 Fd Regt (SP) R.C.A.			
Field	4 Feb 44	Gnr.		WOAS, Sec 9 (2) AA,		90 days F.P. Forfs 90 D.P.	14 Feb 44	F.G.C.M.	Confirmed by CRA 5 Cdn Armd Div, 14 Feb 44, with 45 days of sente remitted.
	4 Feb 44	Gnr.		WOAS, Sec 8 (2) AA,					
	4 Feb 44	Gnr.		WOAS, Sec 19, AA.					

Exhibit "B"

M.F.D. 358
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M-2189	Gunner	Stanley Mackenzie DEWAR	8 Cdn Fd Regt (SP) R.C.A.

1. The following is a fair and true summary of the entries in the Regimental ~~Squadron, Battery~~ Conduct sheets ~~or Company Defaulters sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	Sec 15 (1) A.A.	2 times	Sec 15 (1) A.A.	3 times
For	Sec 25 A.A.(3)	0 times	Sec 25 A.A.(3)	1 times
For	Sec 11 A.A.	1 times	Sec 11 A.A.	1 times
For	Sec 19 A.A.	1 times	Sec 19 A.A.	1 times
For	Sec 40 A.A.	1 times	Sec 40 A.A.	5 times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ A.A. 75 Section 47 of the Army Act and dispensations with trial under A.A. 75 are set out in the Schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time.~~

or,

The accused at the present time is under sentence for 28 days beginning on the 16 Jan 44 ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 10 days in military custody, making a total of 10 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper is 32

6. The date of his ~~enrolment~~ attestation specified in his record of service is ~~attestation paper~~ 14-12-39

7. The service which the accused is allowed to reckon towards discharge is Nil

8. The accused is entitled to reckon Nil service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward. military military military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N.A.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N.A. dated N.A., and in his regiment (or corps), the rank of

N.A. dated N.A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

n.a. Date of promotion.

In the rank of N.A. years.

In the rank of N.A. years.

In the rank of N.A. years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number M-2189 Rank Gnr

Name Stanley Mackenzie DEWAR of 8 Cdn Fd Regt (SP) R.C.A. Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
N.A.	N.A.	N.A.	N.A.	N.A.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14th day of February 1944.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "C" signed by the president, and annexed to the proceedings.

(J. A. Pringle) Capt RCA
Adjt., 8 Cdn Fd Regt (SP) R.C.A.

17 P

Pte. Mewey, L. F.

See 333 C for 1st case

O. H. M. S.

M. F. B. 270

77.P

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this EIGHTEENTH day of SEPTEMBER, 19 42

Whereas it appears to me, the undersigned, an officer in Command of 2nd Canadian Division, Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reasons given in the annexed schedule.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

*[I am unable to appoint:—

*[three Officers to form the Court]

*[a Field Officer as President]

*[three Officers (having more than one year's service)]

for the following reason (or reasons):—

In my opinion, military exigencies, namely the dispersion of units, difficulties of communication, and other difficulties, render it inexpedient to comply with those rules inconsistent with Appendix "A" to D.R.O. 772 on the trial of the soldier named in the annexed schedule.

PROCEEDINGS REVIEWED.

President.

Rank.	Name.	Regiment.
MAJOR	A. A. HALLACHEY	8 Cdn Recce Regt (14H)

Members.

Rank.	Name.	Regiment.
A CAPTAIN	(To be detailed by CRCASC 2 Cdn Div)	R.C.A.S.C.
A CAPTAIN	(To be detailed by RCAMC 2 Cdn Div)	R.C.A.M.C.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed J.H. Roberts (J.H. Roberts) Major-General

Commanding 2nd Canadian Division

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D105781, Pte Leo Frederick Dewey, RCASC, H.Q. 2 Cdn Div	FIRST CHARGE A.A.Sec. 15(1) ABSENT WITHOUT LEAVE (See charge sheet attached)	Guilty.	Guilty.	
	SECOND CHARGE A.A.Sec. 9(2) DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER (See charge sheet attached)	Not Guilty	Not Guilty.	
	THIRD CHARGE A.A.Sec. 15(1) ABSENT WITHOUT LEAVE (See charge sheet attached)	Guilty.	Guilty.	
			90 days detention. A.A. Bathurst Major. 22-9-42.	Confirmed Subject to remit- 30 days detention J.H.L.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) J.H.L. Roberts Major-General
Commanding 2nd Canadian Division
Convening Officer (c)

(Signed) A.A. Bathurst Major.
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 22nd day of Sept. 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*(4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 22nd day of Sept. 1942.

A.A. Bathurst, Major.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (f) on page 760 M.M.L. 1939.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

J.H.L.

Signed this 24th day of Sep 1942

J.H.L. Roberts Major-General
Confirming Officer.

Promulgated and extracts taken in the case of D.105781 Pte. Dewey, L.F.

(a) (Dated) 25 SEP 1942 (Signed) W.W. Black Capt. Camp Commandant, H.Q. 1 Cdn. Div.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

H.Q. 2 Cdn. Div

Unit or Battalion

28 SEP 1942 19....

MORNING SICK REPORT

Regt'l No.	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner or defaulter	Sex	DISEASE	Medical Officer's Remarks and Initials
D 105701	Pte Davey, L.F.	30	R.C.	P	M		

I certify that I have examined the above mentioned soldier and that he is fit to undergo trial by F.G.C.M.

Lt Col Medical Officer

Orderly N.C.O.

(OVER)

W. F. H. 282
4,500 M-5-42 (1624-9-40)
H.Q. 1772-59-248

CHARGE SHEET

The accused, D105781, Pte Leo Frederick Dewey, RCASC, H.Q. 2 Cdn Div, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
A.A. Sec.15(1) — ABSENTING HIMSELF WITHOUT LEAVE

IN THAT HE

in the field, on 6 Sep 42, absented himself without leave, from 0900 hours, till 1000 hours 10 Sep 42

SECOND CHARGE
A.A.Sec. 9(2) — DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER IN THE EXECUTION OF HIS OFFICE

in that he

in the field on 10 Sep 42, when ordered by D105628, Cpl Hinton, N. E., to drive a motor vehicle, did not do so.

THIRD CHARGE
A.A.Sec. 15(1) — ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, on 10 Sep 42, when under open arrest, absented himself without leave from 1230 hours, till he was apprehended by the Canadian Provost Corps at Glasgow, Cost of apprehension and return to his unit £4/13/7. DAT 1645 hrs. 11 Sep 42.

(J. R. Black), Capt.,
Camp Commandant, H.Q. 2 Cdn Div

In the field, this
17 Sep 42

TO BE TRIED BY D.G.C.M.

(J.H. Roberts) Major General
Comd 2 Cdn Div.

① Trial of D/C 5781 PTE. DEWEY, L.F. RCASC. HQ. 2 CDN. DIV.

② Actual Court

President: MAJOR R. A.A. BALLACHEY, 8 CDN RECCE BN
Members: CAPT. E.L. SMITH, 10 CDN FD. AMB. RCAMC
CAPT. R.L. MONTGOMERY, 2 CDN INF SUP COY RCASC.
Prosecutor: LT. H.B. CHURCH, RCS (HQ) 2 CDN. INF.
Defending Officer: LT. W.W. LEREW, LORNE SCOTS, DEP-JUDGE A. 2 CDN. DIV.

③ The accused did not object to any of the members of the Court.

④ The accused was arraigned and plead not guilty to the Second Charge A.A. Sec 9(2) Disobeying a lawful command given by his superior officer.

⑤ Rule of procedure 39(b) is complied with.

⑥ ~~(No evidence of sentence is read)~~

⑦ The prosecutor calls the following witness.

Prosecution state charge framed under Rec. 9 (2) does not imply any wilful disobedience, but only because of circumstances.

FIRST WITNESS - D105628
CPL. HINTON, NE. HQ. 2 COY. DN. after being duly sworn stated that on Sep 45 at 1200 accused returned to duty but refused to perform duty as driver other than for ADMS., per telephone conversation. Identity of accused not proven, nor that of witness. Cross-examined by D.C. - Time of return of accused & prompt effort from A Med was not laid down by witness - Witness can identify voice if accused per telephone - admits that he did not identify himself to accused nor did he prove identity of accused per telephone - time of phone call 1225)
Prosecutor recalled witness phone at A Med answered by Sgt Barnes - Accused then was called to phone -
President - asked location of phone over which accused - stated to have been contacted

Record closed at 1156

Pte McC. DAVID being duly sworn identified accused and stated - that he was ordered to A Mess at 1230 - 1245 by Transport Corporal to pick up Accused, who could not be found.

Cross-Examination:

Witness admit that accused might have been at A Mess without being found - he was told by batman who was second room.

Prosecution states that accused received an order which he refused to obey. no proven (!)

Defending Officer

① Proof is lacking that accused received command as charged

② Witness Cpl Hinton admits he failed to identify himself per telephone

Prosecution in rebuttal:

Claims telephone evidence admissible - that but that despatcher acts as link not that despatching transport at NA is despatching transport at HQ. 2 Cdn Div.

(Second Charge)

Finding: Not guilty - proof that accused did receive telephoned message is lacking

---

First Charge

Third Charge

tried concurrently.

1/
2/ } as before
3/

4/ The accused is arraigned and guilty to the following charges

First Charge - AA 15 (1) absent without leave

Third Charge - AA 15 (1) absent without leave.

5/ Rule of Procedure 35 (B) is complied with

6/ The abstract of evidence is read

7/ The Prosecutor files AFB 296 and certified copy of MFM 6.

8/ The Defending officer and Prosecutor both pointed out that both charges would in the ordinary course of events have been tried in an Infantry Battalion by the C.O.

The Defending Officer pointed out that over a period of 27 months the accused has shown consistently and well, and that his conduct sheet has been satisfactory since.

Ld. Ballachey, Major.

Abstract of Evidence in the case of the Soldier whose name appears in the Charge Sheet attached hereto:

Captain M.S. McAlpine is directed by Captain J.R. Black, Camp Comd., H.Q. 2 Cdn. Div. to take the Abstract of Evidence in accordance with Appendix "A" to Div. R.O. 772.

FIRST WITNESS: B.4211 Sgt. Harrow, J., H.Q., 2 Cdn. Div. will be prepared to State:-

" I am Orderly Room Sgt. at H.Q. 2 Cdn. Div.

On 7 SEP. 42 Captain J.R. Black, Camp Comd., notified me that the Accused was A.W.L. from 0800 hrs 6 SEP 42. Sgt. Barnes, Steward at "A" Mess, phoned me that the Accused had reported in at 1000 hrs ~~thxs~~ on 10 SEP 42. I told Sgt Barnes to send the Accused to the Orderly Room. At 1100 hrs or thereabouts I placed the Accused under open arrest and warned him that he was not to leave Camp unless detailed for duty. I then ordered him to report to the duty N.C.O. at the M.T. Section.

On 10 Sep. 42 the duty N.C.O. of the M.T. Section phoned me that the Accused was again A.W.L. from 1230 hrs that day. "

SECOND WITNESS: D.105628 Cpl Hinton, N.E., H.Q. 2 Cdn. Div. will be prepared to state:-

"At 1125 hrs on 10 SEP 42 the Accused reported over to the Transport Section and I told him he was under open arrest. He asked for permission to go to "A" Mess where his quarters were to get his equipment. He was gone approximately one hour and in that time I had occasion to need him so I phoned for him and told him he was to come back and drive a vehicle. He replied that he was not going to drive anybody in future. I told him I was sending a vehicle to "A" Mess to pick him up and that I would inform the Camp Comd that he had refused to drive. "

THIRD WITNESS: M.11386 Pte Amos, D. H.Q. 2 Cdn. Div. will be prepared to state:

" At about 1230 hrs on 10 SEP 42 Cpl. Hinton detailed me to go to "A" Mess to pick up the Accused. When I got there I could not find him either in the Mess or in the batmen's quarters, so I returned to the Car Park and reported this to the N.C.O. on duty.

FOURTH WITNESS: C.5436 L/Cpl House, D.H., Cdn. Provost Corps, will be prepared to state:

" At GLASGOW on the 11 SEP 42 at 1645 hrs. I was on duty on Bothwell St. in company with L/Cpl. Riddock, when I saw the a/m soldier. I asked him for his pass. He could not produce one. He was A.W.L. I placed him under arrest and escorted him to our detachment H.Q. The Accused was properly dressed.

FIFTH WITNESS: H.16841 L/Cpl Riddock V.G., Cdn Provost Corps, will be prepared to state:

" At GLASGOW on the 11 SEP 42 at 1645 hrs. I was on duty on Bothwell St. in company with L/Cpl. House, D.H., when I saw the accused. L/Cpl. House asked him for his pass. He could not produce one. He was A.W.L. He placed him under arrest and escorted him to our detachment H.Q. The Accused was properly dressed.

(M.S. McAlpine) Captain.

Certificate in accordance with the Army Act Section 163 (1) (JJ).

I certify that Reg't. No. [illegible]....Rank.Pte....Name.Dewey J.S.....

Unit.[illegible] was arrested at(Place.Bothwell St.

Glasgow...Hour.1645 Hrs.Date.11-9-43... and that the time of his arrest

he was wearing military uniform.

Lieut

O. i/c Detention Room

No. 6 Provost Company.

Signature of Provost Marshal A.P.M. or other officer into whose custody the above named person was taken on arrest .....

CHARGE

Army Form B 252
(See King's Regulations)

2. Cdn. Division. — Regiment
Head quarters. — Battery / Squadron / Troop or / Company

CHARGE against No. D-105781 Rank Pte.

Name Dewey, L.F.

Place ..... Date of Offence .....

OFFENCE R.C.A.S.C. Was absent without leave from .....? until apprehended by the Cdn. Provost Corps. at 1645 hrs on the 11-9-42 on Bothwell Str. Toronto.

C Bowes Lieut.
O. i/c Detention Room
No. 6 Provost Company

Names of Witnesses :—

1/Cpl. House No. Cdn. Provost Corps.
1/Cpl. Sindock V.G. " " "

Signature of O.C. Battery, Squadron, Troop or Company .....

Punishment Awarded .....

By whom Awarded .....

Adjutant.

P.T.O.

1000 W.V.P.(A2)7(1406) 1,000,000 10-41 K. & R. Ltd. 6427/42

Statement of **EVIDENCE** in the case of :

D-105781 Pte. Dewey L.F.
H.Q. 2nd Cdn Div.

Sir;

At Glasgow on the 11 Sept 42 at 1645 hrs I was on duty on Bothwell St. in compan-y with L/Cpl.Riddock,when I saw the a/m soldier. I asked the a/m for his pass. He could not produce one. He was A.W.L. I placed him under arrest and escorted him to our detachment H.Q.

The a/m was properly dressed.

Glasgow
11-9-42.

D.H. Howard ...L/Cpl.
(C-5436 House D.H.)

Sir;

I have read over and corroborate the above statement.

Glasgow
11-9-42.

...V.G. Riddock.L/Cpl.
(H-16041 Riddock V.G.)

REMARKS

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. [illegible] Rank Pte. Name Hewey, L.F. Unit 2 Div. H.Q.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Glasgow

Date	Particulars	Amount		
11 Sept 40	Escorts return fare from LONDON To Glasgow	3	1	7
	Prisoners single fare to LONDON From Glasgow	1	0	10
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares		3	6
	Total £	4	5	11

I certify that the above statement of Expenses is Correct. and that the amounts are fair and just.

L Hewey Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-55
40/P & S/483

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 2105781 Rank Pte. Name Lewey, C Unit HQ 2 Cdn Div

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
11 Sept 42	Escorts return fare from LONDON To Guildford (½ portion)		3	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Guildford		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

C. Lewey Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-35
40/F & B/483

No. D.105781 Name DEWEY, L.F. Sqn., Battery, or Company — Corps RCASC — Date of enlistment 25 MAY 1940 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc.

M.F.M. 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 25 MAY 1942 on completion of 2 years of service.									
Aldershot	10-10-40	Pte		AA 40 neglect, etc., causing damage to W.D. vehicle	S/Sgt Blatch	Admonished Placed under stoppages of $1.95¢ Forf 1 days pay	21 OCT 40	FGCM	Sentence confirmed by GOC 2 Can Div 23 OCT 40
Aldershot	2-6-41	Pte		AA Sec 15(1) AWL from 0600 hrs 2-6-41 to 1330 hrs 2-6-41 AWL 7 hrs 30 minutes	Sgt Harrow		3-6-41	Captain J.T. Wilson	
Aldershot 28 Aug		1Pte		AA 40 conduct, etc., unauthorized use of W.D. vehicle AA 41(5) committing a civil offence driving vehicle under influence of liquor		28 days Fd Pun Placed under stoppages $6-10-0	10 SEP 41	FGCM	Sentence confirmed by GOC 2 Can Div 12 SEP 41

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7-4-42	Pte	1	AA 19 drunkenness	S/Sgt Blatch	Admonished	13-4-42	Captain	W.R. Martin

CERTIFIED TRUE COPY

(J.R. Black) Capt.,
Camp Commandant, H.Q. 2 Cdn Div
18 Sep 42

Substitute for A.F.B. 296 or
M.F.M. 355

R.S.

STATEMENT OF CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED

No D 105781 Pte DUFFY, Leo Frederick, RCASC., H.Q., 2.Cdn. Div.

AGE 30 years MARRIED OR SINGLE MARRIED NO OF DEPENDENTS FIVE

DATE OF ATTESTATION 25 MAY 40

NO OF DAYS IN CLOSE ARREST

CIVIL NIL MILITARY 11 days HOSPITAL NIL TOTAL 11 days

Dates of Promotion, Appointments and Confirmation of Rank, if Any

Nil

A certified true copy of M.F.M. 6 Must Accompany this Form.

J.R. Black

(J.R. Black) Captain,
Camp Comd., H.Q., 2 Cdn Div

Dated at In the Field
This 22 Day of SEP. 42

In the Field
17 SEP 1942.

I desire that the Camp Comd., H.Q., 2 Cdn. Div. appoint an officer to defend me at my F.G.C.M.

D.105781 Pte. Dewey, L.F.

D-105781 Pte L.F. Dewey, RCASC H.Q. 2 Cdn Div.

22 SEP 42

Major A.A. Ballachey, 8 Rec'ce Regt.

(a) Convening order is not signed by the President of the Court. (See MML P 742)

(b) Charge sheet is not signed by the President of the Court. (See MML P 744)

(c) Medical certificate is not in "approved" form. Specimen certificate is attached hereto.

(d) Proceedings do not state if Rules of Procedure ~~XXXXXXXX~~ 39(A) was ~~XXXX~~ complied with.

(e) The summary of evidence is not signed or initialled by the president. (See MML P 746, The Green Book, p. 24 para. 65

(f) Proceedings do not state if prosecutor was sworn when producing documentary evidence as to the accused's character. (See R.P. 46(A) and MML pp 753-4.)

(g) The accused ought to have pleaded to all three charges on arraignment and following pleas of guilty on the first and second charges. The trial should then have proceeded with respect to the second charge, to which he pleaded Not Guilty (see R.P. 37 (A)).

Camp Comdt, H.Q. 2 Cdn Div

Adjutant Camp H.Q., 2 Cdn Div

A.D.J.A., 2 Cdn. Div.

A.W. Ballachey

116 D Cpl. Edward Demitt.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighteenth day of October, 19 41.

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And [illegible] am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

[illegible]

President.

Rank.	Name.	Regiment.
Major	R.W.A. Abraham	Hast & PEI

Members.

Rank.	Name.	Regiment.
Capt	R.D. Clendenning	I Regt C att 48th Highrs
Capt	[illegible]	[illegible]
Lieut	C.V. Clark	R.C.R.
Capt	J.E.L. Casgrain	R.C.R.
Waiting Member		

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [illegible] Brigadier
(R.F.L. Keller)
Commanding 1 Cdn Inf Bde
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
P17159, ~~Private~~ Corporal DeWITT, EDWARD, MORRIS. The Royal Canadian Regiment.	(1) WOAS disobeying a lawful command given by his Superior Officer, in that he, see att charge sheet A.A. Sec 9(2)	GUILTY	GUILTY	I confirm the finding and sentence of reduction to the rank of Private, but remit the 60 days detention. R.F.L.H.
	(2) WOAS Breaking out of billets, in that he, see att charge sheet. A.A Sec 10(4)	GUILTY	GUILTY	
	(3) WOAS Neglecting to obey Company Standing Orders, in that he, see att charge sheet. A.A. Sec 11.	GUILTY	GUILTY	
	(4) WOAS Absenting himself without leave, in that he, see att charge sheet. A.A. Sec 15(1).	NOT GUILTY	GUILTY	
	(5) WOAS An act to the prejudice of good order and military discipline, in that he, see att charge sheet. A.A. Sec 40.	GUILTY	GUILTY	
			REDUCED TO THE RANK OF PRIVATE SOLDIER, AND 60 DAYS DETENTION	

* Question to be asked of accused, if he pleads not guilty (R. of P. 34 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) R.F.L. Keller Brigadier (Signed) Regd Wrahsam Major - Asst A.A.G.
(R.F.L. Keller) Commanding 1 Cdn Inf Bde — Commanding Officer (e) — President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 24th day of October 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*~~(4. The officers under instruction)~~
were duly sworn.

* Omit if not applicable.

Signed this 24th day of October 1941.
Regd Wrahsam Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 764 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~and direct that the soldiers named in the margin be not committed to prison until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 28th day of October 1941.
R.F.L. Keller Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of
(a) (Dated) 30th October 41 (Signed) Eric Snow Lt Col.

Promulgated and extracts taken in the case of
(Dated) (Signed)

Promulgated and extracts taken in the case of
(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Regtl Brad General Asst
Pers

ARMY FORM B 116.

THE ROYAL CANADIAN REGIMENT.

STATION In The Field Date 17 Oct 1941

Application for a FIELD GENERAL *Court-Martial.*

SIR,

I have the honour to submit Five charges against No. P17159 Cpl. Edward Morris DEWITT of the Unit under my command, and request you will obtain the sanction of Comd, 1 Can Inf Bde. that a FIELD GENERAL Court-Martial may be assembled for his trial at CHIPSTEAD, Surrey

The Case was investigated by (*a*) (ii) Major R. C. Clark
(iii) Captain H. E. C. Price

~~A Court of Inquiry was held on (*b*)~~ (date)

at (Station)

President		Ranks, Names and Corps.
Members		

The accused is now at CHIPSTEAD His General Character is (*c*) Good

I enclose the following documents (*d*) :—

1. Copies of Charge Sheet (in duplicate) (*e*).
2. Summary of Evidence, original (*f*) and duplicate copy.
3. ~~Original Exhibits (*g*).~~
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (*g*).
5. ~~List of Exhibits (*h*).~~
6. ~~Correspondence (*g*).~~
7. Statement as to character (A.F.B. 296) ~~and regimental~~ and company, Field ~~xxx~~ etc. conduct sheets of accused (*g*).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (*h*). [R.P. 14 (B)].

I have the honour to be,
Sir,
Your obedient Servant,

PROSECUTING OFFICER
Capt. H.E.C. Price.

Signature of Commanding Officer (T. Eric Snow) Lt.-Col.
Commanding, The Royal Canadian Regiment.

To Headquarters,
1 Can Inf Bde.

MEDICAL OFFICER'S CERTIFICATE.

I CERTIFY that No. P17159 Cpl. Edward Morris DEWITT Regiment R.C.R.
is* fit to undergo trial by Court-Martial.

Signature of the Medical Officer (G.G. Ferguson) Capt. RCAMC

Att: The Royal Canadian Regiment.

* Insert "fit" or "unfit."

(*a*) Here insert name of—
(i) Officer who investigated the charge.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence (R.P. 19 (B) (iii)).
(*b*) To be filled in if there has been a Court of Inquiry respecting any matters connected with the charges; otherwise to be struck out (R.P. 19 (B) (iii)).
(*c*) To be filled in by the Commanding Officer.
(*d*) Any items not applicable to be struck out.
(*e*) One copy to be sent to the President; one copy to be filed with the application for trial.
(*f*) Original summary of evidence to be sent to the President.
(*g*) 3, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.
(*h*) 5 and 8 to be sent to the President.

If the accused has elected to be tried under A.A. 46 (2) the fact should be recorded at the top of this form.

(11452) W.L.27010/4126 50,000 8/39 A.A.G. & R.S.M. Ltd. Gp. 699
(11236) W.L.4377/8,126 40,000 1/40 " " Forms/B116/10

REQUEST FOR DEFENDING OFFICER

If available, I desire the services of Major V.N. Hodson, The Royal Canadian Regiment, to act as Defending Officer at my Trial by Field General Court-Martial.

17 Oct 41.

Cpl. E. M. DeWitt .....R.C.R.

(P17159 Cpl. E. M. Dewitt.)

CHARGE SHEET

The accused, P17159 Cpl. Edward Morris DEWITT
The Royal Canadian Regiment, a soldier of the Canadian Army, is charged with:-

FIRST CHARGE
AA Sec 9(a)
ARMY ACT

"When on Active Service, Disobeying a lawful command given by his Superior Officer, in that he, at CHIPSTEAD, Surrey, on 12 Oct 41, did not remain in billets having been ordered to do so by the Company Orderly Sergeant."

SECOND CHARGE
AA Sec 10(a)
ARMY ACT

"When on Active Service" Breaking out of billets, in that he, at CHIPSTEAD, Surrey, on 12 Oct 41, broke out of billets, when his duty required him to be in billets, contrary to Company Standing Orders, posted 17 Jul 41."

THIRD CHARGE
AA Sec 11
ARMY ACT

"When on Active Service, Neglecting to obey Company Standing Orders, in that he, at CHIPSTEAD, Surrey, on 12 Oct 41, left billets without reporting to the Company Orderly Sergeant, contrary to Company Standing Orders, posted 17 Jul 41."

FOURTH CHARGE
AA Sec 15(1)
ARMY ACT

"When on Active Service, Absenting himself without leave, in that he, at CHIPSTEAD, Surrey, on 12 Oct 41, did absent himself without leave from 1700 hrs., 12 Oct 41, until 2359 hrs., 12 Oct 41 (time absent 6 hrs and 59 minutes)"

FIFTH CHARGE
AA Sec 40
ARMY ACT

"When on Active Service, An act to the prejudice of good order and military discipline, in that he, at CHIPSTEAD, Surrey, on 12 Oct 41, having been warned by the Company Orderly Serjeant, in the execution of his duty, to remain in billets for a Platoon Commanders Orders Group Conference failed to do so".

(T. Eric Snow)
Commanding, Lt.-col.
THE ROYAL CANADIAN REGIMENT

CHIPSTEAD, Surrey,
17 Oct 41.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

Brigadier
(E.F.L. Keller)
Comd 1 Cdn Inf Bde

B3

Reg. Abraham Lop Res

S U M M A R Y O F E V I D E N C E

Summary of evidence in the case of P17159 Corporal Edward Morris DEWITT, The Royal Canadian Regiment, charged with:-

FIRST CHARGE: "When on Active Service, Disobeying a lawful command given by his Superior Officer, in that he, at CHIPSTEAD, Surrey, on 12 Oct 41, did not remain in billets having been ordered to do so by the Company Orderly Sergeant".

(A. A. Sec 9 (2)

SECOND CHARGE: "When on Active Service", Breaking out of billets, in that he, at CHIPSTEAD, Surrey, on 12 Oct 41, broke out of billets, when his duty required him to be in billets, contrary to Company Standing Orders, posted 17 Jul 41"

(A. A. Sec 10 (4)

THIRD CHARGE: "When on Active Service", Neglecting to obey Company Standing Orders, in that he, at CHIPSTEAD, Surrey on 12 Oct 41, left billets without reporting to the Company Orderly Sergeant, contrary to Company Standing Orders, posted 17 Jul 41.

(A. A. Sec 11)

FOURTH CHARGE: "When on Active Service" Absenting himself without leave, in that he, at CHIPSTEAD, Surrey, on 12 Oct 41, did absent himself without leave from 1700 hrs., 12 Oct 41, until 2359 hrs., 12 Oct 41," (Time absent 6 hrs., 59 minutes)

(A. A. Sec 15 (1)

FIFTH CHARGE: "When on Active Service", An act to the prejudice of good order and military discipline, in that he, at CHIPSTEAD, Surrey, on 12 Oct 41, having been warned by the Company Orderly Serjeant, in the execution of his duty, to remain in billets for a Platoon Commanders Orders Group Conference failed to do so".

(A. A. Sec 40)

FIRST WITNESS: P 15364 C.S.M. A.W.Roy, The Royal Canadian Regt., having been duly called, states:

"I am C.S.M. "D" Coy, The Royal Canadian Regt., on Sunday 12 Oct 41, at about 1400 hours, acting on instructions of Lieut. D.J.McLennan, 16 Platoon Commander, I telephoned the Coy office from the Officers mess, and spoke to L/Cpl Fisher, Company Orderly Serjeant, I ordered him to see Cpl Dewitt and tell him to remain in billets to await his platoon commander's orders group. I also told him to have Cpl Dewitt arrange to have his section commanders standing by to await this orders group. At about 1700 hours, I, accompanied Lieut. D.J. McLennan to the billets and called for Cpl Dewitt. On looking through billets, Cpl Dewitt could not be found. The other section commanders were present. I called L/Cpl Fisher, the Company Orderly Serjeant, and told him to try to find Cpl Dewitt. He reported back to me that Cpl Dewitt could not be found. I then told him to check his marking out list and see if Cpl Dewitt had checked out of billets. He reported to me that Cpl Dewitt had not checked out. I did not see Cpl Dewitt until the following morning when I placed him under open arrest on the above charges".

QUESTION: Are there orders to the effect that personnel of "D" Coy must sign out when proceeding away from billets, not on duty?

ANSWER: Yes, there is Coy standing orders requiring all personnel of the Coy below the rank of Lance-Serjeant to report to the Coy Orderly Serjeant and be checked out and in.

QUESTION: Where, when and by whom were these orders posted?

ANSWER: The order was signed by the Company Commander, Major R.C.Clark, and were posted on the Coy notice board, presumably by the Coy Orderly Serjeant, on 17 July 41.

QUESTION: Who was the Orderly Serjeant on that date?

ANSWER: From my duty roster I find that the Coy Orderly Serjeant for that date was the accused Cpl Dewitt.

SUMMARY OF EVIDENCE
P 17159 Cpl Dewitt E.M.

The accused declines to cross-examine the witness.

A.W. Roy C.S.M.

SECOND WITNESS: A 6011, L/Cpl T.Fisher, The Royal Canadian Regt., having been duly called, states:
On Oct 12, 1941, while acting Company Orderly Serjeant, I received a phone call from the Coy Serjeant Major at 1400 hrs, I was told to warn Cpl Dewitt to remain in billets for platoon commanders orders group. At 1730 hours the C.S.M. asked me if I had seen Cpl Dewitt, I told him I had, I was then ordered to check the signing out slips to see if the accused had reported out. On carrying out this order I found that he had not. On finding that he had not checked out I reported it to the C.S.M."

QUESTION: Did you give the order to remain in billets, to Cpl Dewitt personally?

ANSWER: Yes Sir, I did.

QUESTION: Did Cpl Dewitt mention anything to you about going out?

ANSWER: No Sir, he didn't.

QUESTION: Did you inspect the billets at 2359 hours as is the duty of the Orderly Serjeant?

ANSWER: Yes Sir, I did.

QUESTION: Was the accused in when you made your inspection?

ANSWER: Yes Sir, he was sound asleep, in his bed.

The accused declines to cross-examine the witness.

T. Fisher L/Cpl

Taken down by me in the presence of the accused, at Chipstead, Surrey, this 17th day of October 1941.

Certified that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

H.E.C.Price

(H.E.C.Price) Capt.
Officer Taking Summary.

B.4

Regt'l Chaplain

24 - Oct - 1941.

This is to certify that I have examined # P 17159 Cpl. E M. DeWitt and find him free from disease & fit to undergo court martial.

H H Bergson Capt
R e A M C.
M O 'e R C R.

Proceedings of an F.G.C.M. Held in R.C .R. Lines on 12th.Oct. 1941.

on P 17159 Cpl. DeWitt, Eward Morris, Royal Canadian Regiment.

B.S.

The order convening the Court, the charge sheet and the summary of evidence were laid before the Court.
The Court satisfied themselves as provided by rules of procedure 22 & 23
The Accused was brought before the Court and at 1000 hrs. the Trial commenced. The order convening the Court was read, marked, signed by the President, and attached to the proceedings. The names of the President and members of the Court were read over in the hearing of the accused, and the accused did not object to any of the Officers whose names were read over.

The President and Members were duly sworn.

The charge sheet which is marked B 2 and annexed to the proceedings was signed by the President. All witnesses were ordered to withdraw.

The accused was arraigned upon each charge in the attached charge sheet and was asked to plead Guilty or Not Guilty to each of the charges. The accused pleaded Guilty to the first, second, third and fifth charges and Not Guilty to the fourth charge.

The accused was questioned with regard to(R.P. 39 (A).)
The accused in his answer stated that he had no objection to make and wished the trial to be proceeded with, and it was so proceeded with in respect to the fourth charge which was laid under A.A.Sec. 15 (1).

The Prosecuter declined to addressed the Court and stated he merely wished to call the witness.

First Witness:- L/Cpl. Fisher, T.
Being duly sworn stated that 1730 hrs. 12th.Oct.1941 I was acting as C.O.S. The C.S.M. of 'D' Company at that time asked me if I had seen the accused, I hadn't so I looked for him. At 2350 hrs. I checked the room for the Tatoo report and at that time the accused was in bed and asleep, the accused did not report to me at any time between 1730 hrs. and 2350 hrs. and I could not find him at all when I made a thorough search for him at 1730 hrs.

Ques. Had You any reason to believe he was in?
Ans. No Sir.

Cross examination by the Defence.
Ques. Why did the C.S.M. ask if you had seen him?
Ans. Because the accused had been given a message at 1400 hrs. to remain in barracks and on hand for an Orders Group Meeting, and at 1730 hrs. the C.S.M. came over with the Platoon Commander to hold the meeting. The accused,who was Acting Platoon Sgt., was not there to meet the Pl. C.O. but the section commanders of that Platoon were on hand to meet him.
Ques. When this warning was given for an Orders Group Conference was any time specified in the message for the accused to be present?
Ans. No Sir.

Defence Counsel then stated that he wished to call a witness to

Defence

give evidence to fact. The President informed the ~~XXXXXXXXXX~~ that the witness could be heard but should the Prosecutor consider the evidence material he could ask for an adjournment to bring forward counter witnesses.

Defence.

Witness. B87990 Cpl. Richmond, H.

Quest. Do you know the accused?
Answ. I do Sir, he sleeps in the same room as I do.
Quest. He is charged with being absent from 1700 hrs. to 2359 hrs. on the 12th.Oct. 1941. Do you know anything about his movements that evenin
Answ. I saw him just, the truck came back from Redhill.
Quest. What is the practice in 'D' Company with regard to that truck?
Ans. It proceeds to Reigate and Redhill three times a week in the evening to take men to those places and brings them back again calling at Redhill last on the return jounney and leaves there at 2245 hrs.
Quest. What is the normal time of return of the truck each night to the R.C.R. Lines?
Answ. Around 2300 hrs. and couldn't possibly be after 2315 hrs.
Quest. Did you see him get off the truck?
Answ. No Sir, but I saw him come in with the other men who came in off the truck.

The Court then asked the witness how he knew the other men got off the truck.

Ans. There is no other place that a bunch of men could come from at that time of night.

The Defence Counsel then stated that the accused by his plea admitted that he went out of his barracks it is the only the time that he was alleged to have been away that the accused was objecting to.
The Court then asked for the production of a signing out and signing in sheet if such a sheet was available. This sheet was produced and the names of all those men who returned on the truck on the night in question was on the sheet but the name of the accused was not on the sheet.
The Prosecution and the Defence both rested their case and the Court was closed to consider the findings.

(The finding of the Court is on Page 2 of the proceedings however the Court finds that the accused was absent from 1730 hrs. to 2359 hrs. making a total absence of 6 hrs. and 29 mins. and not 6 hrs. and 59 mins. as shown on the charge sheet.)

THE COURT WAS RE-OPENED, to try the remaining charges and the charges on which he had pleaded Guilty were again read over to him.
The summary of the evidence was read, marked and signed by the President and attached to the proceedings.

Quest. by the Court. Do you wish to make any statement in mitigation of punishment.
Ans. No.
Quest. Do you wish to give evidence yourself or call any witnesses as to character?

The Defence Counsel on behalf of the accused stated that he wished to call ~~XXXXXX~~ Lieut. A.E.A. Galloway, Royal Canadian Regiment as to character.
Lieut. Galloway was called and sworn, and gave evidence as follows:

Quest. Do you know the accused?
Ans. Yes.
Quest. Was he under your command?
Ans. For nine months I was his Platoon Commander.
Quest. He is ~~XX~~ now being tried by court-martial for certain offences can

you tell the Court what you think of him as a soldier?
Ans. During the time he served under me I found him efficient when acting as section commander, also for some time when he acted as Sgt.(Platoon) I found him reliable and honest in all his duties, and at any time I was called upon to be absent from the Platoon I depended on him and never had any occasion to find him negligent. He had a full knowledge of his work and responsibility. As I recall my service with Cpl.DeWitt I as his Platoon Commander never had any occasion to admonish him for his behavour or the way he carried out his duties. Briefly, I would say that he is the type of N.C.O. that was there when needed. My knowledge of this N.C.O. is only confined to the service while under my command.
Ques. How long have you been away from No. 16 Platoon?
Ans. 2 months.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused?
Ans. by the witness. I produce this statement.
The Witness was duly sworn. Pte.
This statement was read and signed by the President and annexed to the proceedings.
Quest. by the President. Is the accused the person named in the statement which you have read?
Ans. Yes.
Quest. Have you compared the contents of the above statement with the Regimental books?
Ans. Yes.
Quest. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
Ans. Yes.

The accused declined to cross-examine this witness.

The accused's evidence is read to the witness as directed by R.P.83 (B)

Doyou wish to address the Court?
Ans. No.

The Court is closed for the consideration of the sentence.

B6

Major

"D" COMPANY R. C. R.

All personnel below the rank of L/Sgt. will book out and be inspected by the C. O. S. before going out.

On coming back to billets they will report to the BILLET GUARD COMDR. who will see they are booked in.

If in possession of a pass they will hand it in.

DISCIPLINARY ACTION will be taken against anyone failing to comply with the above.

From 1800 hrs. the Billet Guard Comdr. will be in the front hall of the REEVES.

Under NO circumstances will anyone other than the C. O. S. or Billet Guard Comdr. make any entries in this book.

Commanding D Coy. R.C.R.

17 July 1941.

Certified true copy of orders published on the above date

Major
Commanding D Coy. R.C.R.

No. P17159 Name DeWITT, E.M. Squ., Batty., or Company D Corps THE ROYAL CANADIAN REGIMENT Date of enlistment 1 Sep 39 Sheet No. Two

Date of last entry in Company Conduct Sheet — No. and date of last drunk — G.C. Badges — Long Service and G.C. Pay — Signature O.C. Company, etc. J. H. Macdonald, Capt.

Sheet one destroyed by fire BREST, FRANCE, June, 1940

Army Form B.122

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Tournai Bks, Aldershott	23 Jun 40	L/Cpl	-	W.O.A.S. Absent place parade - Church Parade	C.S.M. McKenzie Cpl Bell.	Reprimanded		Capt. J.H. Macdonald	J.H.M.
Merstham, Surrey.	30 Jul 41	Cpl	nil	W.O.A.S. Act to prejudice of good order and military discipline - 1/c of W.D. 15cwt did permit vehicle to be driven in excess of speed limit. (Cdn Corps Order No. 1 1940) A.A. 40	Lieut. M.R. Dare	Reprimanded		Major R.C. Clark	E.M.A.P.

Certified true copy.

for Adjutant, The Royal Canadian Regiment

P.T.O.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

P17159 Cpl. Edward Morris DEWITT of the Royal Canadian Regiment.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced to Court with this statement but are not to be annexed to the proceedings.

Thos. Pare. 664. K.R. 1905.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, permanence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment
For A. A. Sec 15 (2)	1 times	1 times
For A. A. Sec 40	1 times	1 times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct.~~

~~or~~

There are ~~no~~ Two entries in the Conduct sheets of the accused.

2. The accused has not been previously convicted.

~~or~~

Previous convictions† of the ~~accused~~ by a court martial or a civil court, summary awards under Section 47 of the Army ~~Act~~, and dispensations with trial under Section 73 of the Army Act, are set out in the ~~Schedule annexed to this statement~~.

Description of Court by which tried, or date of Officer disposing of the charge or dispensing with Trial	Date and place of Trial or summary award or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9th day of Oct 41.

(H. E. C. Price) Capt.
The Royal Canadian Regiment.

3. The accused is not under sentence at the present time,

or,

~~The accused at the present time is under sentence for~~ ..... ~~beginning on the day of~~ .....

4. The accused has been in ~~confinement~~ Open arrest, awaiting trial on the present charges

for ..... ~~days in Civil Custody~~,

and 12 days in Military Custody.

Total 12 days.

Of which Nil days were spent in hospital. (11 Aug 40)

5. The present age of the accused according to his ~~record of service~~ Pay Book ~~attestation paper~~ is 23 years ~~2 yrs 52 days~~

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ Pay Book ~~attestation paper~~ is 2 Sep 39

7. The service which the accused is allowed to reckon towards discharge ~~as transfer to the reserve is~~ 2 Years, 52 days

8. The accused is entitled to deferred pay or gratuity in respect of 2 years, 52 days years' service.

9. The accused is entitled to reckon 2 years' 52 days service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [~~or is in possession of or entitled to~~

]

~~11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of~~

12. (*In the case of an officer.*) The accused holds in the army the rank of ....., dated ....., and in his regiment (*or* corps *or* department) the rank of ..... dated .....

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion
In the rank of	years,	
In the rank of	years,	
In the rank of	years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ....., signed by the ~~president, and annexed to the proceedings~~.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name .....

NOTE.—*A verbatim extract from the regimental books, stating these conditions and dispensations with trial, must be inserted*

Description of Court by which tried, or Name of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority	Punishment remitted

(Continued overleaf.

5H - 25

Ak. Dewitt, E. E.

5'H - 2'5"

Phe. Dewitt, E.E.

RECORDED AT CMHQ IN AB 160. 54-85

CPA86 (To Dieu of AFA) 40/P & S/1866

FIELD GENERAL COURT-MARTIAL

4/3BB

Approved by Order of Gen J.M. Cunningham Comd 1 Can Inf Bde dated 21 May 45

APPROVED 15 MAY 1945 JAG's rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.) JAG HQ

ACCUSED.

(Re the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed

(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Arm
		ELDON EDWARD	DEWITT	

F 36340 PTE

PROCEEDINGS REVIEWED

Capt.

16/5/45

JAG OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held at Aversano in Italy on (date(s)) 2 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns KRs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order. CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1120 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (1)

(1. RP 110. 2. If no objection, waiting member retires. RP 28(8). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	J.W.G. THOMPSON MM ED	RW HQ 2 Can Corps
Member	MAJOR	M.L. TROY ED	QOH
Member	CAPT	K.F. CAREN	CBO, 1 Can Armd Div (12th)
~~Judge Advocate~~			
Prosecutor	CAPT	R.H. BOWDEN	OIC NDHQ Hghrs
Defending Offr	LT	R.P. POWER	OIC NDHQ Hghrs

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Comd Offr.)
Q. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 85 (2) and fn 2 were not followed. See DI p 3.)

~~Ans The accused ..... Inform arraignment may not take place.~~

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 name and name of the accused making the plea.)

A8. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty to* (ii) *Court will thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans _____[5]

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on _____ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on _____ charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ____, initialled and read aloud by the President.[1]

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans N/C (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternatives in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans Sworn Evidence on Oath. Do you intend to call witnesses on your behalf?

Ans N/C. Are they witnesses as to character only? Ans N/A

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 2 N D charge(s), being subject to confirmation, will be promulgated later.(1)

~~(or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(3)~~

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans N/C

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(i) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 'A' and Ex 'B' respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans N/C (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 70 proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 89, 118, 119(A), KR Can 1078, 1310, 1613-1646, Overseas RO 1019, 2023, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORDED AT CMHQ IN AB 160. 5H-85

FIELD GENERAL COURT-MARTIAL

CPA96 (To Issue of APA) 40/P.R.S./1868 C.C. (1) 4/388

Approved (1) 15 MAY 1945 JAG & rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Order of Brig J.M. Cunningham Comd 7 Can Inf Bde dated 21 March 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed

(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit
F 36340	PTE	ELDON EDWARD	DEWITT	Lin's Hus.

PROCEEDINGS REVIEWED 16/5/45 Capt. JAG OFFICER, JAG BRANCH C.M.H.Q.

Stephen Witt Capt. 2 Can. Sec. 9 Feb 45 to 21 Army Gp

PROCEEDINGS OF TRIAL.

Held at Aldershot (country) on (date(s)) 2 April 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

29/37

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns 80s. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1120 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to as interpreter? Ans~~

The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 111, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	JUG THOMPSON MM ED	RW HQ 2 CDN CORPS
Member	MAJOR	ML TROY ED	OIC ALGR
Member	CAPT	KF GAREN	CAO 1 CDN ARMD VEH (1 CDN ARMD DIV)
~~Judge Advocate~~			
Prosecutor	CAPT	RH BOWDEN	OIC NS HIGHRS
Defending Offr	LT	RP POWER	OIC NS HIGHRS

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

~~A8. The accused before arraignment make(s) their(s) plea.~~ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposing, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

MEDICAL OFFICER'S REPORT

I certify that No. _____

of _____ is in a _____ state of health,

and _____ to undergo Trial by Court martial.

_____

Medical Officer

Station _____

Date _____

M. F. B. 246

2552—4-41 (792)
H.Q. 1173-39 480

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F36340	Pte		Eldon Edward	DeWitt	Nth NS Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* 21 Mar 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-Col	J W G Thompson		RCA

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Major	M L Troy		CIC
Capt	K E Garen		CAC

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Germany *(Country.)*

Date 21 Mar 45

J M Rockingham *(Signed personally. RP 105 fn 2.)*

Brig *(Rank.)*

(J M Rockingham)

Commanding 9 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & B/1571 (8148)

(See overleaf for acths and notes for use on trial.)

CHARGE SHEET

The accused No. F.[illegible]340 Private Elton Edward DeWITT, of the North Nova Scotia Highlanders, attached to No 11 Can FDS, as Soldier of the Canadian Army, Overseas, is charged with:-

FIRST CHARGE
Army Act
Sec 18(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURED HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

In that he

In the Field at approximately 0600 hours on the 26 Feb 45, by discharging a rifle wilfully injured Himself by shooting Himself in the left foot with intent thereby to render Himself unfit for service

SECOND CHARGE
(Alternative)
Army Act
Sec 40

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

In the Field at approximately 0600 hours on the 26 Feb 45, so negligently handled a rifle as to cause it to be discharged and thereby injured Himself in the left foot and rendered Himself ~~temp-~~ ~~orarily~~ unfit for service.

H A Procter
Major
OC No 11 Can. FDS.

In the Field
17 March 1945

TO BE TRIED BY
FIELD GENERAL COURT MARTIAL

J M Rockingham
(J M Rockingham) Brig
Comd 9 Cdn Inf Bde

In the Field
21 March 1945

D3.

Recorded Evidence & Proceedings

First Witness for Prosecution.

M37378 L/Cpl. Allinson A.H. No 11 Edn Pro Coy.
sworn states.

Defence does not object to the witness and states he was duly warned of the appearance of this witness and has received a copy of the evidence.

I ~~~~ interviewed the accused in 11 Edn F.D.S. of 4 Mar 45 with ref to his injuries. I cautioned the accused that any statement that he might make would be taken down in writing and may be used as evidence against him. I recognise the accused to-day as the soldier I interviewed

I identified myself to the accused and informed him that I was to make enquiries into his injuries, I then cautioned the accused. The accused appeared to understand the caution. There were no threats or inducements made to the accused.

The accused made the following statement to me;

I was in a slit trench along with two other soldiers of my coy, I do not know their names. I was in this slit trench all night and the three of us were doing duty in shifts, I had taken over from one of the other boys at approx 0600 hrs. A short time after that I decided to clean my rifle. Previous to this the Cpl in charge, Sgt Sullivan, had visited me and told me that I need not watch any more as there was a Bren Gun watching the position. I told one of the boys, the one I relieved, of his duty; before he went to sleep, that I was going to clean my rifle, I then sat down and had a smoke for a few minutes before I started to clean the gun. I had my rifle on half cock I put my thumb and first fingers on the hammers and pressed the trigger to release the hammers slowly.

D3.

The hammer slipped from between my thumb and fore finger causing the rifle to discharge and hit my foot. I was stunned for a minute then realized my foot had been injured. I then woke up one of the boys and told him what happened. He took me to a cellar nearby our platoon H.Q. where there was a S.B.. I was taken from there to our R.A.P.

Cross Examined

I do not remember the accused saying that the Cpl had ordered him to clean his rifle. The statement the accused made is word for word with the statement I have made to the court.

The Court.

The accused told me the accident happened on the morning of 26 Feb 45.

KR 13(6) complied with.

Execution informs the Court that the witnesses on summary Pte Glenwright & Farrell have been sworn.

Prot Witness for Defence

F 36340 Pte Demuth E.E. N.N.S.H.
sworn states.

I joined the army in Nov 43. I joined the N.S.H. in Jan 45 and at that time the unit was stationed on the Nijmegen Salient. I was in action approx 2 mons. I saw very little shelling in the 2 mons mentioned. There were three in the slit trench when I was injured. With ref to the statement by the Provost witness as evidence, he stated that my rifle was at half cock when I squeezed the trigger to ease the mechanism forward but I am positive that I said I pulled the mechanism back to half-cock to cocked, and then I was ordered by Cpl Sullivan to clean my rifle.

Cross Examined

I drove a truck in civilian life, I lived in the country, I have done some hunting. I had basic training in Canada, I know the marking parts of a rifle. Cpl Sullivan was not in the habit of coming around at 0600 hrs in the morning and telling

Dr:

his sec to clean their weapons. The Capt
did come around a few previous morning
and ordered us to clean our weapons.
The unit was just left Odem when the accident
occured. I had been told we were going
into attack Odem the following day, noon. There
had been shelling off and on. The round
hit the second toe of my left foot. There was
a fracture. We had been in the slit trench
for 4 days. The trench was 5-6 ft long
and 1½-2' wide it was L shape and each
cut was 5-6' long. The trench was covered
in with an opening at the corner. I stood
guard at the opening. It was app 3½' deep.
I was sitting on the bottom of the trench with my
back to the cut one of the other soldiers,
with my legs stretched out, I am not
right handed.

I was Demonstrates
Sitting on floor, legs stretched, muzzle
of rifle app 4" from left foot, left
hand on casking piece, right hand
holding small of the butt and index
finger on trigger, rifle resting on
right thigh and balanced on mag

left fore arm ~ parallel to body and appx 2-3 inches away, right hand holding rifle is rested near hip of accused.

Witness demonstrates and explains

Was pulling cocking piece from half cock to cocked, hand slipped from cocking piece, mechanism went forward, round discharged, injury in past.

I always carry a round in the chamber I had not cleared the barrel. I always in cleaning my rifle was the same procedure and pull traction from half cocked to cock and ease it forward. The bolt will not open when it is at half cock.

Violent

No one was in front of me, I had dry fired through 4 or 5 times and I was going to remove the bolt

D6

so I could clear the rifle and clean the barrel, I did not open the bolt after cocking the rifle because I knew an accident had just before when the weapon fired. I cleaned my rifle 3 days before the ~~the~~ injury. I don't know how I was going to hold the rifle to get the pull through through the barrel as I didn't get that far. I am 19½ yrs old. I enlisted at 18 yrs. I would like to go back to the regt.

R.P. 93 (6) complied with.

Summing up By Prosecution aff.

Summing up By Defence aff.

2 Apr 45 ~~the~~

PRESIDENT.

The accused F 3634 Pte McGrath has had experience with firearms in civilian life, he also has had the usual period of Basic Army training in the use and handling of a rifle and has been on an active post for over two months. No one can deny the fact that he must have a good working knowledge of the rifle with which he is armed. I am forced to admit that many shadows are present in a case such as this, but which necessitates the soldier observing his rifle with the utmost precision at his post is not one to be pardoned. As the accused had been duly disposed and had the plenty of previous experience with a rifle he must have been negligent. He also knew that he had been previously briefed on a similar action in Ottawa and the big question is whether his nerves could stand another battle or whether the discharging of the rifle was accidental.

2 Feb 45

Sentence passed

It is regretable that we have been unable to obtain proper witnesses, Lt Fitch (Pl. Com.) Cpl. Sullivan (Tee Trench) plus the men who were in the trench with him at time of accident, all of whom are now casualties. He has proven by demonstration just how he held the rifle at time of accident, I am sure the court will agree this could very well happen. The prosecution has mentioned Pte D'Witt as having had basic training etc., but one must remember cleaning a rifle at a training centre is a lot different than cleaning same in a cramped shit trench, when rules of cleaning etc. are impossible to follow.

Pte D. Witt joined N.N.S. Nights at a time when they were in a static position, not on frigmen fleets, during his landing there, he had never been under shell fire, the attack on Ortona was to be his first action, so I ask you, gentlemen, what reason would there be for him to commit this offence, he had no reason to be scared of what lies coming, as he did not know what it was like.

The prosecution in my opinion has failed to subtply enough convincing evidence, so I think he should be found "Not Guilty", given a chance to return to his unit, where I feel sure he will do a good job.

R. Pte

Sergeant

EXHIBIT "A"

ARMY FORM B.206 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F.30340	Pte.	DeWITT, E.E.	North Nova Scotia Highrs.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, punishment being given in the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded in the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For _____ _____ times.

For _____ _____ times.

For _____ _____ times.

For _____ _____ times.

Date of first entry in Field Conduct Sheet _____

Date of last entry in Field Conduct Sheet _____

2. [illegible]

*3. [illegible]

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for _____ days in close custody, and for 14 days in military custody, i.e., 14 days in open arrest, _____ days in close arrest; of which 14 days were spent in hospital.

5. The present age of the accused is 19 years

6. The date of his attestation is 4 Nov 43

7. [illegible]

8. [illegible]

[State the military decorations (if any) held by accused.

9. (I[illegible]) [illegible] Date of Promotion.

[illegible] _____ _____

[illegible] _____ _____

[illegible] _____ _____

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(27853) Wt.24839/2404 $4,000 7/44 A.S.S.W.Ltd. Gp.686 Forms/B206(War)/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		Nil		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this _____ day of March 45

M J Hafferman Capt adjt
North Nova Scotia Highlanders
Off having Custody of Regtl Records.

EXHIBIT "B"

M.F.M. 6
(A.F. B.122)
40/P & /3136 (2965)

Temporary Sheet

No. F36340 Name DeWitt, E.E. | Sqn., Battery, or Company | Corps C.I.C. | Date of enlistment 4 Nov 43 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true copy of Temporary Sheet, as of 19 Mar 45 M J Heffernan capt a djt (M.J. Heffernan) Capt. & Adjt. North Nova Scotia Highlanders. Officer having custody of the original Temporary Sheet.					

(P.T.O.)

SUMMARY OF EVIDENCE in the case of F.30340 Private DeWitt, Elden Edward, North Nova Scotia Highlanders, a soldier of the Canadian Army Overseas (Attached to 11 Can. F.D.S.)

The Commanding Officer directs that the evidence be taken on Oath.

First Witness for the Prosecution

F.95409 Private Glenwright, A.J., sworn states:

I am F.95409 Pte Glenwright, A.J., of "B" Company, North Nova Scotia Highlanders. On the morning of 26 Feb 45 I was sleeping in my trench when Pte DeWitt awakened me and said he was shot through the foot. I got up and pulled him out of the trench and took him to the stretcher bearer at platoon H.Q.

Q. What foot was the wound on?

A. Left.

(signed) A.J. Glenwright

The accused declines to cross-examine the witness.

Second Witness for the Prosecution

F.30803 Private Farrell, M.J., sworn states:

I am F.30803 Pte. Farrell, M.J., of "B" Company, North Nova Scotia Highlanders. On the morning of 26 Feb 45 I was asleep in my slit trench with Pte Glenwright and Pte. DeWitt. Pte. Glenwright woke me up and said that Pte. DeWitt wounded himself and that he had taken him to platoon H.Q. That is all I know of the accident.

(signed) M.J. Farrell

The accused declines to cross-examine the witness.

Question to the accused.

Q. Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be used in evidence.

A. No Sir.

The accused does not call any witnesses.

Rules of procedure 4 (C) (D) (E) (F) and (G) have been complied with.

I certify that the foregoing summary of evidence consisting of 3 pages was taken down in writing in the presence of the accused this 14th day of March 1945.

In the Field
14 Mar 45

(signed) G.L. Monkley Lt.
North Nova Scotia Highlanders
Officer i/c Summary

ADDITIONAL SUMMARY OF EVIDENCE in the case of F.36340 Private DeWitt, Eldon Edward, North Nova Scotia Highlanders, a soldier of the Canadian Army Overseas (Attached to 11 Cdn. FDS)

The Commanding Officer directs that the evidence be taken on Oath.

Third Witness for the Prosecution

Capt. A. Gold, 6 Cdn CCS. sworn states:

I am Capt. A Gold, 6 Cdn DDS. On 26 Feb 45 at 1330 hrs Pte. DeWitt, E.E. F.36340 was admitted to 6 Cdn CCS with a gun shot wound perforating the left foot in the region of the second Metatarsal bone, there was no powder stain around the wound of entrance. The wound was dressed. No further surgical treatment was necessary. DeWitt was transferred to 11 Cdn FDS

(signed) A. Gold Capt.
6 Cdn. CCS

The accused declines to cross-examine the witness.

Question to the accused.

Q. Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be used in evidence.

A. No Sir.

The accused does not call any witnesses.

Rules of proceedure 4 (C) (D) (E) (F) and (G) have been complied with.

I certify that the foregoing Summary of Evidence consisting of 2 pages was taken down in writing in the presence of the accused this 20th day of March 1945.

In the Field,
20 March 1945

(signed) G.L. Monkley Lt.
North Nova Scotia Highlanders
Officer i/c Summary.

Summary of Evidence in the case of F 36340 Private DeWitt, Eldon Edward North Nova Scotia Highlanders, a soldier of the Canadian Army Overseas. (att to 11 Cdn FDS)

The Commanding Officer directs that the evidence be taken on oath.

First Witness for the prosecution — F 95469 Private Glenwright, A.J. sworn states:

I am F 95469 Pte Glenwright, A.J. of "B" Coy North Nova Scotia Highlanders. On the morning of 26 Feb 45, (I.M. approximately 0700 hrs) I was sleeping in my trench when Pte DeWitt awakened me and said he was shot through the foot. I got up and pulled him out of the trench and took him to the stretcher bearer at platoon H.Q.

Q1- What foot was the wound on?

A1- L/ft. A/J Glenwright.

The accused declines to cross-examine the witness.

Second Witness for the prosecution — F 36883 Private Farrell, M.J. sworn states:

I am F 36883 Pte Farrell, M.J. of "B" Coy

North Nova Scotia Highlanders. On the morning of 26 Feb 45 I was asleep in a slit trench with Pte Glenwright and Pte DeWitt. Pte Glenwright woke me up and said that Pte DeWitt wounded himself and that he had taken him to platoon H.Q. That is all I know of the accident.

0800 hrs approximately 0200 hrs M.J.

M.J. Farrell.

The accused declines to cross-examine the witness.

Question to the accused

Q. Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be used in evidence.

A. No sir.

The accused does not call any witnesses:

Rules of procedure #(c)(d)(e)(f) and (g) have been complied with.

I certify that the foregoing summary of evidence consisting of 3 pages was taken down in writing in the presence of the accused this 14th day of March 1945.

J. L. Mondelly Lt
North Nova Scotia Highlanders
Officer i/c Summary

In the Field
14 Mar 45

Additional Summary of Evidence in the case of F36340 Private DeWitt, Eldon Edward, North Nova Scotia Highlanders, a soldier of the Canadian Army Overseas (attached to 11 Cdn FDS)

The Commanding Officer directs that the evidence be taken on Oath:

Third Witness for the Prosecution

Capt A. Gould, 6 Cdn CCS

I am Capt A. Gould, 6 Cdn CCS on 26 Feb 45 at 1330 hrs Pte DeWitt F36340 was admitted to 6 Cdn CCS with a gun shot wound perforating the left foot in the region of the second Metatarsal bone. There was no powder stain ~~burn~~ around the wound of entrance. The wound was dressed. No further surgical treatment was necessary. DeWitt was transferred to 11 Cdn FDS

A. Gould Capt
6 Cdn CCS

The accused declines to cross-examine the witness.

Question to the accused.

Q. Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or to give any evidence unless you wish to do so but whatever you say, or any evidence you give will be taken down in writing and may be used in evidence

A- No sir.

The accused does not call any witnesses.

Rules of procedure 4(c)(d)(e)(f) and (g) have been complied with.

I certify that the foregoing Summary of Evidence consisting of 2 pages was taken down in writing in the presence of the accused this 20th day of March 1945

In the Field
20 Mar 45

D.F. Murphy Lt
North Nova Scotia Highlanders
Officer i/c Summary

LIST OF WITNESSES

For the Prosecution

First Witness	F.95469 Pte Glenwright, A.J.	Nth N.S. Highrs
Second Witness	F.36883 Pte Farrell, M.J.	Nth N.S. Highrs

For the Defence

NIL

LIST OF EXHIBITS

N I L

I, F.30340 Private Elson Edward DeWitt, North Nova Scotia Highlanders, attached No 22 Can FDS, desire to have an officer assigned to represent me at my Court Martial.

E.E. DeWitt
Signature of the accused

Field
17 Mar 45

Z.1

PTE DE WOLFE J.

F/5-47 2-7
B-4798 Pte John, DeWolfe
1 C.O.R.U.

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this THIRD day of FEBRUARY, 19 43

Whereas it appears to me, the undersigned, an officer in Command of "F" GROUP, CANADIAN REINFORCEMENT UNITS CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*[redacted]

Proceedings forwarded for confirmation. A Mwin Capt. 10 Mar 43

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LIEUT.-COLONEL	D.L. REDMAN, V.D.	H.Q., C.R.U.

Members.

Rank.	Name.	Regiment.
LIEUTENANT	N.D. KING	1 C.R.C.N.
LIEUTENANT	W.E. RAYNER	5 C.C.C., R.C.E.
LIEUTENANT	WAITING MEMBER	
LIEUTENANT	W. BOYES	7 C.C.C., R.C.E.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (J.P.ARCHAMBAULT) Brigadier
Commanding "F" Group, C.R.U.
Convening Officer

2

SCHEDULE.

Number, Rank (*a*), Name and Unit o. Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-4798 Pte John DeWolfe 1 C.O.R.U.	FIRST CHARGE Sec 15 (1) Army Act	Guilty	Guilty	
	SECOND CHARGE Sec 18 (4)	not Guilty	not Guilty	
	ALTERNATIVE THIRD CHARGE Sec 40 Army Act	not Guilty	Guilty Sentence To undergo Detention for a period of One Hundred and Fifty (150) Days 6th Feb 1943	Finding and Sentence Confirmed [illegible]
	(See charge sheet attached).			

Promulgated in CORU part II Order No. 34 dated 9 Feb 43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— Answer—No

(Signed) (J.F.ARCHAMBAULT) Brigadier,
Commanding "F" Group, C.R.U.
Convening Officer (e)

(Signed)
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs as the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 5th day of February 1943 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~
4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 5th day of February 1943.

President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of ~~*A.C.I. 370 of 1918~~ have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further order.)~~ I c

Signed this 6th day of February 1943.

J. P. ARCHAMBAULT, Brigadier.
Confirming Officer commanding "F" Group,
Cdn. Reinforcement Units

Promulgated and extracts taken in the case of B4798 Pte John DeWolfe

(a) (Dated) 9 February 1943. (Signed) [illegible]

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET.

The accused, No. B 4798, Pte John DeWOLFE, No. 1 Cdn Ordnance Reinf. Unit, a soldier of the Canadian Army Overseas, is charged with, while on active service;-

1st Charge.
Sec. 15(1)
A.A.

"Absenting himself without leave"

in that he at Bordon, absented himself without leave from 0800 hrs 5 Dec 42 until arrested by the military police in London at 1500 hrs 1 Jan 43.

2nd Charge.
Sec. 18(4)
A.A.

"Stealing public property"

in that he about the month of October 1942, stole a Piccolo, the property of No. 1 C.O.R.U.

IN THE ALTERNATIVE,

Alternative
3rd Charge.
Sec. 40
A.A.

"Conduct to the prejudice of Good order and military discipline"

in that he at London on 31 October 42 was improperly in possession of public property, a Piccolo, the property of No. 1 C.O.R.U.

(Harold M. Bailey) Lieut-Col.,
O.C., No. 1 Cdn Ord. Reinf. Unit.

Brodon, Hants.
13 Jan 43

To be tried by Field General Court Martial

Bordon, Hants
Feb 3rd 1943

J. P. ARCHAMBAULT, Brigadier.
Commanding 4th Group
Cdn. Reinforcement Units

No.1 Cdn Ord. Reinforcement Unit

F.A.F. 1942

Medical Officer's Certificate.

I certify that I have this morning examined No. B.4798.
Pte. B4798 Dr. Wolfe, F. of No.1 Cdn. Ord. Reinforcement Unit
and in my opinion he is ~~unfit~~ fit to undergo trial by court martial.

Station. New Martinique Barracks
Bordon, Hants.

Date. 5 Feb / 1943

Bgd. [signature] Capt. R.C.A.M.C.
(R.E. Brown) M.O. #1 C.O.R.U.

TRANSCRIPT OF EVIDENCE

in the case of B 4798 Pte. John,DeWolfe, 1 C.C.R.U., held at New Martinque Barracks, Bordon, Hants., on the 5th day of Feburary, 1943.

The order convening the court, the charge sheet, the summary of evidence and the medical certifcate are laid before the court.
The court satisfy themselves as provided by Rs. P. 22 and 23.
The accused is brought before the court.
Prosecutor:- Major E. Miller, 1 C.C.R.U.
Defending Officer:- Lieut. Learmont, 1 C.C.R.U.
At 1000 hrs. the trial commences.
The order convening the court is read, signed by the President, and attached to the proceedings.
The names of the President and members of the court are read over in the hearing of the accused, and they severally answer to their names.
Do you object to be tried by me as President, or by any of the Officers whose name you have heard read over?
A:- No, sir.
The President and Members are duly sworn.

PRESIDENT:-	Lt.-Col.	D.L. Redman, V.D.,	H.Q., C.R.U.
MEMBERS:-	Lieut.	N.D. King,	1 C.R.C.W.
	Lieut.	W.E. Rayner,	5 C.C.C., R.C.E.

There are no officers under instruction.
A short-hand writer is not employed.
The charge sheet is signed by the president, and annexed to the proceedings.
The accused is arraigned upon the charges in the above-mentioned charge sheet, and pleads not guilty to all charges thereon.
R.P. 39(A) complied with.

Trial of B 4798 Pte Lewis, John
1st witness for Prosecution
Lt Campbell C.K. - L.27724

I was in unit band and I drew a Piccolo from R.Q.M stores. It number was P 432. It was in a black leatherette case. It was a Selmer make. The number was engraved on the piccolo which was of metal, silver coloured. It was kept in the band cupboard. On Nov 5th 1942 I checked the instruments. The piccolo was not there

Cross exam by Def. Off'r

I know the number because I had previously written it in a book. The band instruments had been in the Administration Bldg. They were moved on Nov 3rd to the Post office Bldg. The old room had been my mess since Oct 20th 1942 used per lectures and open for considerable periods. The instruments including the Piccolo were in cupboards except four, too big for the cupboards. The cupboards were not locked. The key to the room was held by Administration wing

2nd witness for Pros.
P.C. Francis Ivor [redacted] Metropolitan Police London

"At about 1415 hours on the 31st of Oct. 42 I was in plain clothes on Waterloo Road, with P/C. Redmore, when accused offered to sell me a "Selmair" Piccolo No. P 432 for £5-0-0.

On ~~31st Oct I was in London~~

I followed the accused who went to a pawn brokers shop. I saw him speak to certain people He then came to me and asked where there was another pawn shop. I said they are all shut and disclosed my identity. He said the Piccolo belonged to him. His mother got it in New York for $100.00 and gave it to him for a birthday present, he said he wished to celebrate Hallowe'en. He said he could play but put the wrong end in his mouth. I arrested him for unlawful possession. I cautioned him He said I had to get my stripes somehow We handed him over to C.P.C with the piccolo which was of a silver colour.

Cross exam

The accused was quite sober. The pubs had been closed per three hours. The caution was the usual legal warning.

3/ Third witness for Pros.
P.C Podmore #452 Metropolitan Police London
being duly sworn states

On 31st Oct 1942 at 1715 hrs I was in plain clothes with P.C Ley. The accused spoke to us and asked for a pawn shop. He showed us a piccolo and said "is this any good to you, you can have it for 75-0-0. We told him

Ley

Sheet 2

the shops were lightly shut but drawing him to nearest one. we followed on arrived at Pann brothers the shop was shut - P.C Fry disclosed his identity to the accused and asked him where he got the piccolo. He said my parents bot it for $100.00 for a birthday present for me. He said I am trying to hawk it, for money to celebrate Hallowe'en.

we questioned him as to ownership of piccolo. He stuck to his story. There was a silver stamp on piccolo which was a "Selmer" make. No P432 was on the instrument the accused said he had had lessons on piccolo when younger. He went through the motions but got no sound from it. He explained that he hadn't played for years. as the piccolo was of American make. we could not contact the makers and we turned the accused over to Edm Mil Police.

Cross Exam

I noticed nothing peculiar about accused except that he annoyed by being detained and many a date he had with two gals.

OVER.

WG

4/ Fourth witness for Pros.

2/Lt W. E. Baker H 4246 No 6 Ldn Prov Coy
being duly sworn states.

I served accused 31st Oct 1943 at
Kennington Road Police Station London
He was then taken to our Unit
18d. Lrs. with a piccolo for which
I signed. It was a silver piccolo in
a case. The accused said it was
given to him by his mother. I turned
it over to Lt in charge of detention room

5/ Fifth witness for Pros.

2/Lt E. Miller L 22664 10th Ldn Prov Coy
being duly sworn states

On 1st Nov 1942. I was at No 6 Prov. at
about 11.30. The accused and others
were turned over to my escort & took
accused to his unit 1 C.O.R.W. He had
a musical instrument in a case which
he agreed and showed same to men
in the truck.

Cross Exam.

accused called the instrument with
him into the Guardroom at 1 C.O.R.W.

End of Prosecutors case

Pltf

Unit 3

The President gave explanation under R.P. 40.
Instructions for Hearing

The Claimant being duly sworn states

I went to London for a weekend on Oct 24th
I left my respirator there by mistake. The
next week end I went to Aldershot. The
C.M.P. asked for my respirator. I went
to railway to get to London but having
no pass could not buy a ticket. I got
a blue pass from a soldier and pulled it
out, upon arriving in London I had a few
drinks at the Regency Eagle Club. A soldier whom I had
seen before asked me if I could pawn
a piccolo for him as my he would give
me part of the proceeds. I made no
enquiries and went to East End. I was
hurried down in one pawn shop. I approached
man on street and made enquiries for
a pawn shop. They were the constables
who gave evidence today. They asked
why and I said I wanted to pawn
this piccolo. They directed me and I went
and noticed one of them was following
me. I couldn't find the pawn shop.
I waited for the constable. He told me there
was no pawn shop there and he found
he was a police officer (OVER) PTO

He tried to make me admit I had stolen the piccolo which I denied. A police car came and we went to police station. They questioned me again and asked if I could play it. I said no but I had had lessons years ago. I put it together. They called Edw Mil Police who came for me and took me to their Hd Qrs. Next morning escorted by police I went to go to Bordon I gave the address from whom I got the Piccolo standing on the street. I called him and gave him the piccolo. I then returned to Coy Guard room Canadian South Bordon. I was sent no statements

Cross - Exam

The soldier at the club who gave me the piccolo appeared to be an American in Edw battle dress. I had seen him several six times. I don't know his name I went to East End because I Honour London I lived there before the war. I told the police that the waitress gave me the Piccolo I didn't mention the soldier in the Club.

He suggested I get £5-0-0 from Parons brother I was to get a share estate was not settled.

Re Examd

I am an American. I helped organize the American Eagle Club. I am with

1117

Sheet 4

Known him. I saw this soldier once since
then but I didn't talk to him I don't
know who he is.

End of case for defence

Rebuttal

5th witness for Pros. Recalled
At time the prisoners including the accused
were gathered at London on Nov 1st they
put into trucks they were guarded and
under escort in two groups and others
could not mingle with them. when
put in truck, two provosts are placed in
back of truck and I don't think these Provosts
would let a prisoner hand out anything to a
stranger. There was with me as escorts
L/Cpl Wright & L/Cpl Campbell and one other
There was only one truck and two drivers
in cab. All escort in back including myself
I did not see accused hand out anything
to anybody.

6th witness for Pros.

B-97788 L/Cpl A.L. Craigle being duly sworn
states. On 1st Nov last I was on duty
escorting prisoners from London with
L/Cpls Miller, Brickford and Campbell. One
of the prisoners this morning had a case
with a nickel mouthpiece in it which

(OVER)

he was showing around while the truck was moving. It looked like a flute. It looked like a nickel instrument.

7th witness for Prox.

E 2936.7 Sgt Campbell. S. being duly sworn states. On 1st Nov last I was on duty escorting prisoners from London. I now refresh my memory from my book A.B. 466 Form C. daily entries made this above. I was on above duty with three other provosts. One of the prisoners had a musical instrument in the truck, which I now recognize as the accused. He showed it to the boys. It was not put together. He appeared to be either colour and somewhat like a flute. This was withdrawn were about one quarter of the way home.

Notes on address by Prosecutor

Unit had a Piccolo no P 432. It disappeared. Accused was found guilty. P 432. accused first said his mother bought it now he says a soldier gave it to him. He need not lie if possession was proper. Accused says he gave piccolo back to the soldier at London. Three Provosts say they saw it after Unit left London. Accused did not ask this soldier about the piccolo when he saw him later in London

5th Day Sheet

Notes on address by Defending Officer

Ref. M.M.L. P. 444 Note 6 - Prosecution has failed to produce the records nor accounted for its non production also the rule respecting Best Evidence not complied with. All evidence is circumstantial. Accused has shifted the onus back to Prosecution

Ref. M.M.L. P. 81 Para 42 & 43

The court is closed to consider the finding

The court reopens and the President announces that it finds the accused "Not Guilty" on the Second Charge

The Prosecutor being duly sworn produces A.F.B. 296 and Copy of M.F.M.S. with respect to accused

Rule 46(B) complied with

The accused declined to call character witnesses

The accused made following Statement

In 1930 I enlisted in American Navy after 6 yrs I had Syphilis in Second Stage with injury to Spine. In Hospital 1936 for over 8 months. My nerves were shot. I took treatment for another year with three Wassermen Negative In June of 1942 I Chuck blood and My useless Negative Doctors found me (OVER)

"instable". Things have not gone as suspected since I joined Canadian Army. Dark the court to be clement.

Plea by Deputy officer in mitigation. The accused had been drinking at the Eagle Club on 31st October. This is his 7th or 8th offence.

Court is cleared to consider the sentence.

I CERTIFY that the man whose personal description is given below was arrested by P.S. C.I.D. Lewis. C.O. C.I. at Hans Crescent, Chelsea, at (hour) 3-P.M. on the 1st. day of January 1943 as being No. B. 4798. (Rank and Name) Private John De Wolfe. a deserter (or absentee without leave) from 5th. December 1942. and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age	28.
Height	5 Feet 10 Inches
Complexion	sallow
Hair	black.
Eyes	blue grey.
Marks	Anchor and U.S.N. on right fore arm.
In uniform or plain clothes	Uniform.
Probable Date and Place of Attestation	24th. December 1941. Hamilton, Ontario.
Probable Date of Desertion or beginning of absence, and from what place	5th. December 1942. No.1. C.O.R.U. 'C' Coy. Bordon, Hants.

Signature of Officer of Police in charge of Chelsea Station.

1st January 1943 Date of Signature.

Army Form C.1617.
R.A.F. Form 1617.

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

Statement of Expenses chargeable to Army or Air Force Funds

incurred by the ..... Police in the case of

No. .....

who surrendered to the Police at ..... on .....

Payable to .....

CERTIFIED that this statement of expenses is correct.

..... Superintendent or Officer in charge of Police Station at .....

..... Date of Signature.

Army Form B 115. Part B

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Bordon, Hants, on the 21st day of December 19[illegible], for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. [illegible] Pte DeFoe F.

DECLARATION.

The Court declare [illegible]

Names of President and Members

[signature] Major.

[signature] Lieut.

[signature] 2nd Lieut.

Signature of Commanding Officer [signature] Lieut Colonel

CERTIFIED TRUE COPY.

[signature] Capt.

Signature of Officer having custody of the Original Record.

(1500) W.L.24718/1022 75,000 10/19 A.A. & S.W. Ltd. Gp. 278 Forms B/115/58
(1544) W.L.42172/780 225,000 1/40

SUMMARY OF EVIDENCE in the case of No. B.4798 Pte., DeWolfe, J., No. 1 Canadian Ordnance Reinforcement Unit. By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

1st Witness for the Prosecution. L.13229 Cpl. Coreau, W., No. 1 C.O.R.U., having been duly sworn, states:-

"I am Corporal in the Regimental Police No. 1 C.O.R.U. I recognize the accused as Pte. DeWolfe brought to the Guardroom by the Provost Corps who ~~tole~~ delivered him to me with A.F. C. 1617 d/1 Jan. 43. (MARKED EXHIBIT "A") The accused is the same man referred to in Declaration of Absence A.F.B. 115. (MARKED EXHIBIT "B")

The accused does not wish to cross-examine this witness.

W. Coreau Cpl.
(W. Coreau)

2nd Witness L.27724 Cpl. Campbell, C.R., No. 1 C.O.R.U., having been duly sworn, states:-

"I am N.C.O., in the band of No. 1 C.O.R.U., and as such drew certain band instruments including a Selmer Piccolo No. P.432 which was in a black leather case. This instrument was kept with the other band instruments in a cupboard in the band room. It was not in use in the month of October and early in November as a result of something I heard, I checked the band instruments and found that this Piccolo was missing. I reported the loss and have not seen the Piccolo since. This Piccolo had been used but was in good condition.

[redacted]

CROSS-EXAMINED BY ACCUSED:

Q. 1 Had the band instruments been moved before you checked them?
A. 1 The band instruments were first kept in the band room in the Administration Building. The band room was changed on 3 Nov. 42 to the old Post Office building. I made the check on 5 Nov. 42. I do not know if this Piccolo was moved on 3 Nov. 42. All the instruments were moved but I do not know if the Piccolo was moved.
Q. 2 Were these instruments locked in this band room?
A. 2 They were stored in a cupboard in the band room. The cupboard was not locked but the band room was. The key to the band room had been turned over in October to "Admin. Wing" as the room was also being used for classes. We were instructed that there would be an N.C.O., i/c at all times.
Q. 3 In other words any number of people could have been in there and taken it?
A. 3 Yes, they might.

C.R. Campbell Cpl.
(C.R. Campbell)

3rd Witness P.C. Francis Ley, P-461'M' Metropolitan Police, London.

A statement in writing signed by this witness in part as follows has been read to the accused and is included in this Summary of Evidence.

"At about 1730 hours on 31 Oct. 42, I was on duty in plain clothes in Waterloo Road, Lambeth, in company with P.C. 452"M" Podmore , when Pte. Nelson DeWolfe, of the Canadian O.R.U., offered to sell me a "Selmer" Piccolo No. P.432 for £5-0-0-. As the Piccolo was

worth about £30-0-0, I disclosed my identity and asked DeWolfe to account for his possession of the instrument, and also asked him to produce his pass".

The accused does not demand the attendance of this witness for cross-examination.

4th Witness — P.C. Podmore #452 'M' of the Metropolitan Police, London, will also be called as a witness and will give evidence similar in effect to that of P.C. Ley.

The accused does not demand the attendance of this witness for cross-examination.

5th Witness — L/Cpl. Miller, No. 9 Provost Coy., will state in effect that on 1 Nov. 42, the accused was escorted by him from London to No. 1 C.O.R.U., at which time, the accused had with him a Piccolo.

The accused does not demand the attendance of this witness for cross-examination.

Having regard to the exigencies of the service, expense and loss of time involved, the attendance of the 3rd, 4th and 5th witnesses cannot in my opinion be readily procured.

(E.M. MILLER) MAJOR

The accused having been duly cautioned in accordance with R.P. 4(E)

"Reserves his defence"

Certified that R.P. 4 (C) (D) (E) (F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 5th day of January 1943 at Bordon, Hants.

(E.M. MILLER) MAJOR

Notice to accused under R.P. 76.

In addition to the witnesses in the above Summary, it is intended to call a further witness, L/Cpl. Baker, #6 Cdn., Provost Coy., who will give evidence that the accused claimed that the Piccolo was his ~~own~~ personal property and that it had been given to him by his mother.

(E.M. MILLER) MAJOR

5 Jan. 43.

worth about £30-0-0, I disclosed my identity and asked DeWolfe to account for his possession of the instrument, and also asked him to produce his pass".

The accused does not demand the attendance of this witness for cross-examination.

4th Witness — P.C. Podmore #452 'M' of the Metropolitan Police, London, will also be called as a witness and will give evidence similar in effect to that of P.C. Ley.

The accused does not demand the attendance of this witness for cross-examination.

5th Witness — L/Cpl. Miller, No. 9 Provost Coy., will state in effect that on 1 Nov. 42, the accused was escorted by him from London to No. 1 C.C.R.U., at which time, the accused had with him a Piccolo.

The accused does not demand the attendance of this witness for cross-examination.

Having regard to the exigencies of the service, expense and loss of time involved, the attendance of the 3rd, 4th and 5th witnesses cannot in my opinion be readily procured.

(E.M. MILLER) MAJOR

The accused having been duly cautioned in accordance with R.P. 4(E)

"Reserves his defence"

Certified that R.P. 4 (C) (D) (E) (F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 5th day of January 1943 at Bordon, Hants.

(E.M. MILLER) MAJOR

Notice to accused under R.P. 76.

In addition to the witnesses in the above Summary, it is intended to call a further witness, L/Cpl. Baker, 9 Cdn., Provost Coy., who will give evidence that the accused claimed that the Piccolo was his ~~own~~ personal property and that it had been given to him by his mother.

(E.M. MILLER) MAJOR

5 Jan. 43.

B.4798 No. DeWOLFE, John Name | Sqn., Battery, or Company | Corps R.C.O.C. | Date of enlistment 24/12/41 | G.C. Badges | Service or Proficiency Pay | MFM 6 (A F B 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. One | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	16-2-42	Tpr.		Absence without leave from 0200 hrs 16-2-42 to 1147 hrs. 16-2-42 Absent 9 hours 47 minutes.	S/Sgt. Johnston	3 days extra fatigues & forf. 1 days pay.	16-2-42	Capt. P.H. Vrooman	Forgot change in train and bus. (Schedule times from Toron to
"	18-2-42	"		Whilst on active service failed to appear on a place of parade appointed by his superior officer	Cpl. Stanley	4 days C.B.	19-2-42	Capt. P.H., Vrooman	
Field	15-5-42	"		Failing to rise at reveille A.A. 40	Sgt. Black, L.G.,	48 hrs. detn.	15-5-42	Lt.Col. Little Major S. Chambers.	
Field	30-6-42	"		A.A. 15 absence without leave 2300 hrs. 28-6-42 to 1200 29-6-42 (absent 13 hours)	Cpl. B. Murray	10 days F.P.	30-6-42	Lt.	11 days pay.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9-7-42	Tpr		Absent without leave 9 hours A.A. 15(1)	Cpl. B., Murray	7 days C.B., 7 days pay	10-7-42	Col. G. Little)	Total 8 days pay.
Bordon	31-10-42	Pte.		A.A. 40 - In possession of a document purporting to be genuine knowing it was not genuine.	Documentary	28 days forf pay AA 46(2) FR&I 149(2)	2 Nov. 42	H.M.BAILEY Lt.-Col.	

CERTIFIED TRUE COPY OF THE DOCUMENTS IN MY CUSTODY.

H.C. Hughes Capt.

(RECORDS OFFICER)

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B.4798	Pte.	John DeWOLFE	NO. 1 CDN. ORD. REINF. UNIT

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheets mentioned above to be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers therein stated should correspond with the number of entries in the accused's conduct sheets, reference being given to the case where offences in each entry, and to any recognized special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For Sec. 15(1)	4	times	4	times.
For Sec. 40 A.A.	2	times	2	times.
For		times		times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct, Nil

or

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, or

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 23 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, or ~~The accused at the present time is undergoing the sentence of~~ ~~imprisonment~~ beginning on the ~~second~~ day of

4. The accused has been in confinement, awaiting trial on the present charges, for close arrest days in civil custody, and 36 days in military custody, making a total of 36 days, of which 20 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 28 yrs. 4 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 24 Dec. 41

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~ service.

9. ~~The accused is entitled to reckon~~ service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (~~or is in possession of or entitled to (state any military decoration or reward)~~).

11. (~~In the event of a warrant officer.~~) ~~The accused believes he was made a warrant officer last held the regimental rank of~~

12. (~~In the case of an officer.~~) ~~The accused holds in the army the rank of~~ dated ~~and in the regiment (or corps or department) the rank of~~ dated

(A1436) W1—(1361) 125,000 6/41 A.A.&W.H.Ltd. Gp.682

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ Rank _____ Name _____ of _____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 5th day of Feb 43

J.H.S. Mitten Capt.
for Record Officer.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion.	
In the rank of	NIL	years,
In the rank of		years
In the rank of		years,

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

I, No. B.4798 Pte. John DeWolfe, No. 1 Canadian Ordnance Reinforcement Unit, desire to have an officer assigned to represent me at my trial by Court Martial. I desire Lieut A.M.McCully (counsel)

I ACKNOWLEDGE RECEIPT OF A COPY OF THE CHARGE SHEET AND SUMMARY OF EVIDENCE DATED 5 JAN. 43.
I DO NOT DESIRE ANY WITNESSES CALLED ON MY BEHALF.

J. DeWolfe Pte.
(John DeWolfe)

Bordon,
5 Jan. 43.

332 b. Ste. Dewey. L. P.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this seventh day of SEPTEMBER, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 2 Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified officer;~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

~~I am unable to appoint~~
~~Three Officers to form the Court~~
~~a Field Officer as President~~
~~Three Officers having more than one year's~~
~~service~~
~~for the following reasons, namely:~~

* Omit if not applicable

PROCEEDINGS REVIEWED

In my opinion military exigencies, namely the dispersion of Units and difficulties of communication and other difficulties render it inexpedient to observe the provisions of those rules inconsistent with Appendix "A" to R.R.O. 1772 on the trial of the person named in the annexed Schedule.

President.

Rank.	Name.	Regiment.
MAJOR	W.H. MONTAGUE	R.C.A.S.C.

Members.

Rank.	Name.	Regiment.
CAPTAIN	A.A. MALLACHEY	4 Cdn.Recce R. (14H)
CAPTAIN	E.J. SIMMONS	SIGS 2 Cdn.Div.
~~CAPTAIN~~	~~W.A.B. WILSON~~	R.C.A.S.C.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (Victor W. Odlum) Major-General

Commanding 2 Canadian Division.

Convening Officer.

SCHEDULE.

Number, Rank (*a*) Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D105781 Pte. DEWEY, L.F., RCASC HQ 2 Cdn. Div.	FIRST CHARGE W.O.A.S. Conduct to the prejudice of good order & military discipline. A.A. 40. (SEE CHARGE SHEET ATTACHED.)	Guilty	Guilty	Confirmed V.W.O.
	SECOND CHARGE W.O.A.S. Committing a civil offence. A.A. 41(5) (SEE CHARGE SHEET ATTACHED.)	Guilty	Guilty To be dismissed from His Majesty's Service with ignominy. First Accused 2 Sept 41	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) V.W. Odlum (Victor W. Odlum) Maj-General. (Signed) [illegible]
Commanding 2 Cdn. Division. *President.*
Convening Officer (c)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 1st day of September, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~ The stenographer
*(4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 1st day of Sept 1941

[illegible]
President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (f) on page 702 M.M.L. 1939.

I ~~certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

Signed this day of 19

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 2nd day of Sept 1941.

V.W. Odlum Major-General
Confirming Officer. Comdg. 2 Cdn. Div.

Promulgated and extracts taken in the case of D 105

(a) (Dated) 15 Sep. 41 (Signed) W.B. Morton Capt.
Camp Commandant, H.Q. 2 Cdn. Div.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

Unit H.Q. 2 Cdn. Div

Squadron, battery or company

MORNING SICK REPORT
MEDICAL INSPECTION REPORT*

Station and Date 10 SEP.

Army No.	Rank and Name (Christian name in full Surname first; M under name if married)	Completed Years of Age	Completed Years of Service	Religion	If for duty†	Whether a Defaulter	Lines or Barracks	Room or Mess	Disease
D.105781	Pte DEWEY, L.F.	29		R.C	No FUCH	P --			

I certify that D.105781 Pte Dewey, L.F.
is fit to stand trial by F.G.C.M.

J.M. Brown Maj
RCAMC

*Strike out whichever is not applicable.
†State nature of duty for which warned. In the case of men for medical inspection, the reason, such as "for trial by Court Martial," or "joining the station," &c., should be stated against their names

W1-11181-1500

5

CHARGE SHEET.

THE ACCUSED:

D.105781 Pte. DEWEY, L.F., R.C.A.S.C., H.Q., 2 Cdn. Div., a soldier in the Canadian Army (Active) is charged with:

FIRST CHARGE: A.A. Sec 40 While on Active Service conduct to the prejudice of good order and military discipline, in that he, at ALDERSHOT, HANTS, on 1 SEP. 41, did take a D.N.D. Vehicle No. CM 195183 without authority for his own private pleasure.

SECOND CHARGE: A.A. 41 (5) While on active service committing a civil offence: driving a motor vehicle on a public road while under the influence of liquor, contrary to Section 15 (1) Road Traffic Act, 1930, in that he, at FARNBOROUGH, HANTS, on 1 September, 1941, did drive D.N.D. Vehicle No. CM 195183 while under the influence of drink to such an extent as to be incapable of having proper control thereof and thereby causing damage to said vehicle in the amount of £8/10/0.

To be tried by F.G.C.M.

(Victor W. Odlum) Maj-General.
Commanding, 2 Cdn. Division.

Date: 7 Sep 41.
Place: Aldershot, Hants.

PROCEEDING OF A FIELD GENERAL
COURT MARTIAL HELD AT ALDERSHOT
ON..... 6 SEP 41.

TRIAL OF NO: D-106761 Pte. DEWEY, L.F., R.C.A.S.C. att: 2 Cdn.Div. HQ.

PROSECUTOR: Lieut. N.S. Cuthbert, S. Sask.Regt.

DEFENDING OFFICER: Lieut. E.J. Williams, HQ 2 Cdn.Div.(Calg.Highrs)

SHORTHAND REPORTER: B56801 S/Sgt. D.A. Shenstone, R.H.L.I.

1. The Order Convening the Court is read to the accused.

2. The accused is asked the following questions:

Q. 1. Do you object to being tried by me as President, or by any of the other Members of the Court ?

A. 1. No, sir.

Q. 2. Do you object to the S/Sgt taking down the evidence in shorthand ?

A. 2. No, sir.

3. The President, Members and Shorthand Writer are duly sworn.

4. The accused answers to his name and number and is duly arraigned on the charges.

5.- The accused pleads GUILTY" to both charges.

6. R.P. 35(B) is complied with.

7. Summary of Evidence is read by Prosecutor and accepted by the Defence as correct and as relating to the accused.

8. Substitute for A.F.B. 269 and W.F.M. 6 are filed by Prosecutor and admitted by Defence as correct and relating to accused.

THE DEFENDING OFFICER ADDRESSED THE COURT.

THE COURT CLOSED FOR CONSIDERATION OF SENTENCE.

CERTIFICATE
I hereby certify that the foregoing page/ of typewritten matter is a true and accurate transcript of shorthand notes taken by me at the time and place hereinbefore written.

D.A. Shenstone S/Sgt

(D.A. Shenstone) S/Sgt.
R.H.L.I.

Abstract of Evidence in the case of the Soldier whose name appears in the Charge Sheet attached hereto.

Lieutenant N.S. Cuthbert, S. Sask. R., is directed by the A.A. & Q.M.G., 2 Cdn. Div., to take the Abstract of Evidence, in accordance with Appendix "A" to Div. R.O. No. 772.

FIRST WITNESS: B.82595 L/Cpl. Moore, P.W., R.C.A.S.C., H.Q. 2 Cdn. Div. stated:

I was Duty Corporal, H.Q., 2 Cdn. Div., M.T. Section, from 1730 hrs. 1 SEP. 41 to 0730 hrs. 2 SEP. 41. On 1 Sep. no vehicle could be taken out unless two special documents were signed by an officer with at least Grade II appointment, which two documents I produce as Exhibit "A" and "B" respectively. 1st SEP. 41 was a M.T. Holiday.

Exhibit "A" must be turned in to the Duty Cpl. before a vehicle leaves the car park. At no time on Monday 1 Sep. 41, during my tour of duty, was such a document for vehicle CM 195183 given to me.

The accused, D.105781 Pte. Dewey, L.F., is detailed as driver for Lieut-Col. E.J. Weeks, M.C., M.M., A.A. & Q.M.G., 2 Cdn. Div. The car could not have been taken out without Col. Weeks permission, nor without having a work ticket. Car No. CM. 195183 was last seen by me at 2000 hrs. 1 SEP. 41. I did not see the car taken away, nor did anyone ask me for a work ticket nor did anyone give me a completed form similar to Exhibit "A". As far as I can ascertain no permission was given for the use of this vehicle.

SECOND WITNESS: M.37280 Cpl. Morkeberg, E.A., 2 Coy. Cdn. Provost Corps stated:

I was standing on the sidewalk near the scene of the accident, the car, which I identify as CM 195183, was driving at an excessive rate of speed. The driver could not possibly have made the corner. Upon reaching the scene of the accident I found that Pte. Dewey had no work ticket or authority. Pte. Dewey was under the influence of liquor.

THIRD WITNESS: M.17085 L/Cpl. Pritchard, H.L., 2 Coy Cdn. Provost Corps stated:

I was standing on the side walk with Cpl. Morkeberg when D.N.D. Vehicle No. CM 195183 went by at an excessive rate of speed. After the accident in company with Police Constable Sherring, of the Farnborough Police, we took Pte. Best, to the First Aid Post for medical attention. Both Ptes. Dewey and Best were definitely under the influence of of liquor.

/2.

FOURTH WITNESS: Doctor E.J.C. Beckett, "Sunrise", FARNBOROUGH, Hants, stated:

I was called at 2241 hrs. by the Inspector of Farnborough Police to examine Pte. Dewey; he was definitely under the influence of alcohol sufficient to have inadequate control of a motor vehicle. He had no serious injuries whatsoever.

FIFTH WITNESS: D.91090 Sgt. Platt, C., R.C.A.S.C. stated:

The estimated damage of vehicle CM 195183 is approximately £6/10/0. The parts damaged are:

Front Grill
Front Bumper
Grill Bar
Radiator
Hood fastenings
Fan and pulley
Right front Fender and bumper

This Abstract of Evidence was taken by me at ALDERSHOT, HANTS, on 5 SEP. 41.

O Cuthbert

(W.S. Cuthbert) Lieutenant,
Asst Camp Comd., H.Q., 2 Cdn. Div

Exhibit "A" 10 Sept 41 13

H.Q. 2 CDN DIV.

N.C.O. i/c M.T. Garage:

Please supply a passenger car / Motorcycle to.....

for the purpose of proceeding from _____

to _____ Duty _____

..... Rank

Date _____ 1941. .....Appointment

To be completed by M.T. Garage

Above request filled as under:

W.D. No.	Time Out	Time In	Driver

N.C.O. i/c M.T. Garage

_____ 1941.

Note: Forms to be delivered to Camp Commandant each Monday by 0900 hrs., covering all requisitions up to 2359 hrs Sunday.

Exhibit "B"

Unit HQ. 2 CDN. DIV.

Unit Stamp

M.D. Vehicle _____

10 Sept 41 The above Vehicle is authorized to proceed from _____ to _____ for the purpose of _____

_____

Date: _____ _____ Rank
Appointment

Exhibit "C"

10 Sep 41

17

H.Q., 2 Cdn. Div.
9 SEP. 41.

To Whom It May Concern:-

D.105761 Pte. Dewey, L.M., R.C.A.S.C., att'd H.Q., 2 Cdn. Div. has been my driver for some thirteen months. I have always found him to be a steady, sober and reliable soldier. He is a good driver.

I was amazed to receive a telephone message from a N.C.O. of the Provost Coy. on the evening of 1 Sep 41 at about 2230 hours, to the effect that my motor car was involved in an accident and that Pte. Dewey was drunk.

At about 2330 hours, 1 Sep 41, Pte. Dewey telephoned to me and reported that the car would not be available early the following morning in accordance with my instructions, as it was damaged. He admitted to me that he had taken the car out without permission and that he had been drinking.

I am prepared to have Pte. Dewey as my driver just as soon as he is available.

Ernest Lumsden

(E.G. ~~Weeks~~) Lieut-Colonel,
A.A. & Q.M.G., 2 Cdn. Div.

No. D.105781 Name Dewey, L.F. Sqn., Battery, or Company Corps 2 Div'l RCASC Date of enlistment 25 May 40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

M.F.M. 6 (A.F.B. 122) 500M—8-39 (7761) H.Q. (772-45-18)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				COMPLETED SIX MONTHS SERVICE 25-11-40					
Aldershot	10-10-40	Pte.		Neglect ot the prejudice of good order and military discipline in that he at Aldershot did cause damage to W.D. vehicle No. MC.195180 to extent of 12s 6d.	S/Sgt. Feller	To be put under stoppages to pay to amt. of $1.95	25-10-40	F.O.C.M.	
Aldershot	26-12-40	Pte.		Neglect to the prejudice of good order and military discipline in that he caused damage to a W.D. vehicle No. CM195163 a.a.40	S/Sgt Bletch	Admonished and placed under stoppages of pay of £4.0.0.	3-1-41	(E.J. Weeks) Lt.Col A.A. & Q.M.G.	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	2-6-41	Pte.		W.O.A.S. A.A. Sec 15(1) A.W.L. 0800 hrs 2-6-41 to 1330 hrs 2-6-41 Total 7 hrs 30 minutes	Sgt Harrow	Admonished Forfeits 1 days pay P.R. & I.	3-6-41	J.T. Wilson Capt.	

Certified true and accurate copy:-

W.B. Martin

(W.B. Martin) Captain
Camp Comd., H.Q. 2 Cdn Div.

(Substitute for A.F.B. 296)
or M.F.B.355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. D.105761 NAME Pte. DEWEY, L.F. UNIT R.C.A.S.C., H.Q., 2 Cdn. Div.

AGE 29 MARRIED OR SINGLE M NO. OF DEPENDENTS 6

DATE OF ATTESTATION 28 MAY, 1940.

NO. OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL 2 days 19½ hrs MILITARY 5 days 16½ hrs HOSPITAL NIL TOTAL 8 days 11 hrs.

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY

NIL

A CERTIFIED TRUE COPY OF M.F.M. 6 MUST ACCOMPANY THIS FORM

W.D. Martin

(Officer i/c Records)
(W.D. Martin) Captain
Camp Comd., H.Q., 2 Cdn. Div. Unit.

Dated at ALDERSHOT, HANTS,

This 10 day of SEP. 1941

(To be dated and signed as of date of trial)

WW-48
TPR DEYDE E.A

JAG BRANCH - REVIEW RECORD

Accused

D 73188 Tpr DeYoe E A
27 Edn Armd Regt (SFR)

Remarks	Date
Trial in (Country) England	16 Nov 43
Charges AA 15 (c).	
Sentence 6 days det - Stoppage cost by appn	16 Nov 43
Rec'd from CK at JAG Branch	10 Dec 43
To Rev for (pre)(post) rev	11 Dec

Recommendations by Rev III

(1) Pass and record.
(2) ~~Let~~ on irregularities
(3) ~~Quash~~ charge(s).
(4)

Ret'd to JAG Rev 1 by Rev III	12 Dec 43
Passed to	
Passed to	
To AG 5 for	
Ret'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal Record to file	13 Dec
Instrs completed by	

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D72188 TPR EARNEST ARCHIE DEYOE 27CDTR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and as to loss of kit see RP 44 fn 6.)

~~Imprisonment~~ under sentence for ~~beginning~~ on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of FIVE days, of which NO days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: SIXTY (60) DAYS DETENTION AND PUT UNDER STOPPAGES TO MAKE GOOD COST OF APPREHENSION AND RETURN TO THE AMOUNT OF £2-6-0

(Sgd) ~~Prosecutor, if any.~~ 16 NOV 1943 Date awarded. (Sgd) A.D. Parker - A/C Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minutes of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is

— Confirmed —

~~I direct that the accused be not committed to prison or detention barracks on release.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) ..... BRIG

Date 16 Nov 43 Commanding COMD 1 CDN ARMD BDE Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D72188 TPR. DEYOE, EA. 27 C.A.R.	18 NOV 43	H.D. Gelleau Lieut

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

WW-48

FIELD GENERAL COURT-MARTIAL

CFAA6 (In lieu of AFA3) A.G. P. & S. 7/1698 (2804)

Convened by Order of Brig R.A. Gingras Comd 2 Can Armd Bde dated 13 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (~~b) Apptmt, A/R or A/Apptmt~~	Full Christian Names.	Surname.	Unit.
D72188	TPR	EARNEST ARCHIE	DEYOE	27 CAR (SDG)

Proceedings Reviewed

H.D. Gelleau Lieut

13 Dec 43 Reviewing Officer

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 16 Nov 1943

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order. CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0915 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~as interpreter~~ ? Ans ~~No~~

~~The Interpreter is sworn.~~(1) Do you object to CAPT P.R. GUEST RA as shorthand writer ? Ans No Sir.

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	MARKE, A.D.	8 CAR (MG)
Member	CAPT	McALEESE W.E.	10 CAR (Bde Gp)
Member	CAPT	MUSTARD R.P.	HQ 5th Cdn Armd Div
~~Judge Advocate~~ A.D. Poe			
Prosecutor	CAPT	W.D. HUMPHREY	27 CAR (SDG)
Defending Offr	CAPT	H.M. PEETON	27 CAR (SDG)

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans Yes (2)

(1. RP 28, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. ~~The accused~~ TPR EARNEST DEYOE ~~before arraignment make(s) (does) (do) (no) objection(s) to the (1)~~

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 104), or as to the jurisdiction of the Court (RP 34, 35(A), 123), or as to bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or (in case of several accused charged jointly to be tried separately (RP 66, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full name and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; where several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~adjourns~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (ii); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), to call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO SIR. (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on ~~the~~ charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on~~ charge(s). ~~Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex F, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)*

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(2) (b), RP 45, 120(A).* 2. *AA 54(2), RP 43, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans NO SIR

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~Statement~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex G and Ex H respectively.(3)

(1. *MFB 355 or MFB 296.* 2. *MML p 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans NO SIR.(2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or with anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provisos, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 89, 118, 119(A)(B), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D-72188 Trooper Earnest Archie DEYOE, 27 Canadian Armoured Regiment (SPR) a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
AA Sec 15 (1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, on 17th August, 1943, absented himself without leave from his Regiment, 27 Canadian Armoured Regiment, from 1100 hours on said 17th August, 1943, until he was apprehended by military police in the Y. M. C. A., Piccadilly, Manchester, at approximately 0300 hours on 5th September, 1943, and thus incurring the following costs of apprehension and return to Unit:

(a) Cost of fares and meals for escort and prisoner from Manchester to London: £1-12- 1

(b) Cost of fares for escort and prisoner from London to Worthing: 13-11

Total cost of fares and meals £2- 6- 0

Total absence 18 days 16 hours and 50 minutes.
Close arrest.

In the Field
12 Nov 43.

(M. B. K. Gordon) Lt-Col.,
Commanding Officer,
27 Cdn Armd Regt (SPR)

To be tried by F.G.C.M.

In the field
13 Nov 1943.

(N.A.Citadelli) Brig
Comd 2 Cdn Armd Bde.

Squadron / Battery / Company / Detachment

27 C.A.R. — Unit or Battalion

16 Nov. 1943.

MORNING SICK REPORT

[redacted] No.	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty & prisoner or defaulter	Married or Single	DISEASE	Medical Officer's Remarks and Initials
073188	Tpr. Dreyer, K.A.	24	R.C.	duty	S	Left to stand trial this day.	

Forwarded Capt. Medical Officer

Orderly N.C.O.

M.F.S. 291
40/PAR/140,000/9/43

(OVER)

FIELD GENERAL COURT-MARTIAL

CFA65 (In lieu of AFA3)
40/P&S/1407 (D593)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(8).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	Full Christian Names.	Surname.	Unit.
D 78188	Tpr	Earnest Archie	DEYOE	27 Cdn Armd Reg't

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (since committed the offence(s) set forth in the Charge Sheet attached and on (date) 13th Nov 43 endorsed by me, [illegible] To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial;

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person and to consist of the Offrs appointed or detailed hereunder.

(AA 49, RP 106(8), 107(A). Delete the whole or part, if not applicable.)

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	Marks A.D. (Must be named. RP 106.)	6 Cdn Armd Regt (Unit.)

MEMBERS.

Capt	Mc Aleese W. E.	10 Cdn Armd Regt
Capt (Rank.)	Mustard P.P. (Named or detailed. RP 106.)	HQ Sqn 2 Cdn Armd Bde (Unit.)

WAITING MEMBER.

Lt (Rank.)	McLEOD CMG ADAM [illegible] (Named or detailed, if any. RP 106.)	6 Cdn Armd Regt (Unit.)

[illegible] ADVOCATE

On Active Service in the Fd

in England (Country.)

[illegible] (Signed personally. RP 105 fn 2.) Brig (Rank.)

Date. 13 Nov 1943 Commanding 2 Cdn Armd Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Exhibit "J"

SUMMARY OF EVIDENCE

in the case of

D-72188 Trooper Earnest Archie DEYOE, 27th Canadian Armoured Regiment, Cdn Army Overseas, charged with ABSENCE WITHOUT LEAVE from 1100 hours 17th Aug 43 to 0350 hours 5th Sep 43.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS: D-47047 L/Cpl LEROUX, M., of "HQ" Squadron, 27th Canadian Armoured Regiment, having been duly sworn, states:

"I am D-47047 L/Cpl Leroux, M., of "HQ" Sqn., 27 Cdn Armd Regt. I know D-72188 Tpr Deyoe, E. A., whom I recognize here as the accused and a member of "HQ" Sqn. I was, on the 17th August, 1943, and still am, in charge of the batmen of "HQ" Sqn and of Tpr Deyoe. At about 0900 hours 17th Aug 43, I was told by D-46027 SQMS Jackson, D. P., to warn Tpr Deyoe to appear at 1100 hours on "HQ" Sqn office parade in front of "HQ" Sqn office. I warned Tpr Deyoe at about 0910 hours in front of his quarters and he said he would be there. At 1100 hours the same day I was at "HQ" Sqn office and Tpr Deyoe did not appear. I searched for him in the area but could not find him. I then reported his absence to SQMS Jackson, D. P.

The accused declines to cross examine this witness.

RF 83 (b) complied with.

F/Lt. Leroux M.
(D-47047 L/Cpl Leroux, M.)

SECOND WITNESS: D-46027 SQMS JACKSON, D. P. "HQ" Squadron, 27th Canadian Armoured Regiment, having been duly sworn, states:

"I am D-46027 SQMS Jackson, D. P., "HQ" Sqn, 27 Cdn Armd Regt. I know D-72188 Tpr Deyoe, E. A., whom I recognize here as the accused and a member of "HQ" Sqn. As Acting SSM of "HQ" Sqn on 17th Aug 43, I told D-47047 L/Cpl Leroux to warn Tpr Deyoe to be present at 1100 hrs on "HQ" Sqn office parade. At about 1105 L/Cpl Leroux reported to me that Tpr Deyoe was absent. I checked the tattoo report from 16 Aug 43 until 23 Aug 43 every morning and found the accused absent.

SECOND WITNESS (Cont'd)

The accused declines to cross examine this witness.

RP 83 (b) complied with.

Norm D Jackson
.....
(D-46027 SQMS Jackson, D. P.)

THIRD WITNESS: P-29861 SSM NICHOLSON, C. L., "B" Squadron, 27th Canadian Armoured Regiment, having been duly sworn, states:

"I am P-29861 SSM Nicholson, C. L. of "B" Sqn 27 Cdn Armd Regt. On 23 Aug 43 I was posted to "HQ" Sqn as SSM. I checked the tattoo reports from the 24 Aug 43 until the 5th Sep 43 and found D-72180 Tpr Deyoe, E. A. absent.

The accused declines to cross examine this witness.

RP 83 (b) complied with.

A.S.M. Nicholson. C.L.
(P-27861 SSM Nicholson, C. L.)

FOURTH WITNESS: 1053635 L/CPL KELLY, M., C. M. Police,

Document purporting to be a signed statement of evidence of 1053635 L/Cpl Kelly, M., C. M. Police, was read over to accused, marked exhibit "C" and attached hereto.

I certify that in my opinion, owing to the exigencies of the service, including the time and expense involved, the attendance of this witness at the taking of the summary of evidence cannot readily be procured.

W.A. Dann Lt
.....
(W. A. Dann) Lieut, CAC.,
Officer taking Summary.

FIFTH WITNESS: LIEUTENANT D. A. DANN, C. A. C., attached 27th Canadian Armoured Regiment, having been duly sworn, states:

"I am Lieut N. A. Dann, attached to 27th Canadian Armoured Regiment as Special Increment. Having been detailed by the Commanding Officer to make a summary of evidence in the case of D-72188 Tpr Deyoe, E. A., charged with absence without leave, I submit certified extracts from 27th Cdn Armd Regt Part II Orders No. 30 d/2 Sep 43, Para 10 (b) and No. 32 d/16 Sep 43, Para 9 (b) recording the absence of the accused, which I have marked exhibit "A" and attached hereto. I also submit statements of expenses incurred in apprehension and return of D-72188 Tpr Deyoe, E. A., which I have marked exhibit "B" and attached hereto. I also submit a certificate of apprehension in accordance with Army Act Sec 163 (1) (jj) and PC 2797, which I have marked exhibit "C" and attached hereto.

The accused declines to cross examine this witness. RP 83 (b) complied with.

.....
(N. A. Dann) Lieut., CAC.,
Attached 27 Cdn Armd Regt.

The accused was warned as follows:

"Do you wish to make any statement or give evidence on oath ? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence".

The accused:

"I have nothing to say at this time"

.....
(D-72188 Tpr Deyoe, E. A.)

I certify that RP 4 (b) (c) (d) and (e) have been complied with.

Taken down by me in the presence and hearing of the accused this 15th day of November, 1943.

.....
(N. A. Dann) Lieut., CAC.,
Officer taking Summary.

LIST OF EXHIBITS
In the case of D-72188 Tpr Deyoe, E. A.
27th Cdn Armd Regt.

Exhibit "A":

Extracts from 27 Cdn Armd Regt Part II Order No 30 d/2 Sep 43 (Para 10 (b) and Part II Order No 32 d/16 Sep 43 (Para 9 (b)

Exhibit "B":

Certificate of apprehension in accordance with AA Sec 163 (1) (JJ)

Exhibit "C":

Statement of evidence of 1053635 L/Cpl Kelly, M., C. M. Police.

Exhibit "D":

Statements of expense incurred in apprehension and return to unit of D-72188 Tpr Deyoe, E. A.

.....
(E. A. Dann) Lieut.,
Officer taking Summary.

EXHIBIT 'A'

EXTRACT FROM 27 CDN ARMD REGT PART II ORDER NO 30 d/2 SEP 43

10. ABSENT WITHOUT LEAVE

(b) A. W. L. from 1100 hrs 17 Aug 43. Still absent 1100 hrs 25 Aug 43 (8th day)

D-72188 Tpr Deyoe, E. A.

Certified a true extract from the above numbered unit Part II Order.

11 Nov 43. G. W. Cote

(G. W. Cote) Captain/Adjutant,
27th Cdn Armd Regt (SPR)

This is exhibit "A" referred to in the summary of evidence in the case of D-72188 Tpr Deyoe, E. A., taken before me this 13th day of November, 1943.

(E. A. Dann) Lieut,
officer taking summary.

EXHIBIT B

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I CERTIFY that No.D.72[illegible]6 . . Rank . Pte. . Name . Dyce, E. . . . . .

Unit .27 C.T.B. . . . . was arrested at Manchester . .(place)

at .0350. . .(hour) on 5 Sept. 43. .(date) and that at the time of his arrest he was wearing (Military Uniform) or (Civilian clothes) Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
7 Sept. 43.

L. S. Crayson. Lieut.
..... Capt.
(W. Form) D. A. P. M.
London Area

EXHIBIT B

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SECTION 163 (1) (a).

I certify that No. W/ [redacted] Rank. Private Name [redacted]

of The Canadian Tank Regiment Unit, who arrested at Y.M.C.A. Piccadilly, Manchester.

At 03.30 hours, on the Fifth day of September 1943.

Signature of Provost Marshal, A.P.M., or other Officer into whose custody the above named person was taken on arrest. E.C.C. Garfit- Staff Capt. Corps of Military Police, 164 H.Q. Provost Company, Lancashire and Border District.

Date 7th September 1943.

EXHIBIT "C"

Statement of **EVIDENCE** in the case of.
No, D/72188 Tpr Doyoe E.A.
H.Q. Squadron.
Canadian Tank Regiment.
Worthing. Sussex.

Sir

At Manchester on Sept 5th 1943. about 0350hrs I was on duty in the Y.M.C.A. Piccadilly Manchester with L/Cpl Murphy G. ..olice, where I saw the above named soldier, I asked him if he was on leave and he replied " No I am absent". I arrested him and conducted him to the Drill Hall Ardwick, where he was handed over to the N.C.O. I/c Provost guard, to be detained. He was wearing Military Uniform and was sober.

Manchester. L/Cpl.
Sept 5th 1943. G.M.Police.

Sir,

I have read over and corroborate the above statement.

Manchester. L/Cpl.
Sept 5th 1943. G.M.Police.

This is exhibit "C" referred to in the summary of evidence in the case of D-72188 Tpr Doyoe, E. A. taken before me this 13th day of November, 1943.

REMARKS (N. A. Dann) Lieut
Officer taking Summary

EXHIBIT B

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SECTION 163 (1) (a).

I certify that No. W/ [illegible] Rank. Private Name [illegible] Unit.

of The Canadian Tank Regiment Unit, was arrested at [illegible]

at 09.30 hours, on the First day of September 1943.

E.C.C. Garfit Staff Capt.

Signature of Provost Marshal, A.P.M., or other Officer into whose custody the above named person was taken on arrest.

Corps of Military Police, 164 H.Q. Provost Company, Lancashire and Border District.

Date 7th September 1943.

EXHIBIT B

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I CERTIFY that No.D.72[illegible] . . Rank . Pte. . Name . Dewe, E.A. . . . . .

Unit .21 C.T.R. . . . . was arrested at Manchester . .(place)

at .0350. . .(hour) on 5 Sept. 43. .(date) and that at the time of his arrest he was wearing (Military Uniform) or (Civilian clothes)

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
7 Sept. 43.

L. S. Grayson. Capt.
. . . . . Capt.
(W. Form) D. A. P. M. K.
London Area

This is exhibit "B" referred to in the summary of evidence in the case of D-72188 Tpr Deyoe, E. A., taken before me this 15th day of November, 1943.

(N. A. Dann) Lieut.,
Officer Taking Summary.

EXHIBIT B

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SECTION 163 (1) (ii).

I certify that No. W/ [redacted] Rank Trooper Name [redacted] E.

of The Canadian Tank Regiment Unit, was arrested at Y.M.C.A. Piccadilly, Manchester.

at 03.30 hours, on the Fifth day of September 1943.

Signature of Provost Marshal, A.P.M., or other Officer into whose custody the above named person was taken on arrest. E.C.C. Gadsil - Staff Capt. Corps of Military Police, 164 H.Q. Provost Company, Lancashire and Border District.

Date 7th September 1943.

This is exhibit "B" referred to in the summary of evidence in the case of [redacted] Tpr Deyoe, E. A. taken before me this 13th day of November, 1943

(N. A. Lann) Lieut,
Officer taking Summary

EXHIBIT "C"

Statement of **EVIDENCE** in the case of.
No, D/72188 Tpr Deyoe E.A.
H.Q. Squadron.
Canadian Tank Regiment.
Worthing. Sussex.

Sir

At Manchester on Sept 5th 1943. about 0350Hrs I was on duty in the Y.M.C.A. Piccadilly Manchester with L/Cpl Murphy C. .Police, where I saw the above named soldier, I asked him if he was on leave and he replied " No I am absent". I arrested him and conducted him to the Drill Hall Ardwick, where he was handed over to the N.C.O. I/c Provost Guard, to be detained. He was wearing Military Uniform and was sober.

[illegible] L/Cpl.
C.M.Police.

Manchester.
Sept 5th 1943.

Sir,

I have read over and corrobrate the above statement.

[illegible]. L/Cpl.
C.M.Police.

Manchester.
Sept 5th 1943.

This is exhibit "C" referred to in the summary of evidence in the case of D-72188 Tpr Deyoe, E. A. taken before me this 13th day of November, 1943.

REMARKS (M. A. Dann) Lieut
Officer taking Summary

CHARGE. 190 Army Form B 252
(See King's Regulations)

Canadian Tank. Regiment
H.Q. Squadron. Battery / Squadron / Troop or Company

CHARGE against No. D/ 72188. Rank Tpr.

Name Deyoe, L. A.

Place Date of Offence

OFFENCE W.O.A.S. Absent from.... until apprehended by the MILITARY POLICE IN THE Y.M.C.A. PICCADILLY MANCHESTER. about 0350Hrs, on Sept 5th 1943.

Names of Witnesses: [illegible] H. C.M.Police.
40/780.1/Sgt Murphy, S. C.M.Police.

Signature of O.C. Battery, Squadron, Troop or Company: S.C.C Sq.fil-Capt. A.P.M. [illegible]

Punishment Awarded

By whom Awarded

Adjutant

F.P.

Expense Voucher Re— EXHIBIT D Ref: K.R. & O. (Can) 539

No. D 72188 Rank Tpr Name Heyde, E.A. Unit 27 C.T.R. HQ Sqdn

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Manchester

Date	Particulars (Exportation)	Amount £	s	d
8 Sept 43	Escorts return fare from LONDON To Manchester		14	1
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Beer~~, Meals, Bus fares (Exportation		3	11
	Total £	1	12	1

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L. Mayson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-55
46/T & S/48(5287)

This is exhibit "p" referred to in the summary of evidence i n the case of D-72188 Tpr Deyoe, E. A. taken before me this 13th day of November, 1943.

(N. A. Dann) Lieut.
Officer taking Summary

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

No. 722188 Rank Tpr. Name Dupal, C. A. Unit 22 Can Armd Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount £	s	d
6 Sept 43	Escorts return fare from LONDON To Worthing		9	3
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Worthing		4	8
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		13	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L. S. Lawson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40(F & S(453)(2087)

This is exhibit "D" referred to in the summary of evidence in the case of D-72186 Tpr Deyoe, E. A. taken before me this 13th day of November, 1943.

(N. A. Dann) Lieut.
Officer taking Summary

E.A. Deyoe

I, D-72188 Trooper DEYOE, E. A., desire the Convening Officer to detail an Officer to represent me at my forthcoming trial by Field General Court-Martial.

I desire the services of CAPTAIN W. D. HUMPHREY, if he is available.

Earnest A. Deyoe, Tpr
(D-72188 Tpr Deyoe, E. A.)

Not available as Capt. Humphrey will be prosecuting officer

by W. Cob Capt & Adjt

LIST OF WITNESSES FOR THE PROSECUTION

In the case of D-72188 Tpr Deyoe, E. A.
27th Cdn Ar md Regt.

P-29861 SSM Nicholson, C. L.
27 Cdn Armd Regt (SFR)

D-46027 SQMS Jackson, D. P.
27 Cdn Armd Regt (SFR)

D-47047 L/Cpl Leroux, M.
27 Cdn Armd Regt (SFR)

1053635 L/Cpl Kelly, M.
C. M. Police

Lieut N. A. Dann,
CAC Spec Inc Attached 27 CAR

LIST OF WITNESSES FOR THE DEFENCE

In the case of D-72188 Tpr Deyoe, E. A.
27th Cdn Armd Regt.

N I L

EXHIBIT "H"

M.F.M. 6
A.F.B. 127
7-41 (1210-20)
(772-10-1632)

No. D72186 Name DEYOE Ernest Archie | Sqn., Battery, or Company | Corps CAC | Date of enlistment 22-2-41 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | Date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. R.C. MacLean Lieut a/o.C.

#1 destroyed 22-8-41

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Airport, NFLD.	12-8-41	Rfn		AA15-1. failed to return from weekend leave. AWL from 0 00,12 Sep until 0480 hrs 24 Sep 41	L/Cpl Leal	14 days C.B. 14 extra Drills	24-9-41	Maj Allen	12 days A.F.
Colwood, B.C.	27-3-42	Rfn		AA15-1 AWL from 0630 to 2200 hrs 27 Mar 42 15 hrs 30 min	Cpls Leal & CASCATLEn	10 days C.B.	28/3/42	Maj White	A.F. 1 days pay ARt 149
Macaulay, B.C.	15-4-42	"		(AA15-1) AWL fr 0359 hrs 15 Apr 42 to time apprehended 1200 hrs 9 May 42.	R.C.F.Const. Smith, G. 21 Pro Coy	28 days det Forf. 12 days pay while in civil custody & cost of apprehension $10.47		Lt/Col E.H. Rakin	A.F. 24 days pay AWL (Art 149-1a FR&I
Nanaimo, B.C.	13-6-42	Rfn		GRANTED FOUR DAYS REMISSION OF ABOVE SENTENCE UNDER THE PROVISIONS OF PARA 26 R&I M.D.B. for good conduct					
Field	1--43	Tpr		AA 15(1) AWL 1600 hrs 1-8-43 0903 hrs 3-8-43 Total 41 hrs 30 min	Capt N.H. Walsh	7 days pay 7 days C.B.	6 Aug 43	N.B.K. Gordon, Lt-Col	2 days auto Forf of pay

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13/8/43	Tpr		Civil Conviction-Two charges of THEFT Certified a true copy: (GW Cote) Capt/Adjt., 27 Cdn Armd Regt.		2 months civil detn	17/9/43	Worthing Court of P.Sessions	Forfs 67 days pay

Booklet "G"
A2 Army

M.F.B. 355
26M—11-41 (3279)
H.Q. 1772-30-620
A.F.H. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-72188	Trooper	Earnest Archie DEYOR,	27 Cdn Armd Regt

1. The following is a fair and true summary of the entries in the Field [redacted] Conduct sheets [redacted] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
	A.W.L.		A.W.L.	
For		One Two (2) times		2 times
For	N/A	times	N/A	times
For	N/A	times	N/A	times
For	N/A	times	N/A	times

[redacted]

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. [redacted]

Previous convictions of the accused by a court-martial or a civil court, of summary awards under [redacted] Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 5 days in military custody, making a total of 5 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 24 YRS - 7 mos - 6 days

6. The date of his [redacted] attestation specified in his [redacted] attestation paper 22 Feb, 1941

7. [redacted]

8. [redacted]

9. The accused is in possession of or entitled to [redacted] military decoration, [redacted] military reward [redacted]

[redacted]

10. [redacted]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force unit
N/A dated N/A, and in his regiment (or corps), the rank of
N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of N/A years.

In the rank of N/A years.

In the rank of N/A years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number D72188 Rank Tpr

Name Earnest Archie DEYOE of 27th Cdn Armd Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Executed
Worthing Court of Petty Sessions	17 Sep 43 Worthing	Two charges of THEFT	One months imprisonment on each charge (sentence to run consecutively)	NIL

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this SIXTEENTH day of Nov, 1943

(GH Cote) Capt/Adjt.
27 Cdn Armd Regt.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Exhibit C signed by the president, and annexed to the proceedings.

BBB-53 (Count 2)

TPR DeYoe E.A.

See WN-48 for list cases

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 72188 Tpr Earnest Archie Deyoe

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (2)	guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for 60 days beginning on (date) 16 Nov 43. (1)
(1. Insert sentence being served, or delete. If not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ____ days, of which ____ days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for 3 mo[illegible] to run from date of expiration of present sentence.

10 Jan 44 (Sgd) W.G.A. Lambert Major
Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ____ (Sgd) ____ Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

— Confirmed —

I direct that the accused be not committed to prison or detention barracks for the sentence ordered.(1)
(1. AA 57A. Delete if not used.)

(Sgd) [illegible] BRIG
Date 13/1/44 Commanding COMD 2 CDN ARMD BDE Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D72188 Tpr Earnest Archie Deyoe	15 Jan 44	A.U. Bols Capt A/Adjt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

BBB-53

FIELD GENERAL COURT-MARTIAL

(PAGE (In lieu of AFA2) 40/P.A.F./1608 (2864))

Convened by Order of Brig N.A. GIANELLI Comd 2 Cdn Armd Bde dated 7 Jan 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-72188	Tpr	Earnest Archie	DEYOE	27 Cdn Armd Regt

PROCEEDINGS REVIEWED 15-72644 3rd Trnd Cdn Date 31 Jan 44 REVIEWING OFFICER, JAG BRANCH C.M.H.Q. AJAG 1 Cdn Army

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 10 Jan 44 CDN ARMY

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~AA, if alive~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OF JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~was~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn h. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~was~~ brought before the Court. At 1045 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~and~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~
(1. KR Con 557. 2. AA 46(B), RP 60 fn i. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to [illegible] as Interpreter?~~ Ans ~~The Interpreter is sworn.~~ Do you object to C 96555 Pte Guest R.d as shorthand writer? Ans No
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~AA, if alive~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W.G.A. LAMBERT	6 Cdn Armd Regt
Member	Major	F. PRATTEN	2 Cdn Armd Bde Sigs
Member	Capt	W.C. BURGOYNE	10 Cdn Armd Regt
Judge-Advocate	~~Capt~~ [illegible]	[illegible]	[illegible]
Prosecutor	Capt	J.W. Bolt	27 Cdn Armd Regt
~~Reporting Offr~~			

Questions by President: Is the Prosecutor a lawyer? Ans No ~~Is the Defending Offr a lawyer? Ans~~
(1. RP 26, 27, 109, 111. Lists of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See RP p 31.)

A8. The accused D 72188 Tpr E.A. Deyoe before arraignment makes(s) (no) objections. (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(K), 112), or in bar of trial (RP 36), or as to accd's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~was~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~does~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) and call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s)(1). If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Nil.(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (5). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on charge(s). Part 1 of the Schedule is amended accordingly.~~(1)
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the pleas of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. C., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. Nil.(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para. If submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 73 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*c*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Nil.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 162(3) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. D and Ex. E. respectively.(3)
(1. *MFB* 353 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(1) and Conduct Sheet(2), and in mitigation of punishment ?(3) Ans. Nil.
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or deal with anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the Adjudicators~~.(2)
(1. *When several accused tried separately see RP* 7(2). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 336, 563-566, *Overseas RO* 309, 2323, *MML p* 66, 757-758. *As to sentences assigned for civil offences by the law of England see AA* 40(2), *MAN p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and dispersal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D-72188 Trooper Earnest Archie DEYOE, 27th Canadian Armoured Regiment (SPR) a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
AA 15 (1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, on 4 Dec 43, absented himself without leave from his Regiment, 27 Canadian Armoured Regiment, from approximately 0600 hours until he was apprehended by Canadian Provost Corps personnel at the American Red Cross Club, Glasgow, at approximately 1615 hours 30 Dec 43, thereby incurring cost of return to Unit to the sum of £3- 0- 1 (say three pounds eight shillings and one pence)

Total absence 26 days 10 hours 15 minutes.

Close arrest.

G W Côté

(G. W. Côté) Capt & Adjt.,
Acting Commanding Officer,
27 Cdn Armd Regt (SPR)

5 Jan 44.

To be tried by FGCM.

(N.A. GIANELLI) Brig
Comd 2 Cdn Armd Bde

Field
7 Jan 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA5)
40/Pam/1097 (2000)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. ~~and (b) Apptmt, A/Rank or A/Apptmt~~.	Full Christian Names.	Surname.	Unit.
D-72188	Tpr	Earnest Archie	DEYOE	27 Cdn Armd Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (date) 7 Jan 44 endorsed by me, ~~not by any offr of my comd~~ "To be tried by Field General Court-Martial".

2. ~~And whereas I am of opinion that it is not practicable that such offence(s) should be tried by any ordinary Court-Martial, and that it is not practicable to delay the trial for reasons to be mentioned in the Court-Martial Convening Order, and that the trial cannot be adequately held except outside any Canadian Military Court, and that it is expedient and just for the public interest so to do (AA 49);~~

3. I hereby convene a Field General Court-Martial to try the said person(s) and to consist of the Offrs appointed or detailed hereunder.

4. ~~I hereby appoint (or) those Offrs to form the Court, (by) a Fd Offr as President for the reasons I have attached hereto.~~ (AA 49, RP 106(B), 107(A). *Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ (RP 106(E). *Delete, if none appointed.*)

PRESIDENT.

Major (Rank.)	W.G.A. LAMBE (Must be named. RP 106.)	6 Cdn Armd Regt (Unit.)

MEMBERS.

Major	F. PRATTEN	2 Cdn Armd Bde Sigs
Capt (Rank.)	W.C. BURGOYNE (Named or detailed. RP 106.)	10 Cdn Armd Regt (Unit.)

WAITING MEMBER.

Lt (Rank.)	M.H. THOMAS-PETER (Named or detailed, if any. RP 106.)	HQ 2 Cdn Armd Bde (Unit.)

JUDGE ADVOCATE.

~~Capt~~ (Rank.)	~~A.C. Reid~~ (Must be named, if any. RP 106.)	~~HQ 2 Cdn Inf Div~~ (Unit.)

On Active Service in the Fd

in England (Country.)

Date: 7 JAN 44

Signed personally. ~~RP 106(F).~~

(N.A. Bishelli)
Commanding 2 Cdn Armd Bde
Convening Officer.

~~Brig~~ (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. D-72188 Tpr. Boyce D. E.

Of 27 C. A. R. (Sher Rus ~~Sq~~) in a well state of health

and fit to undergo Trial by Court martial.

B. J. Anderson Capt
Medical Officer

Station In the Field

Date 10 Jan 44

MFR 246

APPENDIX "A"

PART II ORDER EXTRACT FORM

99/20/27AR/1(Adsg)

Officer Commanding
27 Armoured Regiment
Cdn Army Overseas

6 Jan 44 19

EXTRACT FROM: Unit 27 Armoured Regiment(Sher Fus R)

Part II Order No. 47 dated 31 Dec 43

ABSENT WITHOUT LEAVE

A.W.L. from 0600 hrs 4 Dec 43. Still absent 0600 hrs 12 Dec 43. (8th day)
D72188 Tpr Deyoe E.A.

The following documents are (attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

Certified true extract
H Crawford JAN 6 1944
(H.E. Alford) Lieut for
Officer in Charge
Canadian Section, G.H.Q. 2nd Echelon

Originating Clerk's Initials WW

FCH—6
40-7-43-1276 (2671)

APPENDIX "A"

PART II ORDER EXTRACT FORM

TO: Officer Commanding
27 Armoured Regiment
Cdn Army Overseas

99/20/ 27AR/1(A5g)

6 Jan 44 19

EXTRACT FROM: Unit 27 Armoured Regiment(Sher Fus R)

Part II Order No. 47 dated 31 Dec 43

ABSENT WITHOUT LEAVE

A.W.L. from 0600 hrs 4 Dec 43. Still absent 0600 hrs 12 Dec 43. (8th day)
D72188 Tpr Deyoe E.A.

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

Certified true extract

H.E. Alford

JAN 6 1944

WN

Originating Clerk's Initials

H.E. Alford)Lieut for

Officer in Charge
Canadian Section, G.H.Q., 2nd Echelon

ECH—6
42/P & S/1276 (2671)

PART II ORDER EXTRACT FORM

TO: Officer Commanding
27 Armoured Regiment
Cdn Army Overseas

99/20/27 AR/1(A5g)

6 Jan 44 19

EXTRACT FROM: Unit 27 Armoured Regiment(Sher Fus R)

Part II Order No. 1 dated 7 Jan 44

ABSENT WITHOUT LEAVE

A.W.L. from 0600 hrs 6 Dec 43 ~~XX~~ Still absent 0600 hrs 26 Dec 43. (22nd day)
D72188 Tpr Deyoe E.A.

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

Originating Clerk's Initials WN

~~XXX~~ (H.E. Alford)Lieut for
Officer in Charge
Canadian Section, G.H.Q., 2nd Echelon

ECH—6
40/P & S/1276 (2671)

Appendix "B"

Army Form

(See King's Regulations)

Regiment or Battery, Squadron, Troop or Company

CHARGE

27th Co... Regt.

H.Q. Sqn.

Rank Tpr.

CHARGE against No. D 72188

Name Deyoe, E.A.

Date of Offence 30 Dec 43.

Place Glasgow

OFFENCE W.O.A.S. was A.W.L. from ? until apprehended by the Can.Provost Corps at about 1615hrs on the 30 Dec 43 in the American Red Cross Club, Charing Cross, Glasgow.

CAPT.

Names of Witnesses

Sgt.Gibbs, L.A. Can.Provost Corps.

Cpl.Matthew,A. Can.Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

Appendix "B"

CHARGE

Army Form B 252
(See King's Regulations)

27th Cdn.Armd.Regt. — Regiment / Battery / Squadron / Troop or Company

H.Q.Sqn.

CHARGE against No. D 72188 Rank Tpr.

Name Deyoe, E.A.

Place Glasgow Date of Offence 30 Dec 43.

OFFENCE W.O.A.S. was A.W.L. from ? until apprehended by the Cdn.Provost Corps at about 1615hrs on the 30 Dec 43 in the American Red Cross Club, Charing Cross, Glasgow.

CAPT.

Names of Witnesses:—

Sgt.Gibbs, L.A. Cdn.Provost Corps.

Cpl.Matthew,A. Cdn.Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

20005 Wt.W3407/1428 1,500,000 10/41 K & H. Ltd (A6744)

APPENDIX "B"

CHARGE

Army Form B 252
(See King's Regulations)

27th Cdn.Armd.Regt. — Regiment

H.Q.Sqn. — Battery / Squadron / Troop or Company

CHARGE against No. D 72188 Rank Tpr.

Name Deyoe, E.A.

Place Glasgow Date of Offence 30 Dec 43.

OFFENCE W.O.A.B. was A.W.L. from ? until apprehended by the Cdn.Provost Corps at about 1615hrs on the 30 Dec 43 in the American Red Cross Club, Charing Cross, Glasgow.

CAPT.
ASSISTANT PROVOST MARSHAL
LONDON AREA

Names of Witnesses:—

Sgt.Gibbs, L.A. Cdn.Provost Corps.

Cpl.Matthew,A. Cdn.Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

30005 Wt.W2465/P.406 1,500,000 10/43 K.A.H. Ltd (A6570)

statement of EVIDENCE in the case of
D 72188 Tpr. Deyoe, E.A.
27th Cdn.Armd.Regt.
H.Q.Sqn.

Sir:

at Glasgow at about 1615hrs on the 30 Dec 43, in company with Cpl.Matthew,A. on information received I proceeded to the American Red Cross Club, Charing Cross,where I saw the a/m soldier.

I approached him and requested to see his pass,which he was unable to produce, replying, that he was stationed in Edinburgh and did not need a pass.

On further questioning he admitted being A.W.L.

I placed him under arrest and escorted him to Central Police Station,where I handed him over to the Orricer i/c to await escort.

Sgt.
C 42000 Gibbs,E.A.

Glasgow
30 Dec 43.

Sir:

I have read over and corroborate the above statement.

Cpl.
M 36543 Cpl.Matthew,A.

Glasgow
30 Dec 43.

REMARKS

APPEN "C"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 072188 Rank Tpr. Name Deyol, C. A. Unit 27 Armd Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Glasgow

Date	Particulars ½ Portion	Amount		
2 Jan. 44.	Escorts return fare from LONDON To Glasgow	1	10	10
	Prisoners single fare to LONDON From Glasgow	1	10	10
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Beer~~ Meals, Bus fares ½ Portion.		6	5
	Total £	3	8	1

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L. S. Grayson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-55
40/P & S/483

APPENDIX "D"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR.42

I certify that No. D 72186 Rank Tpr. Name Deyoe, E.A.

Unit H.Q.Sqn. 27th Cdn.Armd.Regt. was arrested at Glasgow (place)

at 1615hrs (Hour) on 30 Dec 43. (date) and that at the time of his arrest he was wearing (military uniform) or (~~civilian clothes~~).

Signature of Provost-Marshal, Assistant Provost-Marshal, or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant- officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

~~RANK~~ CAPT.

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~, D.A.P.M.
Canadian Provost Corps.
London Area.

LONDON (L.S.Grayson)

Exhibit C

W.J. Adams Major

SUMMARY OF EVIDENCE IN THE

CASE OF

D-72188 Trooper EARNEST ARCHIE DEYOE

27 Cdn Armd Regt (SPR)

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS: Captain G. W. COTE, 27 Cdn Armd Regt., having been duly sworn, states:

"I am Captain G. W. Cote, Adjutant of the 27 Cdn Armd Regt (SPR). I know the accused whom I recognize as D-72188 Tpr Deyoe, Earnest Archie. On 4 Dec 43 it was reported to me by the Duty Officer that he was AWL from the guard room. I hereby offer in evidence as Appendix "A" true extracts of Regimental Part II Orders published by CMHQ 2nd Echelon; these extracts state the 1st, 8th and 22nd day of absence of Tpr Deyoe. I offer in evidence as Appendix "B" Army Form B252 on which is given evidence of C-42000 Sgt L. A. Gibbs, Cdn Provost Corps, and M-36843 Cpl A. Matthew, who corroborates the statement of Sgt Gibbs. I also offer in evidence as Appendix "C" CMHQ Form 1000:55 stating expenses incurred in returning the accused to his unit, and as Appendix "D" certificate of arrest signed by DAPM, Cdn Provost Corps, London Area.

The accused declines to cross-examine this witness.

G.W. Cote
.....
(G. W. Cote) Captain.

SECOND WITNESS: B-110127 TROOPER DILLABOUGH, R. W., 27 Cdn Armd Regt., having been duly sworn, states:

"I am B-110127 Tpr Dillabough, R. W., 27 Cdn Armd Regt. On the 4 Dec 43 I was a member of the guard and Tpr Deyoe, whom I recognize, was a prisoner in the guard room. At about 0600 hours Tpr Deyoe asked me to take him out to the toilet which is at the back of the building where the guard room is situated. I said yes, and took him outside to go around to the toilet. As we came around the corner of the building all of a sudden Tpr Deyoe gave me a shove against a truck which was parked there. I did not fall down, but by the time I regained my balance Deyoe was running down the road. I ran after him, but as it was very

SECOND WITNESS (Cont'd)

dark I could not find or catch him. He must have hidden in the bushes. I stopped and listened to see if I could hear him moving around. There was not a sound. I then returned to the guard room and reported to the guard commander. We immediately went out and searched the grounds, and also went in to New Milton and looked through the town and the railroad yards. We also contacted a policeman and gave Deyoe's description. We did not find him. Since December 4th this is the first time I have seen Tpr Deyoe. After having looked for Tpr Deyoe in New Milton without finding him there, we came back to camp, got a jeep and went to Bournemouth, Christchurch and Brockenhurst, but did not find any trace of him. We contacted the station master at Brockenhurst and gave him the description of Tpr Deyoe. We were told that a man answering that description had taken a train to Southampton at 0745 hours. We then went to Southampton and yet did not find him.

The accused declines to cross-examine this witness.

R.W. Dillabough
.....
(B110127 Tpr Dillabough, R.W.)

THIRD WITNESS D-46027 SSM JACKSON, D. P., 27 Cdn Armd Regt., having been duly sworn, states:

"I am D-46027 SSM Jackson, D. P., SSM of HQ Sqn., 27 Cdn Armd Regt. At about 1000 hours on 4 Dec 43 it was reported to me by one of the guards that Tpr Deyoe had escaped. I immediately went to the guard room and investigated and found that Tpr Deyoe was NOT in the guard room. I reported this to Major Baldwin, O. C. HQ Sqn. I recognize the accused as Tpr Deyoe, E. A.

Q. Since the 4 Dec 43 when did you first see the accused, Tpr Deyoe ?

A. The first time I saw him after this date was on 4 Jan 44, when he was brought here under escort.

The accused declines to cross-examine this witness.

D. Jackson
.....
(D-46027 SSM Jackson, D. P.)

THE ACCUSED WAS WARNED AS FOLLOWS:

" Do you wish to make any statement or to give evidence upon oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence "

ANSWER BY THE ACCUSED:

" I have nothing to say"

I certify that rules of procedure 4, (b) (c) (d) and (e) have been complied with.

Taken down by me in the field in the presence and hearing of the accused this 7th day of January, 1944.

G W Cote
.....
(G. W. Cote) Captain,
officer taking Summary.

Exhibit E W.J. Rumble Major C.A.C.

Sheet one destroyed 22 Aug 41

MFM 6
A.F.B. 122)
2-45/150 (3428)

No D72188 Name DEYOE Ernest Archie Sqn, Battery, or Company — Corps C.A.C. — Date of enlistment 22Feb41 — GC Badges — Service or Proficiency Pay

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 2 — Signature OC Company, etc Maj MacLean — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Airport Mfld	12/9/41	Rfn		AA 15 (1) Failed to return from week-end leave-AWL from 0800 12 Sep 41 to 0450 24 Sep 41.	L/Cpl Leal	14 days CB	24Sep41	Maj Allen	12 days A.F.
Colwood BC	27Mar42			AA 15 (1) AWL from 0630 hours to 2200 hours 27 Mar 42	Cpl Leal	10 days CB	28Mar42	Maj White	1 days pay
MacAuley BC	15Apr42			AA 15 (1) AWL from 2359 hours 15 Apr 42 to time apprehended 1220 hours 9 May 42	RCP Constable Smith, G. 21 Pro Coy Vernon BC	22 days Detn-Forfs 12 days civil custody-cost of app $10.47.		Lt-Col Eakin	Forfs 24 days pay
Nanaimo BC	13/6/42	"		Granted four days remission of sentence under the provisions of Para 26 R A I MDB for good conduct.					

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1/8/43	Tpr		AA 15 (1) AWL from 1600 hrs 1Aug43 to 0930 hrs 2Aug43.	Capt WH Welsh	7 days pay 7 days CB	6Aug43	Lt-Col A DL Gordon	2 charges subc ferf.
Field	17/8/43	"		Civil conviction - two charges of THEFT		2 months civil detn	17/9/43	Worthing Court of P/Sessions	Forfs 67 days pay
Field	17/8/43	"		AA 15 (1) AWL from 1100 hours 17 Aug 43 until 0350 hours 5 Sep 43.		60 days Detn	16Nov43	F.G.C.M.	Forfs 98 days pay plus £2-8-0 costs of return.

Certified a true copy: GW Cote

(GW Cote) Capt/Adjt.,
27 Cdn Armd Regt.

Exhibit D

M.F.B. 355
30M—11-41 (2271)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-72188	Trooper	Earnest Archie DEVOE,	27 Cdn Armd Regt.

1. The following is a fair and true summary of the entries in the Field Service and Conduct sheets / Regimental and Squadron Orders / Company Orders of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AWL	three	times	six	times
For Civil Conviction	one	times		times
For (CUMPT)		times		times
For		times		times

Number of instances of gallantry or distinguished conduct: Nil

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for 60days beginning on the Sixteenth day of November, 1943.

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 11 days in military custody, making a total of 11 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 24 years 9 months

6. The date of his attestation specified in his attestation paper is 22 Feb 41

7. The particulars of the accused's record to date of his discharge

8. The accused has not been in civil employment for the purpose of determining his position, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward (or is in possession of or entitled to the following military decoration or reward:

10. The accused is a member of the Army. The accused before he was made a warrant officer last held the rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number D72188 Rank Trooper Name DEYOE, E. A. of 27 Cdn Armoured Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Worthing Court of Petty Sessions	17Sep43 Worthing	Two charges of THEFT	2 months civil imprisonment	Nil
FGCM	16Nov43 Field	Absence Without Leave	60 days Detention	Nil

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of January 44 (Rank Illegible)
Capt & Adjt
27 CAR

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

WWW-100

Pte de Young R. J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-56780 Pte. R.J. Young, 1 Cdn Space Sup. Coy.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA.9(1).	GUILTY	GUILTY	
2nd Alternative	RA 11		withdrawn by prosecution RP 35(c)
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 4/2 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To suffer field punishment for 90 days and to forfeit all ordinary pay for a period of 90 days.

(Sgd) Hale Dickinson Capt. 12 Aug 44 (Sgd) J.A. Gardham
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.) Maj RCAMC
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally: AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders~~ (1) N/Sec
(1. AA 57A. Delete if not used.)

(Sgd) HS Conn H-4
Date 23 Aug 44 Commanding HQ RCEME 1 Cdn Corps
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
F56780 Pte R.J. Young RJ	27 Aug 44	W Richmond Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 26 SEP 1944 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AD 160 WWW-100

FIELD GENERAL COURT-MARTIAL

CFA66 (In lieu of AF A37) 40-P.S. 8/1698 (2864)

Convened by Lieut Col. H.G. Crum Comd. 1 Cdn Corps Rear HQ dated 10 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F-56780	Pte	Robert Joseph	De Young	1 Cdn Space Sup Coy

PROCEEDINGS REVIEWED 26 Sep 44
JAG (DM) Dte Deputy Capt
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Vd (in Country) Italy on (date(s)) 12 Aug 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns' NOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(3) AB

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1600 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) AB

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563*. Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~an interpreter?~~ Ans ~~—~~ AB
~~The interpreter is sworn.~~(1) Do you object to Cpl. S.F. McLeod as shorthand writer? Ans No Sir
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No Sir.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.A. Gardham 6 Cdn CCS RCAMC.
Member	Capt	A.R. Pugh 1 Cdn Corps Tps & Units RCEME
Member	Lieut	H.V. Hagworth 1 Cdn A/Tk Regt RCA.
Judge-Advocate	Capt	A.H.L. Dickinson AJAG 1 Cdn Corps
Prosecutor	Lieut	J.A.M. Fagan 1 Cdn Space Sup Coy
Defending Offr	Lieut	D.B. Baldrick 205 Armd Bde Sub Unit RCAC.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 84 (B) and fn 2 were not followed. See 201 p 33.)

A8. The accused before arraignment makes(s) (no) (a) plea. AB
(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB more and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. AB
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Revised Form B AB

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*II*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No Sir.(5)
(*1. RP 27(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. ..... Do you intend to call witnesses on your behalf?
Ans. ..... Are they witnesses as to character only? Ans. .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AF5. Evidence for accused as to his character should, if in his interest, be given before the Finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. Yes I am calling my CO.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and them to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(*1. MFB 255 or AFB 294. 2. MFH 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Beg leniency & I am sick.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AD

CHARGE SHEET

The accused, F-96780 Private Robert Joseph DeYoung, 16 Cdn Spec Emp Coy, a soldier of the Canadian Army Overseas, is charged with:

VIOLT Cr Army Section 9(1) Army Act.

CRIME OR ACTIVE SERVICE, NEGLECTING TO OBEY A MEMBER AS TO HIS DUTY DISPLACE OF AUTHORITY, A LAWFUL COMMAND GIVEN PERSONALLY BY HIS SUPERIOR OFFICER IN THE EXECUTION OF HIS OFFICE

in that he

In the Field in ITALY at or about 1715 hours, 30 Jun 44, when personally ordered by Captain Winthrop, adjutant, 16 Cdn Spec Emp Coy, not to remove F-41674 Private Maymond to hospital, in the presence of the said Captain Winthrop, did assist with others in the removal of that man.

CRIME OR ACTIVE SERVICE, NEGLECTING TO OBEY COMPANY STANDING ORDERS

in that he

In the Field in ITALY neglected to obey Coy standing orders, No 3, para 5(a), dated 27 Jun 44, by leaving camp without authority during duty hours at or about 1715 hours, 30 Jun 44, thus contravening the above order.

W D Richmond

(W D F Richmond) Major
Officer Commanding
16 Cdn Spec Emp Coy.

In the Field
15 Jul 44

To be tried by Field General Court Martial

T S Conn

(T S Conn) Lieut-Col.
ADJAG 1 Cdn Corps Tps

In the Field
19 Aug 44.

FIELD GENERAL COURT-MARTIAL

CFA35 (In lieu of AFAB 6) (PAM/1697 (2005))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 82, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-56780	Private	Robert Joseph	DeYoung	16 Cdn Spec Emp Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (date) 10 Aug 44 endorsed by me, ~~(or by an offr of my staff for me)~~," To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed ~~in~~ or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J A Gatenbein	5 Cdn CCS RCAMC

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by DACRES 1 Cdn Corps Tps	
Capt or Lieut to be detailed by	OC 7 Cdn A/Tk Regt RCA	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lieut to be detailed by	OC 16 Cdn Spec Emp Coy	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Captain	A P L DesRosiers	ADJA 1 Cdn Corps

On Active Service in the Fd

(Country.)	(Signed personally. RP 105 fn 2.)	(Rank.)
in ITALY	(H. C. Court) Lieut-Col	

Date 10 Aug 44 Commanding 1 Cdn Corps Tps RCASC
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

I CERTIFY THAT I HAVE THIS MORNING EXAMINED NO. F56780 Pte

DeYOUNG R J OF 16 Cdn Spec Emp Coy

AND IN MY OPINION HE IS FIT/~~UNFIT~~ TO UNDERGO TRIAL BY FIELD GENERAL COURT MARTIAL.

Station On the field

Date 12 Aug 44

(Medical Officer
16 Cdn Spec Emp Coy.

A8.

Evidence as to Character

First Witness for the Defence: F-36760 Pte R J DeYoung, 16 Can Sptd Amp Coy, being duly sworn, is examined by the defence:

Q-1 How old are you?
A-1 17 years old.

Q-2 How long have you been in the Army?
A-2 16 months.

Q-3 How long have you been overseas?
A-3 I was in Canada three months.

Q-4 What branch of the service were you in?
A-4 Infantry.

Q-5 Have you been in action?
A-5 Yes, I was in on the assault on the Gothic Line.

Q-6 Have you been charged with any offences since you have been in the Army?
A-6 No, sir.

Q-7 I do not suppose you are married?
A-7 No.

Q-8 Why have you been transfered from the infantry?
A-8 I have come out on account of my nerves.

Q-9 When did they first bother you?
A-9 I came out after we had taken the Gothic line. I was with the R.H.R.

Q-10 What did they do for your nerves?
A-10 I was sent to a hospital where the Col told me I could note go back to the infantry, and I was sent down here.

Q-11 What is your medical category?
A-11 As far as I know it is still A-1.

In the opinion of the Court and the JA it is not considered necessary to comply with Q 95(3).

THE WITNESS WITHDREW.

A3.

PLEA OF MITIGATION

In mitigation of offences of which F56780 Pte DeYoung R.J. has been found guilty, I would ask your consideration of certain salient factors.

. DeYoung RJ by virtue of the fact that he is a member of the 16 Cdn Special Employment coy, must necessarily have been recatagorized. Without doubt, the downgrading of his medical category was the result of hardships and conditions experienced in a theatre of war. The instantaneous and instinctive help rendered to his comrade is comparable with that on the field of battle, and is not only commendable but the very spirit of comradeship that makes the CANADIAN ARMY.

Such actions of self sacrifice become ingrained in individuals and sympathetic help to suffering comrades without consideration of the consequences, whether bullet or otherwise, become automatic.

. DEYOUNG R.J., seeing Pte Raymond in pain and hearing the medical Officers statement that he was through with Pte. Raymond, acted in a headstrong manner, I agree, but hearing such a statement from an Officer whose duty is the elevation of suffering and who should, in my humble opinion, at least make a showing of sympathy did not help matters.

With no other Officer in camp to whom the matter could be referred, PTE DEYOUNG together with other members of the unit took matters into their own hands. This is regrettable but the extinuating circumstances, I consider, provided sufficient cause.

I therefore ask that the court consider these maters and show all possible clemency in awarding punishment. along with his exemplary record of service

O Sheldrick

(O. B. Sheldrick) Lieut.

Summary of Evidence

in the case of

AD.

F. S.6780 Pte. Robert Jarrod the Yarmy, of No 16 Canadian Special Employment Company, C.M.F. a Soldier of the Canadian Army, overseas,

the Commanding Officer directs that the evidence be taken on oath.

First Witness for the Prosecution.

Capt. B. Murdoch, R.C.A.M.C., Medical Officer of No.16 Canadian Special Employment Coy. C.M.F. having been duly sworn, states:-

"I am Capt. B. Murdoch, R.C.A.M.C. Medical Officer of No.16 Canadian Special Employment Coy. C.M.F. on the 30th June 44 No. F. 41674 Pte. Raymond. D.A. reported at 1830 hrs at the M.I.R. for gastro-duodenal upset consisting of cramps and diarrhea which had suddenly developed. I examined him and found nothing to indicate any serious condition. He was given relevant duty, treatment and told to return at 1930 hrs. which he did. By now the diarrhea was not present but the cramps were. I re-checked his temperature which was normal. He was again given treatment and told to return at 1840 hrs. At approx. - notably 1740 hrs. I noticed a group of men carrying another man in the direction away from the M.I.R. I walked over and identified the man who was being carried as the above mentioned Pte. Raymond I asked the men carrying him what they were doing and - he said "we are taking him to the hospital." I then said - apparently loud for all in the vicinity to hear, that - the man was not to be moved. This was by my order. He was carried further and placed in the back of a Vehicle, a T.C.V. I then cried to a man, whilst the men and to explain to them that I did not think the man needed to go to the hospital. They insisted that he was suffering and would be better to the hospital. I again stated and - that the man was not to be taken to the hospital. I then ordered the driver of the Vehicle not to drive the Vehicle under any circumstances. There were three of, the general idea being, of getting a driver, who would drive. A number of men climbed into the Vehicle, two getting into the driver's cab. I walked around the Vehicle to the driver's side and identified, beside the driver, Pte. the Yarmy. I then asked the driver what his name was. He stated "Watson". After warning the driver of the Vehicle as stated above, I stated and told, that "the - your drivers, the Vehicle did not on his own responsibility" whilst the discussion was going on whilst the man above the patient's condition, and whilst he was going to be moved as it, a remark was passed by - one of the group to the effect that "let to get the rifle". I identified that man as Pte. Matheson. The three drivers and I interviewed the C.S.M. that all the men in

First witness for the PROSECUTION. (cont'd).

... the vehicle was to be put under close arrest on this return and that charges would be placed by me accordingly. Approximately an hour later I noted the vehicle returned to camp and further noted that the patient had also returned. He walked away from the vehicle and did not report to me at any time during the rest of that day. On 1 Jul. 44 on holding sick parade pte. Raymond was not present. I instructed the orderly pte. Raymond was not present to the N.Z.R. He left us. I asked him sergeant to bring one to the N.Z.R. He left us. I asked him how he was feeling. He said "alright". I asked him if he had any cramps. He said "no" but that he had "some diarrhea". I asked him why he did not report sick on sick parade. He said it was raining and thought that it would go away by itself. I asked him if he needed some treatment for it and he said "no". I dismissed him and did not see him again. I had the impression that the man had had a few drinks of a spirituous nature. The illness of pte. Raymond which consisted of diarrhea and cramps has been prevalent since about the mid. which was formed and the condition is usually or mildly present depending on the particular location of the unit. Many B sick parades with diarrhea and cramps run a mean temperature. The first case I saw had a slight elevation of temperature. He was admitted immediately to sick I sent him to No. 1 F.D.S. was returned immediately to the unit with instructions as to how he should be treated. I might add that diarrhea has been the largest cause of any condition regarding on sick parade since this unit was formed. other than the original men mentioned above as sent to No. 1 F.D.S. and returned, I have not sent any other man to the hospital for this condition - but must standing that why might have had an elevation in temperature. We have in camp at present sufficient drugs for treating cramps and diarrhea. I have a few tablets valuable for treating cramps and diarrhea in addition to the usual treatment. I instructed the C.S.M. before telling him to place the man under arrest on this return. He held an immediate inquiry & after questioning the said I was to determine whether he had a rifle and any ammunition in his possession. He had neither.

He elected declines to cross examine this witness.

B. Winchester Capt

Second WITNESS for the PROSECUTION.

D-105321 C.S.M. Vernon, W.D. of No. 10 Canadian Infantry Regiment Employed with Coy. C.M.E. having been duly sworn, states:

I am D-105321 C.S.M. Vernon, W.D. of No. 10 Canadian Infantry Regiment Employed with Coy. C.M.E. I am company sergeant major of the aforesaid Coy. On the 30 June 44 at approximately 1630 hrs. Pte Hair came to me and informed me there was a man in the lines who appeared to be very sick and asked would I go and see him. I went over and found pte. Raymond in the lines. I asked him what was the trouble and had he

Second Witness for the Prosecution. (Cont'd.)

... seen the M.O. He replied he had cramps in the stomach. At approximately 1200 hrs., that he had seen the M.O. and that they were posting leader. I then went to the M.O. and asked if he had seen pte. Raymond and was the diagnosis serious. He said, no was not serious and that it would shortly be alright and he had given him something to clear his stomach. At approximately 1310 hrs. 4pm. Again, one of the drivers i/c came to me and told me that some man had sent the sick man into his truck. I told him to get him out of the truck, that that was no place for him and he was to go to his own lines. Often about five minutes 4pm. Again I came back again and said that his truck was about to be driven off. I went to the sick man and gave orders to the drivers of. I went investigate and found the truck already leaving. I asked the M.O. if he had ordered the man to hospital, or the truck to be driven off without the driver. He replied he had given definite orders to several men who were attempting to get pte. Raymond away, that he was not to be taken to hospital and the truck was not to be removed. At 1400 hrs. I saw the truck entering the lines. I informed the Coy. orderly Sgt. Cpl. Lawler, to have all the sergeants paraded to the orderly Room. Amongst these sergeants I recognize pte. Young then present. I saw them each individually and asked if they had arrested this man to hospital. They each replied that they had, and the Sergeant then present also replied that he had. I also asked the accused if he had not had definite orders from the M.O. that the man was not to be removed. He replied that he had. I asked pte. Lindsay who had given him authority to drive the truck. He replied "No one". I informed them that is man Coy orderly Sgt's job to get people evacuated to hospital on the M.O's orders and that they would be tried charged with disobeying an order and placed under close arrest. When the accused was paraded to me after his return from the hospital he appeared to be sober. I saw pte. Raymond leave the truck and walk over to the lines. The M.O was the only officer present in the camp at this time of the incident. There was no damage to the truck reported to me afterwards.

The accused declines to cross-examine this witness.

A.D. McCarmon Capt

Third Witness for the Prosecution.

P-40242 Sgt. McCarmon, A.J. of No. 16 Cdn. repatriation Employment and Coy. C.A.P. having been duly sworn, states:

"I am P-40242 Sgt. McCarmon, A.J. of No. 16 Cdn. repatriation Employment and Coy. C.A.P. I am orderly Room Sergeant for the Coy. on 20 June 44 I attended 1300 hrs. I happened to be outside of the orderly Room tent and I saw a number of men

Third Witness for the PROSECUTION (cont'd).

... around a corner, a T.C.P. talking to the M.O. I heard the M.O. tell the man that to the man with me to remove to the hospital." "man to drive" and he removed to the hospital. I remember seeing the young woman I saw arranging around the corner. I can't say who drove the truck as I did not see him drive. I would be able to swear that the accused was under the influence of liquor. As far as I could see he was sober. I spoke to them collectively and asked them to swear it up as they would get Canadian Pte may they were acting. When I went down there, they were ready to pull out. Pte. Raymond was already in the truck when I got there. He was strapped up in blankets and I did not hear any proceedings. When a man is to go to hospital any usual procedure is for the sick man to go on sick parade as laid down in para I orders or in special cases, a special sick report is made out and the man is evacuated to the hospital on the authority of the Medical Officer, the M.O. comes in and reports to the Duty Officer at the Orderly Room and then the order is passed to the M/T. Sgt. or Cpl. as the case may be and he orders the Dr. I/C to report to the orderly Room or the M.S.R. The accused declines to cross-examine this witness.

J.J.M.C. Cornish Lieut.

Fourth Witness for the PROSECUTION.

L-120??. Cpl. Lerner, N.F. J No. 16 Canadian Special Employment Coy. C.M.F. having been duly sworn states:-

"I am L-120?? Cpl. Lerner, N.F. J No. 16 Can. Special Employment Coy. C.M.F. On the 20 Jan 44 I was acting Coy. orderly sgt. Approximately the middle of the day I was sent to make a special sick report for a man in the M.O's Office at about 13.45 hrs while I was standing in the charging of the guard I was called over to the end door by a man, I don't know who it was, to see a sick man, I don't know who it was, to see a sick man who I afterwards was told was Pte Raymond. I told one man to escort Raymond to the M.O's Office saying that I would, as soon as I was able, make out a special sick Report. When I went towards the orderly Room I met the M.O. who said that he had already treated Raymond. I apologized and proceeded on with my duties. At approximately 1725 hrs I came out of the orderly Room and met the intention of falling in the usual parade. I was stopped by the M.O. who said that Pte. Wilcox and some other man had taken a truck. I was ordered by the Major, the M.O. and C.S.M. Jamieson to pick up anyone in the truck who is returned. At approximately 1745 hrs the truck returned and I saw the accused, Pte. the young woman I saw arranging, along with four others, got out of

Fourth Witness for the PROSECUTION (Cont'd.)

... the truck. I took the accused to the orderly Room and in front of the C.S.M. who placed him under close arrest and I escorted him to the Guard Tent and turned him over to the Guard Commander. I recognize the accused here present pte. the Gaunay, as having him in that truck. He did not appear to me, at the time, as being under the influence of liquor. I saw pte. Raymond put off the truck and walk over to his tent. I did not pay any particular attention to him.

The accused declines to cross-examine this witness.

L. F. Lamer.

Fifth Witness for the prosecution.

F. 41674 pte. Raymond, D. A. of No. 16 Canadian Special Employment Coy. C.M.T. having been duly sworn, stated:

"I am F. 41674 pte. Raymond, D.A. of no. 16 Canadian Special Employment Coy. C.M.T., on 20 Jan 44 I was sick in the morning with diarrhea and cramps. After the noon parade I went to the M.O. who was sitting outside his tent. I asked him if he would give me something for cramps and diarrhea and he said "why don't you come at the right time?" and I said they just took me that now. So he took me in the tent and gave me some medicine. I went and and I started throwing up. I had had cramps. So I went back in again and asked him if he would give me something to stop them; while in his tent I started to throw up and he told me to go outside and get away from the M.T.R. if I wanted to throw up. So I scrambled and and threw up by a tree and went back in again and he gave me some medicine and he told me to return at 1700 hrs. When I went down by the tree, down by my tent, I took another cramps and doubled right up. I asked one of the boys to help me out to the M.O's again and he did. When I got in there I was in bed asleep and flopped on the M.O.'s bed. He was not in at the time. Then he came in and told me I had to take this medicine and stop it down. I threw up on the floor. Then he got a shovel and threw it down and told me to clean the mess up and go back to my own lines and said "I'm through with you". So I went back to my tent. I lay down and the boys came down and I asked them to take me out to a better room place as I had cramps pretty bad. They brought a stretcher and carried me out and one of the boys went for Cpl. Blair and he came and asked me what was the trouble and I told him what I had to be taken somewhere for treatment. He said he'd have to go see the C.S.M. The C.S.M. came and asked me what was the trouble and I told him and he went to see the M.O. He returned again and told me that the M.O would see me at 1700 hrs. And then I asked the

Fifth Witness for the Prosecution (Cont'd)

. . . . boys to come me to a M.O. or to a hospital. I recognize the accused but present as one I know who took me to hospital but I don't know his name. They put me in the truck and laid me down. While I was in the truck there was some argument. They took me to an M.O. I don't know where it was. They had me on a stretcher. He examined me and asked me where the pain was and I told him. He asked me if I had been drunk and I told him just as I was. I had cramps and my arm went numb and my fingers curled up. He told me to keep the boys and he gave me eight pills - and he told them to take me back to camp and put me to bed. I told them to take me back to camp. I wanted to go some place I didn't want to come back. I wanted to go some place where I would get good care. I asked the boys to take me to No. 3 C.C.S. but they couldn't find it. So they brought me back and I felt pretty good then. The next morning the M.O. called me in and asked me how I felt and I told him much better, and he asked me if I wanted some medicine and I said "no". I can get along without it. I had had been drinking the night before, not that day. I did eat one cucumber and some fruit.

The accused declines to cross-examine this witness.

Douglas A Raymond

Sixth Witness for the Prosecution.

M. 36723 Gnr Pepin, A.W. R no. 16 Can. Special Employment Coy. C.M.E. having been duly sworn, states:

"I am M. 36723 Gnr. Pepin, A.W. R no. 16 Canadian Special Employment Coy. C.M.E. I am employed as a driver W/C. The Vehicle I was made responsible for is No. C.O. 561744. It is a T.C.V. On the 30 June 44. at about 17 hrs when I pulled in the camp, one of the boys came over and asked me if I would do a favor. He wasn't the accused. The fellow told me this guy was sick and wanted to be taken to hospital. So I told him I'll go and see the C.O.M.S. and C.S.M. to see if I could take this man to the hospital. Then the C.S.M. told me "You can't go unless the M.O. tells you to go. So I came back and told the boys standing around there, I told them I can't go." So I waited here at the C.C.M.S. tent and during that time they had that guy loaded in the truck. Then I told the C.S.M. and C.C.M.S. who were back there that I believe they are going to leave the trucks themselves. Then just as we came out the truck was gone. It had left and I did not know who the guys were who took the truck. When when they came back I was not there to see who they were. The truck was in good shape when it came back. I don't know what the mileage was

Sixth Witness for the PROSECUTION (Contd).

.... before they left and I did not check the mileage when they came back. I don't know what mileage they put on the claim.

The accused declines to cross-examine this witness.

Seventh Witness for the PROSECUTION.

Lieut. T.H. Caulombe, J No. 16 Edn. Special Employment Coy. C.M.T. having been duly sworn states;

"I am Lieut T.H. Caulombe J No. 16 Edn. Special Employment Coy. C.M.T. I am acting Adjutant Officer of the Coy. I submit original Red Ticket No. 3 dated 27 Jan 44. and signed by Major V.S.T. Richmond Officer Commanding of the Coy. which was then known as No. 11. Canadian Special Employment Coy C.M.T. and certified by myself as an original copy. Said order was duly posted on the Nadins Board in front of the Orderly Room. Sent Wilkes every opportunity in the time had very accurately. He was posted on 27 Jan 44. I draw attention to Para 5(a) of said order.

The accused declines to cross-examine this witness.

T. H. Caulombe Lieut

The accused was cautioned as follows:

"Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and he reserves his defence.

Taken down by me in the presence of the accused and within his hearing, this 11th day of July 1944.

I hereby certify that provisions of R.P. 7 (c), (d), (e), (f) and (g) have been complied with.

W. R. Reynolds Lieut
Officer detailed to take Summary of Evidence.

Left field
Italy
July 44.

Ex "B" #2 ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F56780	Pte	DeYoung, R.J.	16 Cdn Spec Emp Coy., C.M.F.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not appended to the proceedings.

† See secs. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, permission being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	times.	times.
For	times.	times.
For	times.	times.
For	times.	times.
For	times.	times.

Number of instances of gallantry or distinguished conduct.

There are no entries in the conduct sheets of the accused.

2. ~~The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time, or~~ The accused at the present time is under sentence for

_____ beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for ~~one~~ _____ days in civil custody, and ~~#2~~ _____ days in military custody, making a total of ~~#2~~ _____ days, of which _____ days were spent in hospital.

5. The present age of the accused according to his record of service is 19 yrs

6. The date of his ~~attestation~~ specified in his record of service is 26 April 1943

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr 3 mos

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr 3 mos service.

9. The accused is entitled to reckon 1 yr 3 mos service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or is in possession of or entitled to (state any military decoration or reward)*).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of _____

12. (*In the case of an officer.*) The accused holds in the army the rank of _____ dated _____ and in his regiment (*or corps or department*) the rank of _____ dated _____

(72/1/1) W1 81708 1/42 TL/606 10/42 A.& E.W. Ltd. Gp. 698
(D/1/1) W1 58926 12/41 TL/560 1/43

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. F56780 Rank Pte Name DeYoung, R.J. of 16 Cdn Spec Emp Coy, CMF Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or grade of officer dispensing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12th day of July 44

W.J. Richmond Major

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of _____ Date of Promotion _____

In the rank of _____ years _____

In the rank of _____ years _____

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

No F56780 Name DeYoung, R.J. Sqn, Battery, or Company — Corps 16 Cdn Spec Emp Coy., CMF. — Date of enlistment — GC Badges — Service or Proficiency Pay — MFM 6 (AFB 127) 40/PAS/150 (3438)

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Pte		SUPPLEMENTARY SHEET 23 JULY 44 ORIGINAL M.F.M. 6 NOT RECEIVED					
				CERTIFIED TRUE COPY OF SUPPLEMENTARY M.F.M. 6 W.S.R. (W.S.F. Richmond) Major Officer Commanding 16 Cdn Spec Emp Coy., CMF.					Ex "C"
				FIELD 23 JULY 44					

(PTO)

333.99

PTE DHAEN R

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A 50197 Pte Dolan R. Essex Scot.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 4A 40	Guilty	Guilty	
2nd AA 11	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~To undergo unexpired portion of~~ ~~imprisonment~~ ~~beginning 21st [illegible]~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence awarded by the Court:

~~[illegible] months (3) days pay~~

To forfeit all ordinary pay for a period of twenty (20) days.

(Sgd) ..... Judge-Advocate, if any. Date awarded: 4 Dec 43 (Sgd) [illegible] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(2) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1)

(1. AA 57A. Delete if not used.)

Date 16 Dec 43 (Sgd) J E Sager (JE SAGER ED) Brig Commanding 4 CDN INF BDE Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr
A-50197 Pte Dolan R. 1st Bn Essex Scottish Regt	10 Jan 43	F A Tilston Capt + adjt 1st Bn Essex Scottish Regt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

5-4-6 333-99

CPA96 (In lieu of AFA3) 40-P-46-8/1608 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier J. E. Sager ED Comd 4 Cdn Inf Bde dated 2 Dec 43.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A 50197	Pte	Raymond.	Dolan	Essex Scot

PROCEEDINGS REVIEWED 16 Feb 44 J.E.H. Tranq Capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Date 12 Dec 44 JAG AJAG FIRST CDN ARMY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 4 Dec 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

JKA

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

JKA JEA

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(E), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ ~~an interpreter~~ ~~a shorthand writer~~ ~~Ans.~~

~~The Interpreter is sworn (1). Do you object to~~
~~The shorthand writer is sworn~~ (1)

(1. RP 72. Delete, if none employed.)

JEA

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 187, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H C Arnell	RHLI
Member	Capt	P A Ballantyne	RHLI
Member	Capt	A J. Walters	RBFC
Judge-Advocate			
Prosecutor	Lieut	L C Bond	Essex Scot.
Defending Offr	Lieut	W H Pope	Essex Scot.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused A 50197 Pte D Dolan R before arraignment make(s) ~~no~~ plea (1)

JKA

~~Application to quash charge~~

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to Ref cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 20, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 22, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form ~~FORM~~ B

JKA

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr cancels, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of J.A see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of J.A or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ~~Lord~~ charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) on charge(s).~~ Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with the pleas standing as Guilty, Court will advise accused to change such pleas and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charge(s) on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 93 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 80(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AB5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed by him.
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(2)
(*1. AFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Guilty O
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(*1. When several accused tried separately see RP 39(F). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-52, 69, 118, 119(A), KR Can 308, 336, 563-566. Overseas RO 309, 2323, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 52. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, A50197 Private Raymond DHAEN, 1st Bn., The Essex Scottish Regiment, Canadian Army Overseas, is charged with:

FIRST CHARGE - CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,
Army Act
Section 40

in that he,

at about 1630 hrs 18 Nov 43 at ABERDEEN, Scotland, was wearing the decoration of Military Medal, which he was not entitled to wear.

SECOND CHARGE - NEGLECTING TO OBEY UNIT ORDERS,
Army Act
Section 11

in that he,

at about 1630 hrs 18 Nov 43 at ABERDEEN, Scotland, was improperly dressed while on leave and in a public place, contrary to daily order No.87 dated 10 Oct 43.

In the Field
..29..Nov 43

(B.J.S. MACDONALD) Lt.Col.,
Officer Commanding,
Essex Scottish Regiment.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL:

In the Field
...3...Dec 43

(J.E. SAGER) Brigadier,
Commander,
4th Canadian Infantry Brigade.

I desire to have Lt W. H. Pope

REPRESENT me at my forthcoming trial by Field General Court Martial. If this officer is not available, I then desire to be represented by Lt P. A. Caughey

Signed Pte. R. Dhaen, A 50197

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of AFAB)
40/P&S/607 (2563)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt. A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A.80197	Pte		Raymond,	DHAEN	Essex Scot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 2 Dec 43 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [and that it is not expedient that he should be tried by a Canadian Military Court.]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [I appoint Lt-Col H.C. Arrell, RHLI, President, and the Court (Members, Waiting Member and Prisoner's Friend) detailed hereunder.]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [I also appoint Capt Advocate to the Offr detailed hereunder.]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	H.C. Arrell	RHLI

MEMBERS.

A Capt to be detailed by OC, RHLI.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Capt to be detailed by OC, R Regt C		

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
A Capt or Lt to be detailed by OC, R Regt C.		

[PROSECUTOR.]

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 2 Dec 43

J.E. Sager (Signed personally. RP 105 fn 2.)
(J.E. SAGER ED)
Commanding 4 CDN INF BDE
Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

A.F.W. (Can.) Para 557

I certify that I have this morning examined No A 50197

Pte D Hacon R. of E S St x Scottish and in my opinion he is

fit/~~unfit~~ to undergo trial by court-martial.

Station Field

Date Dec 4 43

R D Thompson Capt
Medical Officer

Exhibit D.
How I enlisted in my

CANADIAN SERVICE YMCA

ON ACTIVE SERVICE

Plea

of Mitigation of Sentence for A50997
Pte Dhaen R. of the Essex Scottish Regt. C.A.O.

I am in "D" Coy. of the Essex Scottish Regt. During my service with the Essex Scottish Regt. my employment has always been in the capacity of batman. Before coming Overseas I was with the Kent Regt.

Here in Canada, there were no medals issued for service whatsoever and most of the soldiers do not know what each medal stands for, and because there were no medals issued, none studied the significance of each medal.

When I came Overseas, I became a batman and as such I did not mix with the remainder of the Pl. Because of this I

PLEASE WRITE ON BOTH SIDES

CANADIAN YMCA

ON ACTIVE SERVICE

May

did not meet the chaps who had the M.M. and ask them what their medal stood for. However, I did notice that many were wearing it, and so I just classed it as another medal.

When I went on leave with Pte Bolton we decided to have our pictures taken. As we said no harm in putting up a ribbon while we were sitting for the picture, we went to a store, picked out a ribbon which we liked and pinned them on. We did not know what the ribbon stood for, nor did we know where to pin it so we pinned it on our right breast.

It was unintentional that we happened to pick the M.M. and our ignorance on decorations was shown when we pinned it on our right breast, as we have since been

PLEASE WRITE ON BOTH SIDES

CANADIAN SERVICE YMCA 1941

ON ACTIVE SERVICE

J. Gault
Maj

informed that it goes on ~~the~~ left breast
Nor did we know that the M M was given
for bravery until we were informed upon on
arrest

R D Hain.

PLEASE WRITE ON BOTH SIDES

CANADIAN YMCA

ON ACTIVE SERVICE

Statement of Character.

150197 Pte Dhaen R.

Since I have known Pte Dhaen, he has always been classed as a good soldier. He has the crime sheet of the usual soldier, for it has some entries but not many.

However, it is as my batman that I know Pte Dhaen best. He has given such excellent service that he cannot be replaced by anyone as good. Not only did he carry out his batting duties well but during field exercises he surprised me by his knowledge of Battle Drill and his ability to stand the strenuous work after a long period devoid of ~~physical~~ strenuous physical work.

J.H.P. Capt
O.C. "A" Coy 15th Bn. C.M.R.

PLEASE WRITE ON BOTH SIDES

Exhibit A
and Army Form B 252
Exhibit B
(See King's Regulations)

CHARGE

Essex Scottish Regt. — Regiment
D.Coy. — Battery / Squadron / Troop or Company

CHARGE against No. A-60197 Rank Pte.

Name Dhaen.R.

Place Aberdeen. Date of Offence 18 Nov-43.

OFFENCE W.O.A.S. was improperly dressed when checked by the Cdn.Provost Corps on Union Street, at about 1630 hrs. (2) wearing the Decoration of Military Medal, to which he was not entitled to wear, at the same time date and place.

LIEUT.
FOR OFFICER COMMANDING
No. 8 PROVOST COY.

Names of Witnesses:—

L/Cpl.Davey,R.C. Cdn.Provost Corps.

L/Cpl.Baumholtz,J. Cdn.Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

Statement of **EVIDENCE** in the case of
A-60197 Pte.Dhaen.R.
D.Coy. Essex Scottish Regt.

Sir;

At Aberdeen, at about 1630 hrs. 18 Nov-43. I was on patrol duty on Union Street in company with L/Cpl. Baumholtz.J. when I saw the a/m soldier.

He was improperly dressed i.e. was wearing his battle blouse unbuttoned at the neck exposing a collar and tie. (2) Wearing the Decoration of Military Medal, on the right breast of his battle blouse.

I approached him and requested his pass, which was found to be in order. I asked him where he got the Military Medal, he replied " It was awarded to me." I then asked him for his M.B.M.Pt.1. at this he stated. " The Military Medal is false."

I placed him under arrest and escorted him to the Guard Room, where I handed him over to the R.C.O.i/c. to be detained.

Field.
18 Nov-43.

.....L/Cpl.
(H-16666.R.C.Davey.)

Sir;

I have read over the above statement and corroborate same.

Field.
18 Nov-43.

.....L/Cpl.
(H-121143.J.Baumholtz.)

a/m soldier released and issued special pass No.0151. and ordered to return to unit, on authority of Lieut.Kyle. Officer i/c. Scottish Detachments, No.6 Cdn. (Area)Provost Coy.

REMARKS

Exhibit "C"

6. DRESS - PERSONNEL OFF DUTY - APPEARANCE ON PUBLIC:

1. Soldiers of some units have been seen in public places, dirty and incorrectly dressed.

2. Some of the most common faults are:

(a) No head-dress, or balmoral on the back of head or otherwise.
(b) Wearing of ties by O.Rs.
(c) Wearing of fatigue clothing and/or canvas shoes when walking out.
(d) No battle dress blouse, blouses with buttons undone, often exposing a white or coloured shirt or sweater.
(e) Inadequate haircut.
(f) Dirty and ill fitting.

3. All ranks are reminded that the appearance of personnel is a direct reflection of the standard of discipline in the unit. Personnel of this unit must present the smartest possible appearance especially on parade and when walking out.

4. The unit guard will NOT permit personnel to proceed from camp unless properly dressed and all personnel , before proceeding on leave will be inspected by the R.S.M.

5. All ranks are notified that the Provost have been instructed to enforce Dress Regulations strictly. All personnel improperly dressed will be returned immediately to their units for disciplinary action, including forfeiture of any balance of leave.

6. Summer dress regulation are now withdrawn and battle dress blouses will be buttoned to the top and collars hooked.

Certified true copy of sub para of daily order No67 dated 10 Oct 43.

[signature] Major.,
Second in Command,
Essex Scottish Regiment.

LIST OF EXHIBITS.

A50197 Pte Dhaen, R.

(A) Written statement of W.16565 L/Cpl Davey, R.C.

(B) Written statement of D.121143 L/Cpl Baumholtz, J.

(C) Certified true copies of d.o. #87 d/ 10 Oct 43.

Maj.

OFFICER FOR DEFENCE

Lieut. W.H.Pope.

Officer FOR PROSECUTION.

~~Lieut. W.B.Hogg M.~~
Lieut. L.C. Bond,

Summary of Evidence

In the case of A-50197 Pte. RAYMOND. D'HAEN, 1st Bn. The Essex Scottish Regiment, a Soldier of the Canadian Army (Overseas).

The accused is informed of his rights.
The Commanding Officer directs that the evidence be taken on oath.

First Witness for the Prosecution

~~Accused~~ H-16565 112th Pte. K.C Davey (~~Accused~~) attd. No 6 Coy, Can. Prov. Corps.

A written statement of this witness' evidence, purporting to be signed by him, has been read to the accused and is included in this summary (attached as exhibit "A"). Having regard to exigencies of the Service, expense and loss of time involved, the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

Second Witness for the Prosecution

W. L. Hogan, Asst Officer detailed to take the Summary

~~Accused~~ S/Sgt. J. Baumholtz (D-121143) attd. No 6 Coy. Can. Prov. Corps

A written statement of this witness' evidence, purporting to be signed by him, has been read to the accused and is included in this summary (attached as exhibit "B"). Having regard to exigencies of the Service, expense and loss of time involved, the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

I desire to be represented by Lt W H Pope.
at my proposed trial by Field General Court
Martial. If this officer is not available, I then
desire to be represented by

R D Lam.

W. L. Horgan Lieut
Officer detailed to take the Summary.

Third Witness for the Prosecution

Sgt. G. J. Surgeon, 1st Bn., The Essex Scottish Regiment, Canadian Army (Overseas), having been duly sworn states:-

"I, Sgt. G. J. Surgeon 1st Bn. The Essex Scottish Regiment, Canadian Army (Overseas), do state that on 24/10/43 at 20.5 hours. (~~the accused reported to me~~) whilst I was acting as Commander of the guard of my regiment, the accused, whom I recognize reported to me and said he had been absent without leave. I entered this fact on the guard report."

The accused ~~declines~~ declines to cross-examine the witness.

G J Surgeon
Sgt.

Fourth Witness for the Prosecution

a/Capt. F.A. Filston, Adjutant, 1st Bn. The Essex Scottish Regiment, Canadian Army (Overseas), having been duly sworn, states.

I, a/Capt F.A. Filston, adjutant 1st Bn The Essex Scottish Regt, Cdn Army Overseas, have examined the documents of A-50147 Pte Olsen R, including the MFM6 and MFM14 and find they contain no record of the meeting medal having been awarded to him

I present certified true copy of daily order No 87 d 10 Oct 43, para 6 refers to such regulations (attached as Exhibit C

The accused declines to cross examine the witness

F.A. Filston Capt

The accused, having been duly cautioned in accordance with RP 42 says: "I will make a statement now"

The accused does not wish to call witnesses in his defence at this point.

Certified that Rules of Procedure [illegible] have been complied with.

This summary, consisting of three pages, was taken down in the presence and hearing of the accused in this 27th day of November 1943.

H.L. Hogan Lieut.
Officer detailed to take the summary.

Exhibit A.

SUMMARY OF EVIDENCE

In the case of A 50197 Private Raymond DHAEN, 1st Bn., The Essex Scottish Regiment, a soldier of the Canadian Army (Overseas).

The accused is informed of his rights.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS For the Prosecution — H 16565 L/Cpl. Davey, R.C., No.6 Coy., Cdn Prov Corps.

A written statement of this witness' evidence purporting to be signed by him, has been read to the accused and is included in this summary (att'd as exhibit "A"). Having regard to the exigencies of the service, expense and loss of time involved, the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

Signed (W.L. HOGAN) Lt.,
Offr detailed to take the Summary.

SECOND WITNESS For the Prosecution — L/Cpl. J. Baumholtz, D121143, No. 6 Coy., Cdn Prov Corps.

A written statement of this witness' evidence purporting to be signed by him, has been read to the accused and is included in this summary (Att'd as exhibit "B"). Having regard to the exigencies of the service, expense and loss of time involved, the attendance of this witness cannot in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

Signed (W.L. HOGAN) Lt.,
Offr detailed to take the Summary.

THIRD WITNESS For the Prosecution — A 22962 A/Sgt. Turgeon, G.J., 1st Bn., The Essex Scottish Regiment, Canadian Army (Overseas) having been duly sworn states:

"I, Sgt. G.J. Turgeon, 1st Bn., The Essex Scottish Regiment, Cdn Army Overseas, do state that on 24 NOV 43 at 2015 hrs whilst I was acting as Commander of the Guard of my regiment, the accused whom I recognize, reported to me and said he had been absent without leave. I entered this fact on the guard report."

The accused declines to cross-examine the witness.

Signed (G.J. TURGEON) Sgt.

FOURTH WITNESS For the Prosecution — A/Capt. P.A. Tilston, Adjutant, 1st Bn., The Essex Scottish Regiment, Canadian Army (Overseas, having been duly sworn states:

"I, A/Capt. P.A. Tilston, Adjutant, 1st Bn., The Essex Scottish Regt., Cdn Army Overseas, have examined the documents of A 50197 Pte. Dhaen, R., including M.Fs.M. 6 & 14 and find they contain no record of the Military Medal having been awarded to him.
I present certified true copy of daily order No. 87 dated 10 OCT 43, para 6 refers to dress regulations (Attached as Exhibit "C")".

The accused declines to cross-examine the witness.

Signed (PA.TILSTON) Capt.

(Cont'd overleaf)

The accused having been duly cautioned in accordance with R.P. 4(e) says: "I don't wish to make a statement now".

The accused does not wish to call witnesses in his defence at this point.

Certified that Rules of Procedure 4 have been complied with.

This summary, consisting of three pages, was taken down in the presence and hearing of the accused in the Field, this 27th day of November, 1943.

Signed (W.L. HOGAN) Lieut.,
Offr detailed to take the Summary.

Exhibit C

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2965)

No. A 50197 Name DHAEN, E. Sqn., Battery, or Company D Corps Infantry Date of enlistment 14-8-40 O.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of Quarantine	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
London	26APR41	Pte		Conduct to the prejudice etc. (Wrongfully in possession of a purse the property of a civilian	Cpl McVeigh	14 dys detn.	29-4-41	LtCol Codlin	
Halifax	31 AUG 41			AWL from 1730 hrs 31 AUG41 to 0930 hrs 2 OCT 41 (31dys 16 hrs Close arrest from 0930 hrs 2 OCT 41 to 1000 hrs 7 OCT 41 (5 dys 30 min) A.A. Sec 15(1)	L/Cpl Mac Dougall	28 dys detn placed under stoppage 7-10-41 of pay of 33.17 to make good cost of appr. & return		Maj.Toward	Forf 37 dys pay under FR&I
Field	21NOV43	Pte		AWL from 2359 hrs 21 NOV to 2000 hrs 24 NOV 43 (2 dys,20 hrs, 1 min) AA Sec 15(1)	A/Cpl R.W. Miller Sgt.Turgeon	3 dys forf pay	25NOV43	Maj.J.D. Mingay	

CERTIFIED TRUE COPY
(F.A. TILSTON)CAPT & ADJT.ESSEX SCOTTISH REGT (P.T.O.)

Exhibit B
4 Dec 43

Substitute for A.F.B.296

STATEMENT OF CHARACTER AND PARTICULARS
OF THE SERVICE OF ACCUSED

No. A 50197 RANK Pte NAME DHAEN, Raymond

OF THE ESSEX SCOTTISH REGIMENT, CANADIAN ARMY OVERSEAS.

AGE 26 MARRIED OR SINGLE Married NO OF DEPENDENTS two

DATE OF ATTESTATION 14-8-40

NO. OF DAYS SPENT IN CLINK, PENDING (TO DATE OF TRIAL):

CIVIL ____ MILITARY 10 HOSPITAL ____ TOTAL 10

DATE OF PROMOTIONS, REDUCTIONS AND CAUSES THEREOF, IF ANY:

CERTIFIED THAT COPY OF M.F.U.'S SHEET GOODS ON THIS DATE.

F O Tolston Capt
ADJT.
ESSEX SCOTTISH REGIMENT.

DATED: In the Field
This 4th day of Dec 1943

CADT-1-68

ON HIS MAJESTY'S SERVICE

FASTEN Envelope by gumming this Label across Flap.
OPEN by cutting Label instead of tearing Envelope.

Ste. Diablo, N

1/14 CMRQ 40-1
(12-62-52)
(Series of 4)

CAD 7-1-68

ON HIS MAJESTY'S SERVICE

FASTEN Envelope by gummed thin Label across Flap.
OPEN by cutting Label instead of tearing Envelope.

Ste. Diable, N

1/14 CMHQ 40-3
SECRET OF '45

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : K/1583 Pte Norman Diablo 4 C Scot R CAOF

Charge. (Insert " alternative " where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st CHARGE	Guilty	Guilty	
2nd CHARGE	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for nil. beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 70 days, of which No days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for twelve months and To be put under stoppages of pay until he has made good the sum of £28.4.6 in respect to loss of regimental necessaries, clothing and equipment

16 November 45

(Sgd) [illegible] (Sgd) [illegible] O'Donahue Maj

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) N.P.B.

(1. AA 57A. Delete if not used.)

Date 28 Nov 45 (Sgd) N. L. Bogert Brig

Commanding 8 Corps Sub Dist CAOF

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
K-1583 PTE DIABLO, N.	26 NOV 45	[illegible] Brig.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 28 DEC 1945 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AA 160 & C.A.O.F. 1-68

FIELD GENERAL COURT-MARTIAL

CFA96 (To take place of AFA81 40/P & S. 16(44)) 4/38B

Convened by Order of Brigadier N.P. Bogert Comd 8 Corps Sub Dist CAOF dated 13th Nov 45.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K/1583	Pte	NORMAN	DIABLO	4 C Scot R CAOF

PROCEEDINGS REVIEWED

29 DEC 45 A J Brady Maj

PROCEEDINGS REVIEWED

Date 8 Dec 45 [illegible] Reginald Capt for DJAG

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) GERMANY on (date(s)) 16th November 45.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any,~~ and Offrs under instr, ~~if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is [are] amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [are] brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is [are] fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 537. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused : ~~Do you object to~~ as interpreter ? Ans ~~Yes~~

~~The Interpreter is sworn.~~(1) Do you object to 14090 Sgt Aldrich as shorthand writer ? Ans No Sir.

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	E.J. Donahue	3 A Shaw Regt CAOF
Member	Captain	J.L. DuBreuil	HQ 8 Corps Sub Dist CAOF
Member	Captain	J.E.H. LeBlanc	3 A Shaw Regt CAOF
Judge-Advocate			
Prosecutor	Lieut	H.C. Parker	4 C Scot R CAOF
Defending Offr	Lieut	F.A. Wrigley	4 C Scot R CAOF

Questions by President : Is the Prosecutor a lawyer ? Ans No Sir Is the Defending Offr a lawyer ? Ans No Sir (2)

(1. RP 24, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused K/1583 Pte Norman DIABLO before arraignment make(s) (no) ~~no~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (GB), or as to the jurisdiction of the Court (RP 34, 35(A), (1)B, or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposed, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is [are] arraigned (separately) on all charges in the charge sheet.(1) The accused does [does not] object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is cleared and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CAOF 1-68 p 2

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*B*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*b*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, (Delete)~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. "~~Nothing~~ Sir." (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 3 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1)~~ The Court decides (not) to advise accused to change his (their) plea(s) of Guilty ~~to Not Guilty on~~ ~~charge(s)~~. The accused is (are) so informed, ~~and he (they) change(s) his (their) plea(s) to ... charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (5).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereof proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. ..... Do you intend to call witnesses on your behalf ?

Ans. ..... Are they witnesses as to character only ? Ans. .....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, *117*(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (*b*), *RP* 45, *120*(*A*). 2. *AA* 54(3), *RP* 45, *117. This alternative pronouncement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. ~~Yes~~ No Sir.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(~~s~~), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex X and Ex Y respectively.(2)

(1. *MFB* 355 *or MFB* 294. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes Sir. Case notes enclosed 2).

(1. *RP* 37(*C*), 46(*B*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to say anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(*B*), *RP* 120(*A*).)

E5. The Court considers the ~~sentence(s)~~.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if same.~~(2)

(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishments or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 508, 530, 563-566, *Overseas* MO 309, 2322, *MML p* 90, 757-759. *As to sentences consigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused circuits under sentence of imprisonment or detention see AA* 44(*B*), 98(*f*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIRST REVIEW - 27 Dec 45
6 mos review - 16 May 46

REVIEW OF SENTENCE

DATE : _____

FILE : ~~10/DIABLO N/1~~

1. NO., RANK AND NAME: K-1583 Pte DIABLO N
2. UNIT AT DATE OF OFFENCE: 4 C Scot R CAOF
3. AT PRESENT ON STRENGTH OF: X2 List No. 1 CGRU
4. DATE OF SENTENCE: 16 Nov 45
5. AWARD: 12 mos detention
6. COMBINED SENTENCE: As awarded
7. BEING SERVED AT:
8. OFFENCES: First Charge:- AWL - 8 Jul 45 until app 30 Sep 45
   Second Charge- Losing by neglect his equip, clo, and regt'l necessities - 30 Sep 45

9(a) PRESENT AGE: 20 Yrs

9. PREVIOUS CONDUCT: Enlisted 23 Dec 45

AA 15 (1) - 2 offences
AA 40 - 2 offences
AA 24 (2) - 1 offence

DCM - 18 Sep 44 - 65 dys detention - AWL 69 dys - AA 24 (2) (from MFM 6)

10. CONDUCT WHILE UNDER SENTENCE:
11. EARLIEST DATE OF RELEASE: 15 Jul 46
12. RECOMMENDATIONS:

A/Adv.

CHARGE SHEET

The accused, No K-1583 Private Norman DIABLO, 4 Canadian Scottish Regiment, C.A.O., a soldier of the Canadian Army Occupational Force is charged with:

First Charge
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE
IN THAT HE
In the Field at 0515 hours 8 Jul 45 absented himself without leave from 4 C Scot R (CAOF) until apprehended by Military Police at UTRECHT, Holland at 1515 hours 30 Sep 45.

TOTAL ABSENCE - 84 days 10 hours

Second Charge
Army Act
Sec 24(2)

WHEN ON ACTIVE SERVICE LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES
IN THAT HE
In the Field on 30 Sep 45 was deficient of equipments, clothing and regimental necessaries to the extent of $28.46 VALUE

S. Buxton

(S. BUXTON) MAJOR,
A/Officer Commanding,
4 C Scot R (CAOF)

In the Field
6 Nov 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

W.P. Bogert

(W P Bogert) Brig
Comd 2/6 Cdn Inf Bde CAOF

In the Field
13 Nov 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-1683	Pte		Norman	DIABLO	4 C Scot R CAOF

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 Nov 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable by delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate (except the Offr mentioned) hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	J DONAHUE (Must be named. RP 106.)	3 N Shore R CAOF (Unit.)

MEMBERS.

Captain	J L DUBREUIL	HQ 2/8 Cdn Inf Bde CAOF
Captain (Rank.)	J E H LEBLANC (Named or detailed. RP 106.)	3 N Shore R CAOF (Unit.)

WAITING MEMBER.

A/Captain (Rank.)	C F ROWAN (Named or detailed, if any. RP 106.)	3 N Shore R CAOF (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in GERMANY (Country.)

(Signed personally. RP 105 fn 2.)

Brig. (Rank.)

Dat 13 Nov 1945

Commanding 2/8 Cdn Inf Bde CAOF Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFA 98. (In Sect of AFA 2) 40-P & S-1607 (E142)

(See overleaf for oaths and notes for use on trial.)

"W"

A/D.

15/11/45

K-1583 PTE DIABLO, N.

This is to certify that I have, this day, examined the a/m soldier and find him fit to undergo trial by Court Martial.

N D Lavers Capt

(H.D. LAVERS)CAPT RCAMC

"A"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of K-1583 Pte DIABLO, N. 4 C Scot R (CAOF), charged with:

(1) ABSENTING HIMSELF WITHOUT LEAVE -- A.A. Sec 15(1).

(2) LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING, AND REGIMENTAL NECESSARIES -- A.A. Sec 24(2).

FIRST WITNESS

Capt J.L. HENSLOWE, adjutant 4 C Scot R (CAOF), having been duly sworn states:

I am Capt J.L. HENSLOWE, adjutant 4 C Scot R (CAOF). I present the following documents concerning the absence, without leave, of K-1583 Pte DIABLO, N., whom I now recognize.

(a) Record of Declaration of Court of Inquiry held 2 Aug 45.

(b) Certified true copies of extracts from Part II Orders 5, 8 and 9 published by Cdn Sec 2 Bch for this Bn.

(c) Certificate of clothing and equipment in Pte Diablo's possession on apprehension.

(d) Certificate of apprehension.

The accused was cautioned as follows: ---(accused declines to cross-examine)

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or whatever evidence you give will be taken down in writing and may be given in evidence.

A. I do not wish to make any statement. N. Diablo

I certify that the foregoing summary of evidence, consisting of one page was taken down by me in the presence of the accused and that RP (c), (d) and (e) have been complied with.

In the Field
8 Nov 45

H. C. Parker Lt.
(H.C. PARKER)LIEUT,
4 C Scot R (CAOF)

RECORD OF THE DECLARATION OF A COURT OF INQUIRY ASSEMBLE AT IN THE FIELD IN GERMANY ON THE 2ND DAY OF AUGUST, 1945, FOR THE PURPOSE OF INVESTIGATING AND RECORDING THE ABSENCE, WITHOUT LEAVE, FROM HIS DUTY, AND DEFICIENCY, IF ANY, IN THE ARMS, AMMUNITION, EQUIPMENTS, REGIMENTAL NECESSARIES, OR CLOTHING OF NO K-1583 PTE DIABLO, N.

D E C L A R A T I O N

The Court declare, that No K-1583 Pte Diablo, N. illegally absented himself without leave (or other sufficient cause) from open arrest in the field on the 8th day of July 45 at 0515 hrs and that he is still so absent and that on the 8 July 45 he was deficient and that he is still deficient the following articles.

Article		Voc Price	Price 75%
Anklets Web Prs	1	.99	.75
Battle Dress Blouse	1	6.50	4.87
Battle Dress Trousers	1	6.55	4.91
Bonnets Tam-o-shanter	1	.60	.45
Boots Ankle	1	5.82	4.36
Drawers Cel. shorts	2	.86	.64
Drawers Woolen	2	2.80	2.10
Gloves knitted drab	1	.47	.38
Jersey Pullover	1	1.79	1.35
Shirts Ang. Drab	2	4.06	3.05
Shirts Woolen	2	2.40	1.80
Shoes Canvas (Cdn)	1	2.29	1.71
Socks	4	1.84	1.40
Badges Cap	1	.09	.07
Braces	1	.32	.24
Brushes Button Brass	1	.26	.19
Clothes	1	.48	.36
Hair	1	.34	.25
Shave	1	.37	.28
Boot	1	.28	.21
Tooth	1	.11	.08
Cap Comforter (Br)	1	.34	.25
Combs Hair	1	.04	.03
Discs Identity Red	1	.01	.01
Green	1	.01	.01
Dressing Field Prs	1	.24	.18
Forks Table	1	.07	.05
Holdall	1	.19	.14
Housewife	1	.17	.13
Knife Table	1	.15	.11
Razor Safety	1	.06	.04
Patches Disting.	2	.06	.04
Vest Cot. Int W/Ls	2	1.20	.90
Towels Hand	2	.68	.51
Shorts Gym (Br)	2	.86	.62
Badges Shldr. Unitl	1	.03	.02
Belts Wst WE Pt37	1	.74	.56
Bottles Water Pattl	1	.82	.62
Braces Patt R & L	2	.60	.45
Carriers Water Botl	1	.37	.28
Haversack	1	1.79	1.34
Pack	1	1.84	1.38
Pouches Basic	2	2.38	1.78
Straps Shldr Hvrsk	2	.64	.48
Straps Web support	2	.26	.19
Tins Mess Rect Setl	1	.32	.24
Mugs Drinking	1	.17	.13
Sheets Ground	1	2.94	2.21
Vests Cotton Gym	2	.82	.62
Toques Khaki	1	.48	.36
		$57.50	$43.11

NAMES OF PRESIDENT AND MEMBERS:

Captain D.C. Bowen

Lieut D.B. Butchart

Lieut L.J. Fournier

Signature of Commanding Officer L.S. HENDERSON

CERTIFIED TRUE COPY

.....
(J.L. Henslowe) Capt & Adjt
4 C Reot R (CASF)
2 AUG 45

RECORD OF THE DECLARATION OF A COURT OF INQUIRY ASSEMBLE AT IN THE FIELD IN GERMANY ON THE 2ND DAY OF AUGUST, 1945, FOR THE PURPOSE OF INVESTIGATING AND RECORDING THE ABSENCE, WITHOUT LEAVE, FROM HIS DUTY, AND DEFICIENCY, IF ANY, IN THE ARMS, AMMUNITION, EQUIPMENTS, REGIMENTAL NECESSARIES, OR CLOTHING OF NO K-1583 PTE DIABLO, N.

D E C L A R A T I O N

The Court declare, that No K-1583 Pte Diablo, N. illegally absented himself without leave (or other sufficient cause) from open arrest in the field on the 8th day of July 45 at 0515 hrs and that he is still so absent and that on the 8 July 45 he was deficient and that he is still deficient the following articles.

Article		Voc Price	Price 75%	Article		Voc Price	Price 75%
Anklets Web Prs	1	.99	.75	Dressing Field Prs	1	.24	.18
Battle Dress Blouse	1	6.50	4.87	Forks Table	1	.07	.05
Battle Dress Trousers	1	6.55	4.91	Holdall	1	.19	.14
Bonnets Tam-o-shanter	1	.60	.45	Housewife	1	.17	.13
Boots Ankle	1	5.82	4.36	Knife Table	1	.15	.11
Drawers Cel. shorts	2	.86	.64	Razor Safety	1	.06	.04
Drawers Woolen	2	2.80	2.10	Patches Disting.	2	.06	.04
Gloves knitted drab	1	.47	.38	Vest Cot. Int W/Ls	2	1.20	.90
Jersey Pullover	1	1.79	1.35	Towels Hand	2	.68	.51
Shirts Ang. Drab	2	4.06	3.05	Shorts Gym (Br)	2	.86	.62
Shirts Woolen	2	2.40	1.80	Badges Shldr. Unit	1	.03	.02
Shoes Canvas (Cdn)	1	2.29	1.71	Belts Wst WE Pt37	1	.74	.56
Socks	4	1.84	1.40	Bottles Water Patt	1	.82	.62
Badges Cap	1	.09	.07	Braces Patt R & L	2	.60	.45
Braces	1	.32	.24	Carriers Water Bot	1	.37	.28
Brushes Button Brass	1	.26	.19	Haversack	1	1.79	1.34
Clothes	1	.48	.36	Pack	1	1.84	1.38
Hair	1	.34	.25	Pouches Basic	2	2.38	1.78
Shave	1	.37	.28	Straps Shldr Hvrsk	2	.64	.48
Boot	1	.28	.21	Straps Web support	2	.26	.19
Tooth	1	.11	.08	Tins Mess Rect Set	1	.32	.24
Cap Comforter (Br)	1	.34	.25	Mugs Drinking	1	.17	.13
Combs Hair	1	.04	.03	Sheets Ground	1	2.94	2.21
Discs Identity Red	1	.01	.01	Vests Cotton Gym	2	.82	.62
Green	1	.01	.01	Toques Khaki	1	.48	.36
						37.30	28.01

NAMES OF PRESIDENT AND MEMBERS:

Captain D.C. Bowen

Lieut D.R. Butchart — Lieut L.J. Fournier

Signature of Commanding Officer ..... L.S. MEMBERS

CERTIFIED TRUE COPY

.....
(J.L. Henslowe) Capt & Adjt
A C Rect R (CAOF)
20 OCT 45

C C

4/10.

PART II ORDER NO 5. 4/25 Jul 45.

4 (b) AWL from 0515 hrs 8 Jul 45.

K-1583 Pte DIABLO N

4 (c) AWL from 1515 hrs 8 Jul 45. Still absent 0515 hrs 16 Jul 45 (8th day)

K-1583 Pte DIABLO N

PART II ORDER NO 8 4/11 Aug 45.

5 (a) AWL from 0515 hrs 8 Jul 45. Still absent 0515 hrs 30 Jul 45. (22nd day)

K-1583 Pte DIABLO N

PART II ORDER NO 9 4/18 AUG 45.

10 (c) SCH des 10 Aug 45 having been dec illegally absent by a Ct Inq from 0515 hrs 8 Jul 45 Deficiencies in kit £43.13

K-1583 Pte DIABLO N

CERTIFIED TRUE EXTRACTS FROM CDR SEC 2 ECHELON PART II ORDERS ISSUED FOR THIS RN AS SHOWN.

6 NOV 45.

(J.L. [illegible])CAPT & ADJT.,
A C SCOT R (C.OF)

C C

4/40.

PART II ORDERS NO 5, 4/25 Jul 45.

4 (b) AWL from 0515 hrs 8 Jul 45.

K-1583 Pte DIABLO M

4 (c) AWL from 1515 hrs 8 Jul 45. Still absent 0515 hrs 16 Jul 45 (8th day)

K-1583 Pte DIABLO M

PART II ORDERS NO 8 4/31 Aug 45.

5 (a) AWL from 0515 hrs 8 Jul 45. Still absent 0515 hrs 30 Jul 45. (22nd day)

K-1583 Pte DIABLO M

PART II ORDERS NO 9 4/38 AUG 45.

10 (c) SOS dos 10 Aug 45 having been dec illegally absent by a Ct Inq from 0515 hrs 8 Jul 45 Deficiencies in kit $43.13

K-1583 Pte DIABLO M

CERTIFIED TRUE EXTRACTS FROM CDN SHC 2 HOSPITAL PART II ORDERS ISSUED FOR UNIT BY AE OFFICER.

6 NOV 45.

(J.L. [illegible])CAPT & ADJT.,
A C SCOT R (CAMP)

D

1/46

THIS IS TO CERTIFY THAT THE U/M ARTICLES WERE FOUND TO BE IN THE POSSESSION OF M-1583 PTE DIABLO M. ON HIS RETURN FROM AWL.

TROUSERS S.D.	1	$6.55	$4.87
BONNET T O S	1	.60	.45
SHIRT AMD DRAB	1	2.03	1.53
SMOCK CAMVAS	1	2.29	1.71
BADGE CAP	1	.09	.07
BRACES	1	.32	.24
BRUSH SHAVING	1	.37	.28
BRUSH TOOTH	1	.11	.08
DRESSING FIELD	1	.24	.18
FORK TABLE	1	.07	.05
HOLDALL	1	.19	.14
KNIFE	1	.15	.11
RAZOR	1	.06	.04
PATCHES HOT	2	.06	.04
RANGER SHOULDER UNIT	1	.63	.02
BELTS WEB PT 37	1	.74	.56
TOWELS HAND	2	.68	.51
HAVERSACK	1	1.79	1.34
TINS MESS MKC	1	.32	.24
SHEET GROUND	1	2.94	2.21
		$19.63	$14.67

DATE 30TH SEP 45.

W. P. Ellington

P-21384 COMS ELLINGTON W.P.
COMD HQ COY A C SCOT R (CAOF)

E

A/d.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42

I certify that No. K1593 Rank PTE. Name DIABLO N

Unit CDN SCOTTISH REGT CAOF was arrested at UTRECHT (place)

at 1515 (hour) on 30 SEP 45 (date) and that at the time of his arrest he was wearing (military uniform) or (~~civilian clothes~~)

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

(WA MILLER)
Officer Commanding
4 Cdn Pro Coy CDA

CAPT

Strike out part inapplicable.

3/17 MFM 6 (AFB 122) 40/P&S 136 (7010)

NK-1583 Name DIABLO Norman | Sqn, Battery, or Company | Corps | Date of enlistment 22 Dec 43 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet: Nil | No. and date of last drunk: Nil | Period not reckoning towards freedom from extra fine: N/A | Sheet No. One | Signature OC Company, etc: A WILSON Major A16 CITC (CA)

Place	Date of offence	Rank	Crime or Offence	Name of Officer ordering Court	Punishment awarded	Date of award of punishment	Name of Officer by whom awarded	Remarks
			Sheet destroyed effective 22 Jun 44 Certified nb entries A.Wilson A16 CITC (CA)					
Calgary Alta	2 Jul 44	Pte	1. AWL from 022359 S Jul 44 to 101800 S Sep 44 (69 day, 18 hrs 1 min) Sec 15(1) A.A. Cost of appreh $46.51 2. Losing by neglect his clothing equipment and reg necessaries to the value of $7.27 Sec 24(2) A.A.	S.C.M.	65 days detn Stop of pay $53.78	18 Sep 44	S.C.M.	Forf 70 days pay under FR&I 149 (1)(a) Stop of pay $46.51 FR&I 172(8) Stop of pay $7.27 FR&I 158(2)
In the Field	4-2-45	Pte	Conduct to the prejudice of Good Order & Military Discipline in that he failed to appear at the place of parade appointed by his Bde, L.G. Coy Comd AA Sec 40	K-73858 A/Sgt Jeremy, H. K-2317 Pte	Forf 28 days pay	5-2-45	Lt-Col D.G. Crofton	Forf 28 days pay under FR&I 149(2) Pro.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 29	Mar 45	Pte		A.A. Sec 40 Conduct to the Prej etc concerned in theft of liquor and cigarettes from Regt Canteen	Sgt Cox FM Gnr Ballah Pte McRivie	27 days Det	1 Apr 45	V.W.Hugman Lt-Col	Forf 27 days pay PR&I 149 (1)(b)
Field 1	May 45	Pte		A.A. Sec 15(1) Absenting himself without leave	Sgt Ward, W.J.A.	2 days C.B.	2 May 45	Capt R.L. Griffin	L.W. Leckie Lieut

CERTIFIED A TRUE COPY

(J.L. HARSLOWE) CAPT & ADJT
4 C Scot R (CAOP)

21 Oct 45

X. Exh. X

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
K-1583	Private	DIABLO, Norman	4 C Scot R (CAOF)

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused; exclusive of convictions by a Court Martial

For A.A. 15(1) 1 times

For A.A. 40 2 times

For _____ _____ times

Date of first entry in Field Conduct Sheet 2 Jul 44

Date of last entry in Field Conduct Sheet 1 May 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule below.

3. ~~The accused at the present time is under sentence for _____ beginning on the _____ day of _____ (strike out if not applicable)~~

4. The accused has been awaiting trial on the present charges for No...days in civil custody; and for.....days in military custody, i.e., No.....days in open arrest,.....days in close arrest; of which No...days were spent in hospital.

5. The present age of the accused is 20 years 4 months

6. The date of his attestation is 22 Dec 43

7. The service which the accused is allowed to reckon is 1 year 8 months

8. ~~The accused is in possession of: (State military decorations (if any)~~

9. ~~(If the accused is a warrant officer or N.C.O.) The accused has served continuously, without reduction, to the present date. Date of promotion~~

In the substantive rank of..... .....

In the acting rank of..... .....

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court	Date & Place of Trial	Charges	Sentence of the Court
S.C.M.	18 Sep 44 Calgary, Alta, Canada	(1) Sec 15(1) AWL 69 days 18 hrs 1 min. Costs apprxn $46.51 (2) Losing by neglect his clothing	65 days det'n Stop. of pay $53.78

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 8 day of Nov 45

(J.L. HENSLOWE) CAPT & ADJT.
4 C Scot R (CAOF)

"Z"

STATEMENT BY LIEUT. F.A. UNGLESS DEFENDING OFFICER

Mr. President and Members of the Court

As defending officer for the accused I am now going to place before the court facts that should be considered before a decision is taken in this case.

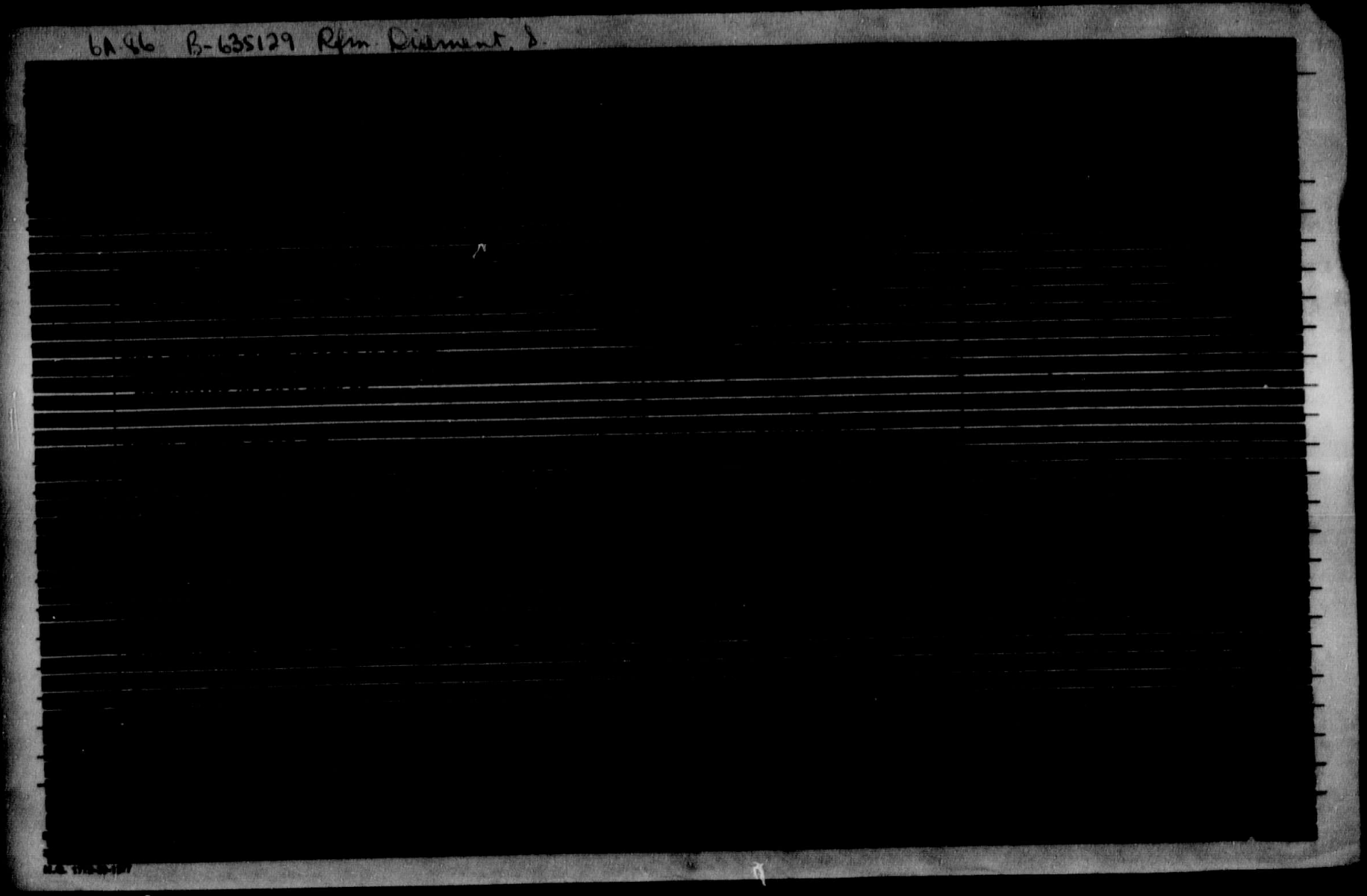
During the time that the defendant was absent he was living with a girl in Holland. He had met the girl previously, and in his absence he came to love her, and is the father of her unborn child.

This girl is living away from home, has been out of work for some time and is badly off financially. Not wanting to leave her destitute with the probability of a child coming, the accused stayed with her and attempted to support her until his arrest in Utrecht, 30 Sep 45. No doubt he could have helped the girl more by returning to his unit, but in his very worried state of mind he did not realize that this was the best course to take. I might mention at this point that the accused has a low "M" rating and does not seem to be able to think problems out clearly. He has not the stability desirable in a soldier. However he served several months in action and rendered good service to his country. He was wounded once.

A contributing cause to his absenting himself without leave was the fact that he had not had leave since leaving Canada over a year before excepting for the time he spent recovering from his wound.

I would also ask you to consider his age. He has only just turned twenty years of age.

The accused intends to marry this girl whenever possible because he loves her and wishes to have the child born legitimately. Is it justice to the child that he should come into the world with the social stigma of being born out of wedlock? On this ground particularly, if for no other reason, I urge the Court to consider carefully before coming to a decision. I feel certain that the exceptional circumstances of this case will influence the court in the Defendant's favour and that justice will be done to him.


6A 86 B-635129 Rfm Document 3

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B. 635129 Rfn. Sam DIAMENT

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 41	GUILTY	GUILTY	
2nd AA Sec 40	NOT GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 29 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for a period of one (1) year.

(Sgd) ..... Judge-Advocate, if any. 20 MAY 46 Date awarded. (Sgd) C. S. Goodacre Lt Col President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 38(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(2). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 33A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Finding and sentence confirmed.

I ~~direct that the accused be not committed to prison or detention barracks until further orders.~~(1) BGH

(1. AA 57A. Delete if not used.)

(Sgd) J. Whitfield Gen

Date 29 May 46 Commanding C R U Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B.635129 RFN DIAMENT, S.	31 May 46	G H Stanford Capt

Extracts to Part II of Record Form B

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA31) 40/P & B/1098 (6144) 4/38B

RECEIVED JUN 15 1946 BRANCH

Convened by Order of Brig A.B. CONOLLY CBE ED Comd CRU dated 17 May 46

ACCUSED.

(As to trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed T.W.H. & Disc. and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.635129	Rifleman	~~[illegible]~~	Sam	DIAMENT	4 Cdn Repat Depot

PROCEEDINGS REVIEWED 17th June 46 Meeting Capt RMS

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER JAG BRANCH CMHQ

Held in the Fd in (country) ..... on (date(s)) 20 MAY 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr,~~ if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1020 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused : Do ~~you~~ object to ..... as interpreter ? Ans .....

The interpreter is sworn.(1) Do you object to ~~Cpl 69158 2/Lt RIMMER~~ as shorthand writer ? Ans ~~OBJ~~ The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NOBJ (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and ~~Offrs under instr,~~ if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt-Col	C.B. MORROW CBE ED	R. CRU
Member	Capt	I.J. CODY	4 Cdn Repat Dep
Member	Lieut	K.E. DUNCAN	4 Cdn Repat Dep
~~Judge-Advocate~~			
Prosecutor	Lieut	D.R. ABBEY	4 Cdn Repat Dep
Defending Offr	CAPT	R.P. CHESSUM	4 Cdn Repat Dep

Questions by President : Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment makes(s) (no) (a) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or as bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; where several accused to be tried separately see RP 71(C), and use separate copies of CF A66 to record proceedings. 2. RP 22, RP 23. If otherwise, dubiate and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO SIR (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (~~them~~) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

(3) The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO SIR (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) opening address.(1) Evidence extracted.
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. GIVE EVIDENCE SIR. Do you intend to call witnesses on your behalf ?
Ans. NO SIR. ~~Are they witnesses as to character only ?~~ Ans. Prosecution attached
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 66(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the SECOND charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. *AA 54(3) (a), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO SIR.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 353 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Personality sheets plea in mitigation attached
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 109, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to summary and disposal of record after trial see insert on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C-H-A-R-G-E S-H-E-E-T

The accused, B-635129 Rfn Sam DIAMENT, on strength No 4 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
AA Sec 41

WHILE ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE THAT IS TO SAY SENDING BANK OF ENGLAND NOTES OUT OF THE UNITED KINGDOM CONTRARY TO REGULATION 3, DEFENCE (FINANCE) REGULATIONS, 1939)

in that he,

in the Field, during the months of January and February, 1946, did send to B-631265 Rfn Hoffman, I. in Germany the sum of £60-0-0 in notes of the Bank of England or their equivalent.

SECOND CHARGE
AA Sec 40

WHILE ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

in the Field, during the months of January and February 1946, while employed as Postal Clerk in the Unit Post Office of No 4 Canadian Repat Depot, did improperly sell British Postage Stamps not on charge of said Unit Post Office, thereby making a personal profit of approximately £40-0-0.

In the Field
14 May, 1946

(H G J Woods) Lt-col
Commanding
No 4 Canadian Repatriation Depot

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL.

Farnborough, Hants
17th May, 1946

(A B CONNELLY) Brigadier
Comd
Cdn Repatriation Unit s

C&D

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA8)
40(PAN)1697 (200)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmst R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-635129	Rifleman	Sam	DIAMENT	4 Cdn Repat Depot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 17 May 46 endorsed by me, (~~or by an offr of my rank or more~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior convening offr~~)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint an Army Offr under the rank of (a) Lieut-Col (b) Major or Captain (as the case may be) and a Judge Advocate~~
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge Advocate the person hereinafter named~~
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Unit.)
Lt-col	CE WOODROW OBE ED	HQ CRU
	(*Must be named. RP 106.*)	

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Comd	4 Cdn Repat Depot
Lieutenant	to be detailed by Comd	4 Cdn Repat Depot
	~~EXTRA MEMBER~~	
	(*Named or detailed, if any. RP 106.*)	
	~~JUDGE ADVOCATE~~	
	(*Must be named, if any. RP 106.*)	

On Active Service in the Fd

in England (*Country.*)

Date 17th May, 1946

(*Signed personally. RP 105 fn 25*)
(A E CONNELLY)
Commanding Canadian Repatriation Units
Convening Officer.

Brigadier (*Rank.*)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

Cdn

MEDICAL OFFICER'S REPORT
(KR (Can) 557.)

I hereby certify that I have this morning medically examined

No. B69129 Rfn. Diament S.

and that in my opinion he is (unfit) (fit) unfit

to undergo trial by court-martial.

Station No. 4 Cdn Repat Depot

Date 8 May 26-46.

F. S. Diament Capt

RCAMC
Medical Officer
"A" Wing, 4 Cdn Repat Depot

TRIAL OF

B.635129 Rfn Sam DIAMENT --- 4 Cdn Repat Depot

PROSECUTION

FIRST WITNESS FOR THE PROSECUTION

M.8634 Sgt PETERSON, R.C. --- SIS, H4 CRU, sworn, states:-

Q. Do you recognize anyone in this court room?
A. I recognize the accused sir.

Q. Who do you know the accused as?
A. Rfn Diament, sir.

Q. What has been your association with the accused?
A. I interviewed him on the 10 Apr 46, sir.

Q. What was the context of your interview?
A. In connection with the English three penny stamps that he had been receiving from the continent.

Q. What was the result of the interview?
A. He told me that he had been receiving English three penny stamps from a Pte. Hoffman on the continent and that he had disposed of them through the Post Office here to the extent of approximately $180 worth.

Q. What type of statement was that he made? Was it verbal or written?
A. He made a written statement sir.

Q. In connection with the written statement what was the manner in which this statement was taken?
A. He was cautioned.

Q. What is the caution?
A. "I have been warned that I am not obliged to say anything unless I wish to do so, but anything I now say will be taken down in writing and may be given in evidence".

Q. Is that the caution that was given?
A. Yes it is.

Q. What is at the base of that caution there on the document in your hand?
A. It is Diament's signature sir.

Q. Your signature is on the left?
A. My signature is on the left.

Q. What inducement did you offer Diament to make this statement?
A. I was able to offer him none.

Q. What threat did you use?
A. I used none sir.

Q. Will you tell the court what that is? (document in the witnesses hand).
A. That is my own hand writing and is a statement that I took from Rfn Diament concerning his traffic in stamps.

Q. Did Diament dictate the statement to you?
A. Yes, he told me what had happened and I wrote it down.

Q. Will you submit that to the court as Exhibit 1 for the prosecution?

PRESIDENT TO THE DEFENCE

Q. Have you any objection to this statement going in as an exhibit?
A. No sir, I don't.

ab

FIRST WITNESS FOR THE PROSECUTION (CONT'D)

STATEMENT MARKED EXHIBIT 1 BY THE COURT

CROSS-EXAMINED - - -

Q. When you came to 4 Repat was there anyone else in the room with the accused and you?
A. Yes, Sgt Major Lipman, off and on.

Q. Was Sgt Major Lipman and the accused there alone when you were out of the room?
A. No sir.

Q. At what time did you warn the accused or give the caution?
A. Before I took any statement.

Q. Before any statement was given whatsoever?
A. That is right sir.

Q. Was Sgt Major Lipman in the room at that time?
A. I couldn't say sir, if he was or not.

Q. The statement was written out by you first and then the accused warned?
A. I warned the accused first before I wrote the statement down.

Q. Did you take the accused's actual words down on paper or not?
A. It was what the accused told me.

Q. You used your own words about what the accused told you?
A. He told me what had happened and I wrote it down.

Q. Was Sgt Major Lipman speaking to the accused during the time you were there?
A. Yes, he had been speaking to him.

Q. What time did you first see the accused?
A. I believe it was around 1400 hours.

Q. You didn't see him in the morning?
A. No, I didn't. It was just the noon hour when I arrived, it may have been 1330, it was the noon hour when I arrived at the guard room, I had lunch first.

Q. Do you recall when that statement was signed?
A. About 1530 hours.

Q. During that hour and a half you were talking this matter over with the accused?
A. That is right sir.

Q. When the other party was talking to the accused do you recall any statement that was said that it may be easier if a statement was made?
A. No, there was no such a thing said.

QUESTIONS BY THE COURT

Q. You took down this statement?
A. Yes sir.

Q. As given to you by the accused?
A. That is right sir.

Q. After you had taken it down it was signed by him?
A. That is right sir.

Q. Did he have an opportunity to read it over?
A. That is right sir, he read it over before signing it.

Q. The statement is in exactly the same condition now as when he

FIRST WITNESS FOR THE PROSECUTION (CONT'D)

had signed it?
A. Yes sir.

Q. After he had read it over?
A. That is right sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

PROSECUTION IS CLOSED

DEFENCE

FIRST WITNESS FOR THE DEFENCE
the accused, sworn, states:-

Q. You are employed in the "A" Wing Post Office of 4 Repat?
A. Yes sir.

Q. While working in the "A" Wing Post Office did you sell British Postal stamps?
A. Yes, I did sir.

Q. Where did you get the money to purchase these postage stamps?
A. I had some money of my own.

Q. Was there any provision made while you were working in the "A" Wing Post Office for a sum of money to be placed at your disposal by the Field Post Office so that you could use that money to purchase stamps?
A. No sir.

Q. As a member of the Postal Corps did you try to give the best service you could to fellows going through on repat draft?
A. Yes sir, I always tried to do my best.

Q. You bought the stamps from whatever source possible?
A. Yes sir.

Q. How much did you sell the three penny stamps for?
A. Just what they were worth.

NO CROSS-EXAMINATION

QUESTIONS BY THE COURT

Q. You did obtain stamps from Germany?
A. Yes sir.

Q. Which were not the property of your Unit Post Office?
A. Yes sir.

Q. You sold them in the Unit Post Office?
A. Yes sir.

Q. And pocketed the money?
A. Well!

Q. You didn't turn it into the unit Post Office?
A. They were not unit post office stamps.

Q. That is what you are charged with?
A. Yes sir.

Q. And that is what you did do?
A. I did sir.

Q. You said just a minute ago, that you sold them for just what they were worth, to your defending officer?
A. Yes sir.

FIRST WITNESS FOR THE DEFENCE (CONT'D)

Q. They cost you a penny half penny each?
A. Yes sir.

Q. You made a 100% profit on each stamp you sold?
A. I didn't get all the money.

Q. You split the profits?
A. Yes sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH KR 83(B).

THE COURT IS CLOSED TO CONSIDER IT'S FINDING

THE COURT RE-OPENS

PLEA OF MITIGATION BY THE DEFENDING OFFICER

The court has proven the guilt of the accused but his defence requests that the court take into consideration that the accused was working in a Post Office which elementally was not properly supervised by someone who could have foreseen what may have happened and if a proper check had of been taken on the place from time to time the accused might possibly have known more about Postal procedure than he did. Outside of knowing the accused only recently I couldn't bring forth any character witnesses as a great number of the personnel of this unit have recently been repatriated and I could find no NCO who had worked along with the accused to indicate the nature of the work that he had been carrying on except that I have heard no complaints regarding the work in the Repat Depot given by the Postal corps of which Rfn Diament is a member.

The accused has been in the army for a considerable length of time and during that time has only had one crime against him which is not of a serious nature and not similar to the one he is being tried with today and I ask the court to take that into consideration.

TRIAL OF

B.635129 Rfn Sam DIAMENT --- 4 Cdn Repat Depot

PROSECUTION

FIRST WITNESS FOR THE PROSECUTION

M.8634 Sgt PETERSON, R.C. --- SIS, H4 CRU, sworn, states:-

Q. Do you recognize anyone in this court room?
A. I recognize the accused sir.

Q. Who do you know the accused as?
A. Rfn Diament, sir.

Q. What has been your association with the accused?
A. I interviewed him on the 10 Apr 46, sir.

Q. What was the context of your interview?
A. In connection with the English three penny stamps that he had been receiving from the continent.

Q. What was the result of the interview?
A. He told me that he had been receiving English three penny stamps from a Pte. Hoffman on the continent and that he had disposed of them through the Post Office here to the extent of approximately $120 worth.

Q. What type of statement was that he made? Was it verbal or written?
A. He made a written statement sir.

Q. In connection with the written statement what was the manner in which this statement was taken?
A. He was cautioned.

Q. What is the caution?
A. "I have been warned that I am not obliged to say anything unless I wish to do so, but anything I now say will be taken down in writing and may be given in evidence".

Q. Is that the caution that was given?
A. Yes it is.

Q. What is at the base of that caution there on the document in your hand?
A. It is Diament's signature sir.

Q. Your signature is on the left?
A. My signature is on the left.

Q. What inducement did you offer Diament to make this statement?
A. I was able to offer him none.

Q. What threat did you use?
A. I used none sir.

Q. Will you tell the court what that is? (document in the witnesses hand).
A. That is my own hand writing and is a statement that I took from Rfn Diament concerning his traffic in stamps.

Q. Did Diament dictate the statement to you?
A. Yes, he told me what had happened and I wrote it down.

Q. Will you submit that to the court as Exhibit 1 for the prosecution?

PRESIDENT TO THE DEFENCE

Q. Have you any objection to this statement going in as an exhibit?
A. No sir, I don't.

FIRST WITNESS FOR THE PROSECUTION (CONT'D)

STATEMENT MARKED EXHIBIT 1 BY THE COURT

CROSS-EXAMINED

Q. When you came to 4 Repat was there anyone else in the room with the accused and you?
A. Yes, Sgt Major Lipman, off and on.

Q. Was Sgt Major Lipman and the accused there alone when you were out of the room?
A. No sir.

Q. At what time did you warn the accused or give the caution?
A. Before I took any statement.

Q. Before any statement was given whatsoever?
A. That is right sir.

Q. Was Sgt Major Lipman in the room at that time?
A. I couldn't say sir, if he was or not.

Q. The statement was written out by you first and then the accused warned?
A. I warned the accused first before I wrote the statement down.

Q. Did you take the accused's actual words down on paper or not?
A. It was what the accused told me.

Q. You used your own words about what the accused told you?
A. He told me what had happened and I wrote it down.

Q. Was Sgt Major Lipman speaking to the accused during the time you were there?
A. Yes, he had been speaking to him.

Q. What time did you first see the accused?
A. I believe it was around 1400 hours.

Q. You didn't see him in the morning?
A. No, I didn't. It was just the noon hour when I arrived, it may have been 1330, it was the noon hour when I arrived at the guard room, I had lunch first.

Q. Do you recall when that statement was signed?
A. About 1530 hours.

Q. During that hour and a half you were talking this matter over with the accused?
A. That is right sir.

Q. When the other party was talking to the accused do you recall any statement that was said that it may be easier if a statement was made?
A. No, there was no such a thing said.

QUESTIONS BY THE COURT

Q. You took down this statement?
A. Yes sir.

Q. As given to you by the accused?
A. That is right sir.

Q. After you had taken it down it was signed by him?
A. That is right sir.

Q. Did he have an opportunity to read it over?
A. That is right sir, he read it over before signing it.

Q. The statement is in exactly the same condition now as when he

FIRST WITNESS FOR THE PROSECUTION (CONT'D)

had signed it?
A. Yes sir.

Q. After he had read it over?
A. That is right sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

PROSECUTION IS CLOSED

DEFENCE

FIRST WITNESS FOR THE DEFENCE

the accused, sworn, states:-

Q. You are employed in the "A" Wing Post Office of 4 Repat?
A. Yes sir.

Q. While working in the "A" Wing Post Office did you sell British Postal stamps?
A. Yes, I did sir.

Q. Where did you get the money to purchase these postage stamps?
A. I had some money of my own.

Q. Was there any provision made while you were working in the "A" Wing Post Office for a sum of money to be placed at your disposal by the Field Post Office so that you could use that money to purchase stamps?
A. No sir.

Q. As a member of the Postal Corps did you try to give the best service you could to fellows going through on repat draft?
A. Yes sir, I always tried to do my best.

Q. You bought the stamps from whatever source possible?
A. Yes sir.

Q. How much did you sell the three penny stamps for?
A. Just what they were worth.

NO CROSS-EXAMINATION

QUESTIONS BY THE COURT

Q. You did obtain stamps from Germany?
A. Yes sir.

Q. Which were not the property of your Unit Post Office?
A. Yes sir.

Q. You sold them in the Unit Post Office?
A. Yes sir.

Q. And pocketed the money?
A. Well!

Q. You didn't turn it into the unit Post Office?
A. They were not unit post office stamps.

Q. That is what you are charged with?
A. Yes sir.

Q. And that is what you did do?
A. I did sir.

Q. You said just a minute ago, that you sold them for just what they were worth, to your defending officer?
A. Yes sir.

FIRST WITNESS FOR THE DEFENCE (CONT'D)

Q. They cost you a penny half penny each?
A. Yes sir.

Q. You made a 100% profit on each stamp you sold?
A. I didn't get all the money.

Q. You split the profits?
A. Yes sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH KR 83(B).

THE COURT IS CLOSED TO CONSIDER IT'S FINDING

THE COURT RE-OPENS

PLEA OF MITIGATION BY THE
APPROVING OFFICER

The court has proven the guilt of the accused but his defence requests that the court take into consideration that the accused was working in a Post Office which elementally was not properly supervised by someone who could have foreseen what may have happened and if a proper check had of been taken on the place from time to time the accused might possibly have known more about Postal procedure than he did. Outside of knowing the accused only recently I couldn't bring forth any character witnesses as a great number of the personnel of this unit have recently been repatriated and I could find no NCO who had worked along with the accused to indicate the nature of the work that he had been carrying on except that I have heard no complaints regarding the work in the Repat Depot given by the Postal corps of which Rfn Diament is a member.

The accused has been in the army for a considerable length of time and during that time has only had one crime against him which is not of a serious nature and not similar to the one he is being tried with today and I ask the court to take that into consideration.

FIRST WITNESS FOR THE PROSECUTION (CONT'D)

had signed it?
A. Yes sir.

Q. After he had read it over?
A. That is right sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

PROSECUTION IS CLOSED

DEFENCE

FIRST WITNESS FOR THE DEFENCE
the accused, sworn, states:-

Q. You are employed in the "A" Wing Post Office of 4 Repat?
A. Yes sir.

Q. While working in the "A" Wing Post Office did you sell British Postal stamps?
A. Yes, I did sir.

Q. Where did you get the money to purchase these postage stamps?
A. I had some money of my own.

Q. Was there any provision made while you were working in the "A" Wing Post Office for a sum of money to be placed at your disposal by the Field Post Office so that you could use that money to purchase stamps?
A. No sir.

Q. As a member of the Postal Corps did you try to give the best service you could to fellows going through on repat draft?
A. Yes sir, I always tried to do my best.

Q. You bought the stamps from whatever source possible?
A. Yes sir.

Q. How much did you sell the three penny stamps for?
A. Just what they were worth.

NO CROSS-EXAMINATION

QUESTIONS BY THE COURT

Q. You did obtain stamps from Germany?
A. Yes sir.

Q. Which were not the property of your Unit Post Office?
A. Yes sir.

Q. You sold them in the Unit Post Office?
A. Yes sir.

Q. And pocketed the money?
A. Well!

Q. You didn't turn it into the unit Post Office?
A. They were not unit post office stamps.

Q. That is what you are charged with?
A. Yes sir.

Q. And that is what you did do?
A. I did sir.

Q. You said just a minute ago, that you sold them for just what they were worth, to your defending officer?
A. Yes sir.

FIRST WITNESS FOR THE DEFENCE (CONT'D)

Q. They cost you a penny half penny each?
A. Yes sir.

Q. You made a 100% profit on each stamp you sold?
A. I didn't get all the money.

Q. You split the profits?
A. Yes sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH KR 83(B).

THE COURT IS CLOSED TO CONSIDER IT'S FINDING

THE COURT RE-OPENS

PLEA OF MITIGATION BY THE
DEFENDING OFFICER

The court has proven the guilt of the accused but his defence requests that the court take into consideration that the accused was working in a Post Office which elementally was not properly supervised by someone who could have foreseen what may have happened and if a proper check had of been taken on the place from time to time the accused might possibly have known more about Postal procedure than he did. Outside of knowing the accused only recently I couldn't bring forth any character witnesses as a great number of the personnel of this unit have recently been repatriated and I could find no NCO who had worked along with the accused to indicate the nature of the work that he had been carrying on except that I have heard no complaints regarding the work in the Repat Depot given by the Postal corps of which Rfn Diament is a member.

The accused has been in the army for a considerable length of time and during that time has only had one crime against him which is not of a serious nature and not similar to the one he is being tried with today and I ask the court to take that into consideration.

Evidence D
as to charge No 1.

SUMMARY OF EVIDENCE

in the case of

B 635129 Rfn DIAMENT, S

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS for the PROSECUTION

Lieut F J TURCOTTE, on strength the Canadian Postal Corps, and officer of the Canadian Army Overseas, having been duly sworn, states :

I was employed as Unit Postal Officer at 4 Cdn Repat Depot from 15 Feb 46 to 30 Apr 46. The accused, whom I recognize, was employed in "A" Wing Post Office as Postal Clerk from 7 Dec 45 until placed in custody.

The accused declines to question the witness.

(F J Turcotte) Lieut

SECOND WITNESS for the PROSECUTION

M 8634 Sgt PETERSON, R G on strength the SIS, HQ C R U, a soldier of the Canadian Army Overseas, having been duly sworn, states :

On the 10 Apr 46 I interviewed Rfn DIAMENT, whom I now recognize, in the Guard Room of 4 Cdn Repat Depot. On information received from the Continent I interrogated the accused in connection with English Three Penny stamps that he was alleged to be receiving from a Rfn HOFFMAN. During the interrogation the accused admitted receiving Three Penny stamps from the Continent and volunteered a statement which I now submit as evidence. I also submit as evidence a note book, property of the accused, found in his kit, containing among others the address of Rfn HOFFMAN, also 19 receipt stubs for 21/ Postal Money Orders.

The statement of the accused is attached as Exhibit "A".
The notebook of the accused is attached as Exhibit "B".
The Postal Notes receipts are attached as Exhibit "C".

The accused declines to question the witness.

(R G Peterson) M 8634 Sgt

The accused was cautioned as follows :

Do you wish to make a statement or to give evidence on Oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence.

I certify that the above Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

In the Field
30 Apr 46

(D C Barker) Major

4 CANADIAN REPAT DEPOT

THE CASE OF B 635129 Rfn DAIMENT, S

I) List of witnesses for the Prosecution.

Lieut F J TURCOTTE C P C 4 Cdn Repat Depot
M 8634 Sgt PETERSON, R G S I S HQ C R U (APM Office)

II) List of witnesses for the Defence.

N I L

III) List of Exhibits for the Prosecution.

Exhibit "A" - Statement of accused.
Exhibit "B" - Note book
Exhibit "C" - Postal Note Receipts.

IV) List of Exhibits for the Defence.

N I L

V) RECEIPT BY THE ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE.

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken in the Field, preliminary to my forthcoming trial by Court Martial.

I further acknowledge that I have been served with a true copy of the Charge Sheet under which I am being brought to Court Martial.

S Diament

(S Diament) B 635129 Rfn

VI) APPLICATION BY THE ACCUSED FOR DEFENDING OFFICER.

I hereby request that the Convening Officer appoint an officer to represent me at my trial.

I hereby request the services of Captain B CHESSUM OC, CRU Postal Unit, to represent me at my trial.

S Diament

(S Diament) B 635129 Rfn

EXHIBIT "P"

Exhibit 1 Ped

In your reply please quote this
C.R.U Reference No. M/Misc/42-279

CANADIAN PROVOST CORPS

FILE NO.....

DATE..10..April..46.....

SUBJECT:

STATEMENT OF REGT'L NO: B-635129 Pte Diament S.

of H Edn Repat Depot TAKEN AT:- H Repat Depot Guardroom.

"I have been warned that I am not obliged to say anything unless I wish to do so, but anything I now say will be taken down in writing and may be given in evidence."

"To show that I understand the above warning, I sign my name herewith".

APM OFFICE 15 APR 1946 HQ CRU

WITNESSED:- M-2634 Sgt Peterson R SIGNED:- S Diament
SIG. H.Q CRO.

STATES:-

I am Reg No B-635129 Pte Diament S. a member of the Edn Army at present employed as Postal clerk at H Edn Repat Depot.

Prior to leaving Canada I met Reg No B-631265 Pte Hoffman I we left Canada together for England and we were stationed in the same Camp in Aldershot I was then transfered to the continent but I later met Hoffman in Holland I was returned to England during Oct 44 and Hoffman was sent to Germany. We corresponded and Hoffman wanted to know that he could obtain Thai penny stamps in Germany if I could exchange them over here. It was mutually agreed to do this and in June 46 I received a Registered letter from Pte Hoffman containing $15-0-00 in English Thai penny stamps. As agreed I exchanged the stamps for English currency and returned $7-10-00 to Hoffman in Germany by Repatriation mail.

Hoffman continued to send me English Thai penny stamps from time to time until some time in May 46 when he was transfered to England for Repat from C.A.O.F.

WITNESSED:- R.A Peterson Signed: S Diament

The total of these penny stamps which I received from Hoffman amounted to approx £20-0-0d. I exchanged approx £10-0-0d of these English these penny stamps in the ~~Field~~ Post office at A Wing 4 Repat. The remaining £10-0-0d I exchanged with Cpl Gauthier at A Wing 4 Repat Field Post office. I sent £60-0-0d in English currency to Hoffman in Germany. I kept £10-0-0d and Cpl Gauthier got approx £20-0-0d for his share.

On two occasions during Feb 46 I bought English these penny stamps from Can soldiers who had returned from Germany. There were two soldiers and I ~~paid~~ them £10-0-0d for £20-0-0d worth of these penny stamps. I exchanged these in A Wing 4 Repat Post office.

Commencing in Feb 46 I sent 31 shillings Postal money orders to my sister Mrs Freda Abramson living at 51 Mount Joy St. Timmons Ontario, Canada. I have sent her approx £60-0-0d. These Postal money orders I obtained from A Wing 4 Repat Post office.

I have read the above statement which has been given voluntarily by me, which to the best of my knowledge is true and correct.

Exhibit "B"

ARMY FORM [illegible] (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B 635129	Rfn	DIAMENT S	4 Cdn Repat Depot

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A A Sec 15 (1) 1 time.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 15 Jan 44

Date of last entry in Field Conduct Sheet 15 Jan 44

~~2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

~~3. The accused at the present time is under sentence for ..... for a period of ..... days, beginning on the ..... day of .....~~

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for 39 days in military custody, *i.e.*, No days in open arrest, 39 days in close arrest; of which no days were spent in hospital.

5. The present age of the accused is 22

6. The date of his ~~attestation~~ calling up for military service is 16 Jun 44

7. The service which the accused is allowed to reckon is 1 year 10 months

~~8. For services over promotion of~~

~~9. He was awarded a ..... by F.C.G.M. The award has ceased to operate and he is now without distinction, to the present date.~~

Date of Promotion.

In the substantive rank of .....

In the war substantive rank of .....

~~In the acting rank of .....~~

[State the military decorations (if any) held by accused.

*Strike out if not applicable.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

[illegible]

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20 day of May 46

H Anderson Lieut
Asst Adj't & Wing
4 Can Repat Depot.

No. B635125 Name DIAMENT S. | Sqn, Battery, or Company | Corps CIC | Date of enlistment 16 Jun 44 | GC Badges | Service or Proficiency Pay N/A | 3/17 MFM 6 (AFB 122) 40/P&S/130 (5418)

Reg Relief "C" Cat

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk: N/A | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, Etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true copy compiled from MFM 4					
Field	16 Jan 45	Pte		W O A S AA Sec 15 (1) AWL Absent 11 days-17 hrs - 55 mins		10 days CB			Total forf 12 da/s pay FR&I 149(1) (a)
				Sgd(G.E. Messinger) Lt For(A. EDMONDSON) Capt Records Officer 4 Cdn Repat Depot					
				Certified true copy from the orginal held in my possesson (W. Anderson) Lieut A/Adjt "A" Wing 4 Cdn Repat Depot 2 May 46					

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Last Entry Awarded 1 Years Detention by FGCM.				FGCM	

102 P

Sgt. DIAS, B.

O. H. M. S.

M. F. B. 870

F/5-4-2
A-36347 Spr. Dias, Bernard
5 C.C.C.,R.C.E.

102 P

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this seventh day of October, 1942.

Whereas it appears to me, the undersigned, an officer in Command of "F" Group, Canadian Reinforcement Units, Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

[redacted]

PROCEEDINGS REVIEWED

President.

Rank	Name.	Regiment.
MAJOR	F.J.GILMOUR, R.C.A., H.Q., C.R.U.	

Members.

Rank.	Name.	Regiment.
CAPTAIN	E.H.BULL	H.L.I., 1 C.O.R.U.
LIEUTENANT	G.H.ROBERTS, WAITING MEMBER.	1 C.B.C.N.
LIEUTENANT	R.C.LAMB	1 Tpt.Coy., R.C.A.S.C.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (J.P.ARCHAMBAULT) Brigadier,
Commanding "F" Group, Cdn. Reinf. Units,
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
H-36347 SPR.DIAS, BERNARD, 1 Mech. Equip. Coy., 5 Cdn. Constr.Coy., R.C.E.	FIRST CHARGE. Sec 40 Army Act. (See Charge Sheet attached.)	Guilty	Guilty To suffer field punishment for seven days* and to forfeit all ordinary pay for a period of seven days 8/10/42	Finding and Sentence Confirmed.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) (J.P.ARCHAMBAULT) Brigadier, *Commanding* "F" Group, C.R.U. *Convening Officer* (*e*)

(Signed) F Johnson Maj RCA *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 8th day of October 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
~~*(3. The interpreter)~~
*(4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 8th day of October 1942

F Johnson Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 7th M.M.L. 1940.

~~I certify that the~~ terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

~~*President of the Court Martial.*~~

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be not committed to prison until further ordered.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or having such authority, recommends suspension.

Signed this 8th day of October 1942

J. P. ARCHAMBAULT, Brigadier
Confirming Officer
Can. Reinforcement Group

Promulgated and extracts taken in the case of H-36347 SPR DIAS, B.

(*a*) (Dated) 12 OCTOBER 1942 (Signed) H.A. McCULLOCH Lt RCE
OC. 7666. RCE

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

C H A R G E S H E E T.

The accused, H-36347, Spr. Dias, Bernard, No.1 Mechanical Equipment Coy., Royal Canadian Engineers, on strength of 5 Canadian Construction Company, Royal Canadian Engineers, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE ~~Sec. 40 Army Act.~~ WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

did on 3rd October 1942 improperly for private purposes and without authority drive W.D.Vehicle No. C.L.695590 from 15th Canadian General Hospital to Hindhead and from Hindhead to 15th Canadian General Hospital.

G.A.McClintock Major.
(G.A.McCLINTOCK) Officer Commanding,
5 Canadian Construction Company, R.C.E.

Bramshott, Surrey,
6 Oct.42

To be tried by Field General Court Martial.

(J.P.ARCHAMBAULT) Brigadier, Commanding,
~~FW~~ Group, Canadian Reinforcement Units,
Convening Officer.

Bordon, Hants.,
7 Oct 42

A/ Gilmour Maj
Pro.

MEDICAL OFFICERS' CERTIFICATE
K.R. (C.M.) PARA. 557

I certify that I have this morning examined No. H-36347 Sapper
NO. 1 MECHANICAL EQUIPMENT COY RCE(Fank)(ATT)
Diss, B. (name) of [redacted], and in
my opinion he is fit to undergo trial by Court Martial.

Station Bramshott North

Date 8 October 42.

W.R. Mumford Capt
Capt.RCAMC.,
Medical Officer
No.5 Cdn. Construction Coy., R.C.E.,
C.A.(O).

'B'

Y Gilmour Maj Pres

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT In the Field ON THE 8 DAY OF Oct 42

TRIAL OF:- No. A 36 347 Spr Deas Bernard Unit 5 C.C.C. R.C.E.
The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.
The Court satisfy themselves as provided by R.P. 22 & 23.
The accused is brought before the Court.
Prosecutor:- (Name) Lieut B.P. Nutting (Unit) 5 CCC
Defending Officer:- (Name) Capt J.W. Shortenhaus (Unit) 1 C.M.E.
At 11.30 hrs the trial commences.
The order convening the court is read, signed by the President and attached to the proceedings.
The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.
Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No Sir
The President, members and judge-advocate (if any) are duly sworn.
The following constitute the Court:

President Major Y.J. Gilmour ..... (Unit) H.Q. C.R.V.
Members Capt E.H. Bull ..... (Unit) H.L.I. of C.R.V.
Lieut G.H. Roberts ..... (Unit) 1 C.B.O.W.

The officers under instruction are duly sworn.
Q2 ~~Do you object to .....~~ acting as shorthand writer? A2.-
~~The shorthand writer is duly sworn.~~
The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(3) is duly complied with.
The summary of evidence is read, signed by the President, and attached to the proceedings.
~~Court is closed to consider its finding.~~ Court is re-opened.
Name...Lt. B.P. Nutting....(Unit)...5.C.C.C..... sworn, produces AFB 296 and MFM 6 and upon being questioned by Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.
Q3. (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - Yes
Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4 - NO.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

The accused makes a statement in mitigation which he reads and hands in and is attached.
The defending officer tenders a written statement by Major Espeldie. O.C. 1 Ch. M.E. Coy R.C.E. as to character.
The Defending officer makes a statement stressing the good work of the accused and stating the C.O. sent the accused for trial by F.G.C.M. not because he wanted the trial.

accused to become a more severe sentence than he could impose but because a Court Martial proceeding offence is automatic under Martial Orders.

The Court is closed to consider sentence.

J. F. Adams
Maj A
Pres

SUMMARY OF EVIDENCE.

Summary of Evidence in the case of H-36347 Spr. Dias, Bernard, No.1 Mechanical Equipment Coy., R.C.E. on strength of 5 Canadian Construction Coy., Royal Canadian Engineers, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

A-48633 Cpl. Richter, L.E. 5 Cdn. Constr. Coy., Royal Canadian Engineers, a soldier of the Canadian Army Overseas, having been duly sworn states:

This accused Spr. Dias, whom I now recognize, attached to 5 C.C.C. came into the 15th Gen. Hospital on the 3rd of October at about 1030 hrs. I saw him let a girl out of the W.D.Vehicle of 5 C.C.C., a mechanical equipment truck. The girl was in uniform of the W.A.A.Fs. After unloading his load, I resigned his ticket for a return trip to Liphook. While doing so he asked me to sign it for Hindhead in order to take this girl on her way further to get her address. I refused to do this. When he left me, driving out on the road he turned right and proceeded towards Hindhead, the opposite direction to Liphook. I saw the truck come back about 15 or 20 minutes later and proceed toward Liphook on his trip. After the accused left me to go towards Hindhead, he stopped on the road.

CROSS EXAMINATION BY THE ACCUSED:

Q. Are you sure that I asked you whether it was alright for me to take her to Hindhead or did I right out ask you to make out the work ticket to this effect?

A. You definitely asked me to sign the workticket to Hindhead.

The accused declines to cross examine this witness further.

Sgd. Cpl. L.E.Richter.

SECOND WITNESS FOR THE PROSECUTION.

A-48576 Spr. Spencer, S., 5 Cdn. Constr. Coy., Royal Canadian Engineers, a soldier of the Canadian Army Overseas, having been duly sworn states:

I was riding in a W.D.Vehicle(a Mechanical equipment truck) of 5 C.C.C. on the 3 Oct. 1942. We were coming up the road from Liphook to 15th Canadian General Hospital with a load of gravel. The driver stopped and picked up a girl in the uniform of the W.A.A.Fs. and let her out of the truck outside the hospital. We drove into the hospital and delivered our load. I did not hear any conversation between the accused and Cpl. Richter. We drove out of the hospital grounds and turned right towards Hindhead. The accused stopped the truck and picked up this girl and we drove to the first petrol pump in Hindhead. The girl got out there and we turned around and went back to Liphook to get the load.

The accused does not desire to cross examine this witness.

Sgd " S.A.Spencer."

FIRST WITNESS FOR THE PROSECUTION RECALLED

A-48633 Cpl. Richter, L.E. 5 Cdn. Constr. Coy., R.C.E., a soldier of the Canadian Army Overseas, recalled states:

I produce the work ticket No.I 120 dated 3/10/42 referring to W.D. Vehicle No. C.L.695390 of which the accused was driver. The authorization shown in the 5th and 6th lines are ones I signed when the accused went towards Hindhead. Entered as exhibit "A"

The accused declines to cross examine this witness.

Sgd." Cpl. L.E.Richter"

The accused was duly cautioned in accordance with R.P.4 (E) and elected to give evidence on oath.

The accused, H-36347 Spr. Dias, Bernard, No.1 Mechanical Equipment Coy., Royal Canadian Engineers, on strength of 5 Cdn. Constr. Coy., Royal Cdn. Engineers, having been duly sworn states:

While hauling gravel from Liphook, I stopped to pick up a girl of the W.A.A.Fs. She was "hitch-hiking" her way. She did not state destination. She said she had to be to her billets by 1200 hrs. I let her off at the hospital and when I came out she was still there. I didn't notice any other vehicles picking her up. Rather than see her stuck, I took her to Hindhead, as far as the petrol pumps and turned around and went down for my load at Liphook.

Sgd "B.Dias"

I certify that the forgoing Summary of Evidence consisting of four pages was taken down by me in the presence and in the hearing of the accused and that Rules of Procedure 4 (C),(D),(E), and (F) have been complied with.

Sgd "M.J.C.Spratt" Capt.

Officer detailed to take down Summary of Evidence.

Bramshot, Surrey,
6/Oct/42

Summary of Evidence

Summary of Evidence in the case of H 36 347 Spr. Bias, Bernard. No 5 Canadian Construction Coy. Royal Canadian Engineers, a soldier of the Canadian Army Overseas.

By direction of the Commanding officer the evidence is taken on oath

First witness for the Prosecution A 4 f 633 Cpl. Richter, L.E., 5 Cdn Const. Coy. Royal Canadian Engineers a soldier of the Canadian Army Overseas having been duly sworn states:

This accused Spr. Bias whom I now recognize attached to 5 C.C.C. came into 15th Gen. Hospital on 3rd of October at about 1030 hrs. I saw him let a girl out of a W.D. Chevrolet of 5 C.C.C. a mechanical equipment truck. The girl was in uniform of the W.A.A.F.'s after unloading his load. I recognized his ticket for a return trip to Lipton which I drove so he asked me if I would it for him and in view of this girl on her way further to get her address. I refused to do this. When he left me I drove and on the road I turned right and proceeded in towards Hamilton. The opposite direction to Lipton. I saw the truck come back about 15 to 20 minutes later and proceeded in towards Lipton on his trip. After the accused left me I go towards Hamilton the stopped on the road.

Cross examination by the accused Q. Are you sure I asked you whether it was alright for me to take her to Hamilton and I said I might and ask you to make out the work ticket to that effect A. you definitely asked me to go

was with Capt Richter
The accused elects to cross examine
this witness finally.

Opn. Capt Richter

Second witness for the Prosecution.

A 48576 Spr. Spencer, S. 5 Can Const. Coy., Royal Canadian Engineers. A soldier of the Canadian Army (overseas) having been duly sworn states.

I was riding in a W.O. vehicle (a mechanical equipment truck) on 3rd Oct 1943. We were coming up the road from Capua to 15th Can General Hospital with a load of gravel. The driver stopped and picked up a girl in the uniform of the W.A.A.F.S. and let her out of the truck outside the hospital the drove into the hospital and delivered our load. I did not hear any conversation between the accused and Capt Richter. We drove out of the hospital grounds and turned right towards Mondragone. The accused stopped the truck and picked up this girl and we drove to the first petrol pump in Mondragone. The girl got out there and we turned around and went back to Capua to get the load.

The accused does not desire to cross examine this witness.

S A Spencer

First witness for the Prosecution. Recalled

A-48697 Capt. Rickter L. E. 5 Can. Const. Coy. R.C.E. a witness for the Canadian Army Courts, recalled, states

I produce the work ticket No I 126, dated 3/10/43, referring to W.D. Vehicle No. [illegible] C.L. 695590. By which the accused was driven. The authorization shown in the 5th line was signed when the accused went towards Hindhead. Exhibit as Exhibit "A".

The accused declines to cross examine this witness.

Capt L E Rickter

The accused was duly cautioned in accordance with R.P. 4 [illegible]

The accused 1t 36347 Spr. Hess, Bernard No 1 Mechanical Equipment Coy. Royal Canadian Engineers on strength of 5 Can. Const. Coy Royal Can Engineers having been duly sworn states:

While loading gravel from hoptroth I stopped to pick up a quid of tobacco. A lady was hitch-hiking her way. She did not state destination. She said she had to be to her billets by 12 o'clock. I left her at the hospital and when I came out she was still there. I didn't notice any other vehicle picking her up. Rather than go on shift I took her to Hindhead. As far as the petrol pumps. And turned around and went down for my load at hoptroth.

B Hess

(4)

I certify that the foregoing summary
rendered consisting of four pages was
taken down by me in the presence and
in the hearing of the accused and that
Rules of Procedure 4(c) (d) (e) and (f) have
been complied with.

H.B. Spratt Capt

(Officer detailed to take down
Summary of Evidence

Bramshott Surrey
6/Oct/42

2/. 14 36347. Spr Lucas Bernard. request that a solicitor may be appointed to defend me at my trial.

2/ promptly I would like to have Capt. Shirkinghues of 2 W I Mech. Equipment Coy. R.E.E.

Bramshot. Surrey
6/Feb/42.

B. Lucas

STATEMENT OF CHARACTER OF H-36347. Spr. Dias, R.

The above mentioned Other Rank has been under command of this Unit since 23 Aug 41. During this period he has never caused any trouble and has been a willing worker and a good soldier.

He came to this Unit without any trade qualifications and has worked up to the status of an Operator, Special Engineering Equipment, Class "B".

(W. A. Cargille) Major,
Officer Commanding,
1 Cdn. Mechanical Equipment Coy.,
Royal Canadian Engineers.

STATEMENT IN MITIGATION OF PUNISHMENT

by

B-36347. Spr. Dias, B.

Although I and the other men from 1 Cdn. Mechanical Equipment Coy.,R.C.E. are attached to 5 Cdn. Constr. Coy.,R.C.E. for all purposes the attitude has been that as long as we perform our duties, unit discipline does not apply to us.

We live in lines apart from the rest of the unit and these lines are never visited by an Officer or N.C.O. We never have to appear on parade and answer no tattoo roll call. Week-end passes are not issued to us and as long as we are back for work on time on Monday morning nothing is said if we are away over the week-end.

Control of vehicles is as follows: We draw a work ticket and proceed to a loading point designated, where we report to an N.C.O. in charge of loading. From there we proceed by ourselves to our destination by any road we choose, to unload on instructions of another N.C.O. There is no vehicle control between these points.

In that my trip to Hindhead, a distance of 2 miles from my unloading point, did not interfere with my work, I felt that although I was committing a breach of discipline my action would not result in disciplinary action in view of the general attitude of the officers and N.C.O's. of the 5 Cdn. Construction Coy.,R.C.E. towards discipline of attached personnel.

B. Dias.....
(B. Dias) Sapper.

4 7/8

Army Form G 3518

TRANSPORT WORK TICKET

Make of Vehicle Dennis Class 6C cwt Dump W.D. No. [illegible] Date 3/10/42 No. U

Unit 5 CCC RCE Section [illegible] Driver's Name Spr Dive B Hour of Parade [illegible]

For whom journey is performed (1)	FULL Details of load and service (2)	ROUTE From (3)	ROUTE To (4)	ROUTE Via (5)	Signature of person authorising journey (6)	TIME TAKEN From (7)	TIME TAKEN To (8)	Miles run (9)
	RCE Works	Bramdott	Lyhook		A	0800	0805	4
	Heating gravel	Lyhook	Bramdott		B	0810	0835	3
		Bramdott	Lyhook		C	0845	0853	3
		Lyhook	Bramdott		D	0900	0908	3
		Bramdott	Lyhook		E	0945	0955	3
		Lyhook	Bramdott		F	1000	1030	3
		Bramdott	Lyhook		G	1045	1055	3
		Lyhook	Bramdott		H	1110	1120	3
		Bramdott	Lyhook		K	1130	1200	3
		Lyhook	[illegible]				TOTAL	31

ORDERLY ROOM 5 CDN. CONSTRUCTION COY. RCE.

D.

Speedometer Readings

	Miles
(10) In	7336
(11) Out	7286
Mileage	50

Petrol

	Galls.
(12) Held at Start	2
(13) *Add*—Amount drawn	18
(14) *Deduct*—Remains on completion	14
(15) Quantity Consumed	6

(16) Total hours out on duty

(17) *Signature of Driver* Spr Dive B

(18) *Countersigned* D.J. Spratt Capt

Rank

No. H-36347 Name Spr. Dias, Bernard Unit Battery Company 1st Div. Eng. R.C.E. Corps CASF

Date of enlistment 30-9-40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine

Sheet No. (1) One Signature O.C. Company, etc. J.A. "sh Lt-Colonel Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Verified to date Feb. 2 1941	L. E. C. Schmidlap Lt., Adjutant R.C.E. Training Centre.				

Certified true Copy:

for (W.A. Capelle) Major, R.C.E.
Officer Commanding
1 Cdn Mechanical Equipment Coy., R.C.E.

(P.T.O.)

M.F.B. 355
12M—8-40 (6435-6)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-36347	Spr.	Dias, Bernard	

1. The following is a fair and true summary of the entries in the Regimental ~~and Squadron, Battery~~ Service and General Conduct Sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For Nil	times	Nil times
For	times	times
For	times	times
For	times	times
For	times	

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act~~ A.F.A. 73~~, Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time

or,

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charge, for days in civil custody, and 3 days in military custody, making a total of 3 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is N.A.

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 30 Sep. 40

7. The service which the accused is allowed to reckon towards discharge is 2 years

8. The accused is entitled to reckon 3 years service for the purpose of determining his pension, etc.

9. The ~~accused is in possession of or entitled to no air force decoration or air force reward~~ for his military ~~possession of or entitled to~~). State any ~~air force~~ decoration or reward military

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer had held the regimental rank of~~

"E" Fulmer Lt

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force ~~unit~~

~~dated~~ , ~~and in his regiment (or corps), the rank of~~

~~dated~~

~~12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—~~

~~Date of promotion.~~

~~In the rank of years.~~

~~In the rank of years.~~

~~In the rank of years.~~

~~NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.~~

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number J 36347 Rank Sgt

Name Dias, Bernard of 1 Mach Equip Coy, 5 Cdn RCE Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	Nil.			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8 day of Oct 45

[illegible] Lieut

The above statement (with the schedule of convictions and dispensations with trial) is read, marked [illegible] signed by the president, and annexed to the proceedings.

Correspondence to be PINNED here.

1036

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this SEVENTEENTH day of AUGUST, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 2nd CANADIAN DIVISION, CANADIAN ARMY, ACTIVE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *and that it is not practicable to delay the trial for reference to a superior qualified officer.)

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*I am unable to appoint —

*(1.) Three Officers to form the Court.)

*(2.) A Field Officer as President.)

*(3.) Three Officers having more than one year's service.)

for the following reasons, namely:—) In my opinion, military exigencies, namely dispersion of units, difficulties of communication and other difficulties, render it inexpedient to follow those Rules of Procedure inconsistent with Appendix "A" to D.R.O. 770, on the trial of the accused person named in the schedule hereto by a Field General Court Martial, assembled pursuant to the Order of the G.O.C. 2 Cdn Div.

PROCEEDINGS REVIEWED

President.

Rank.	Name.	Regiment.
MAJOR	F. A. VOKES	8 Cdn Recce Bn (14th)

Members.

Rank.	Name.	Regiment.
CAPTAIN	O. L. RODGERS	7 Cdn Fd. Regt., RCA
CAPTAIN	E. EVERY	R.C.O.C.
CAPTAIN	MARTIN HENRY [illegible]	R.C.A.S.C.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (Victor W. Odlum), Major General

Commanding 2nd Canadian Division C.A.(A)

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C30500, Pte. J. E. Dick, H.Q. 2 Cdn Div., a soldier of the Canadian Army (Active)	FIRST CHARGE A.A.Sec. 16(1) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE (See charge sheet attached) SECOND CHARGE A.A. Sec. 14(a) Unlawfully disposing of property belonging to a Regimental Mess (See charge sheet attached).	Guilty Guilty	Guilty Guilty	

Sentenced to undergo fifteen months Detention

Confirmed but I remit 3 months of the sentence.
H.W.O.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer to be recorded on separate sheet if necessary.

(Signed) H.W.O. Odlum (Signed) H.H. Hooker Maj
(Victor W. Odlum), Major General, *President.*
Commanding 2 Cdn. Div., Can.(A).
Convening Officer (*e*).

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

37

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the twenty-second day of August 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The interpreter~~s~~ shorthand writer HHM
*(4. ~~The officers under instruction~~) HHM

* Omit if not applicable.

were duly sworn.

Signed this twenty-second day of August 19 41.

H.H. Hooker Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this HHM day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison until further order.) ~~and that the sentence of imprisonment be suspended~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

H.W.O.

Signed this 26 day of Aug 19 41.

Victor W. Odlum Major-General
(Victor W. Odlum), *Confirming Officer.*
Comdg 2 Cdn Div.

Promulgated and extracts taken in the case of C.30500 Pte. Dick, J. E.

(*a*) (Dated) 28 Aug. 41 (Signed) W.B. Martin Com.
Camp Commandant, H.Q. 2 Can. Div.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Squadron / Battery / Company / Detachment

HQ. 2 CDN. DIV.

Unit or Battalion

3

22 Aug 19 44

MORNING SICK REPORT

Regt'l No.	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner or defaulter	SICK OR RELEASE	Medical Officer's Remarks and Initial
C-30300	Pte. Dick, J.E.		CofE	Prisoner		

I certify that the the a/m other rank has been medically examined by me and is fit to stand trial by F.G.C.M.

Medical Officer.

22 Aug 44

Medical Officer

Orderly N.C.O

M. F. S. 292

5

PROCEEDINGS OF A FIELD GENERAL
COURT MARTIAL HELD AT BLENHEIM BARRACKS,
ALDERSHOT, HANTS, 22 AUG 41

TRIAL OF NO. C30300, Pte. J. E. Dick, H. Q. 2 Cdn Div.

PROSECUTOR: Lieut. T. H. Lines, The Tor Scot R (MG)

DEFENDING OFFICER: Capt. R. L. Houston, Sigs 2 Cdn Div.

SHORTHAND WRITER: D24030, S/Sgt. J. H. Spence, H.Q. 2 Cdn Div.

---

1. The Order Convening the Court is read to the accused.

2. The accused is asked the following questions:

   1. Q Do you object to being tried by me as President or by any of the Officers comprising the Court?
      A No, sir.

   2. Q Do you object to the shorthand writer taking down the proceedings in shorthand?
      A No, sir.

3. The President, Members of the Court and Shorthand writer are sworn.

4. The accused answers to his name and number, is duly arraigned and pleads "Guilty" to the 1st and 2nd charge.

5. Rule of Procedure 35(B) is complied with.

6. The Summary of evidence is read.

7. The Prosecutor files M.F.M. 6, and Substitute A.F.B. 296, with the consent of the defence, who admit their accuracy.

THE PRESIDENT: Does the accused wish to address the Court in mitigation of punishment?

THE ACCUSED: No, sir.

THE DEFENDING OFFICER: I make no excuses for the crime at all, sir, that this man has committed, but the conduct sheet, which has just been submitted, will show that a crime along the same lines did occur before and he was punished for it. But the accused didn't ask for the job of Mess Steward and the people concerned in "C" Mess knew that this had occurred at, I believe it was "A" Mess, previously. With that knowledge they took him on as Mess Steward. There seems to have been very little checking during the five months that the shortages in liquor took place and also the civil firm were very lax in accepting this man's word. The only reason they accepted his word was because a bill of £2/0/0 was owing by "C" Mess at the time he took over. He took the necessary amount to pay the bill and since he had the bill with him at the time they accepted him as the accredited Mess Steward and allowed him to purchase any amount of liquor and the whole amounted to over £40/0/0 over the five months, purely on his say so. So merely in mitigation of punishment, sir, the fact is that there was a great laxity and it was almost an invitation for the man to do what he did.

THE COURT IS CLOSED FOR CONSIDERATION OF SENTENCE.

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE
AND ACCURATE TRANSCRIPT OF SHORTHAND NOTES TAKEN
BY ME AT THE TIME AND PLACE FIRST ABOVE WRITTEN.

J. H. Spence (Sworn)
J. H. Spence. S/Sgt.

CHARGE SHEET

The accused, No. 330300, Pte. J. E. Dick, H. Q. 2 Cdn Div., a soldier of the Canadian Army, Active, is charged with:

FIRST CHARGE
A.A.Sec. 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he at Aldershot, on 26 Jun 41, at 1400 hours, absented himself without leave until apprehended at 1200 hours on 23 Jul 41. Total time absent 27 days, 22 hours.

SECOND CHARGE
A.A.Sec. 19(4)

EMBEZZLING PROPERTY BELONGING TO A REGIMENTAL MESS,

IN THAT HE

at Aldershot, between 19 Feb 41 and 26 Jul 41, when employed as Mess Steward of "G" Mess, H. Q. 2 Cdn Div., did fraudulently embezzle:

1 Bottle Drambuie
1 " Creme de Cacao
1 " Granta Cherry Brandy
1 " Chesky
1 " Peach Brandy
1x " Chesky
6x " Creme de Menthe
1x " Cointreau
4 Doz. Small Worthington's I.P.A. Ale
2 Bottles Johnny Walker Whiskey
1 Bottle Sportsman's Gin
2 Bottles Standfast Whiskey
1 Bottle Sportsman's Gin
2 Bottles Eagle Whiskey
2 Bottles Walker Whiskey
1 Bottle Sportsman's Gin
2 Doz. Small Worthington's Pale Ale.
3 Bottles Haig Whiskey
1 Bottle Dewar's Whiskey
2 Bottles Sportsman's Gin
2 Doz. Small Worthington's Pale Ale
1 Bottle Haig Whiskey
1 Bottle Jamaica Rum
4 Doz. Small Bass's Pale Ale
2 Bottles John Haig Whiskey
1 Bottle Jamaica Rum
2 Bottles John Haig Whiskey
1 Bottle Old Rum
2 Bottles Eagle Whiskey
1 Bottle Sportsman's Gin
3 Bottles Eagle Whiskey
2 Bottles Sportsman's Gin
1 Bottle Old Rum
2 Bottles Eagle Whiskey
3 Bottles Old Angus Whiskey
2 Bottles Booth's Gin
3 Bottles Australian Ruby Wine
3 Bottles Eagle Whiskey
1 Bottle Booth's Gin
3 Bottles Dubonnet Wine
1 Bottle Eagle Whiskey
2 Bottles Booth's Gin
2 Bottles Spey Royal Whiskey

The property of said "G" Mess.

TO BE TRIED BY D.C.C.M.

(Victor W. Odlum), Major General.
Comd. 2 Cdn Div.

(W. B. Martin), Capt.,
Camp Commandant, H.Q. 2 Cdn Div.

SUMMARY OF EVIDENCE IN THE CASE OF

C.30300 PTE. DICK, J.E., H.Q., 2 Cdn. Div., Canadian Army, Overseas, ALDERSHOT, ENGLAND.

The Accused was informed that a Summary of Evidence was to be taken in his case.

The charges were read to him as follows:-

FIRST CHARGE:

A.A. SEC. 15 (1) While on Active Service, absent without leave, in that he, at ALDERSHOT, on 26 JUN. 41, at 1400 hrs. absented himself without leave until apprehended at 1200 hrs. 23 JUL. 41 - Total time absent - 27 days 22 hours.

SECOND CHARGE: While on Active Service, when charged with the distribution of regimental goods,

A.A. SEC. 17 fraudulently misapplied same, in that he, at ALDERSHOT, on or about 29 May, 1941, while employed as Mess Steward at "C" Mess, H.Q., 2 Cdn. Div., did purchase goods in the name of the Mess and did fraudulently misapply the proceeds therefrom.

The Camp Commandant directed that the evidence be given on oath.

FIRST WITNESS: Mr J.S. Pell

JOHN LOVIBOND AND SONS, LIMITED, FARNBOROUGH, HANTS.

I certify that owing to expense and loss of time involved that the representative of the said firm is not readily available and that a signed statement of his evidence has been read to the Accused and attached hereto as Exhibit "A".

W.B. Martin
Captain,
Asst Camp Commandant, H.Q. 2 Cdn Div

SECOND WITNESS: Mr A.C. Cockingday

FRIARY HOLROYD & HEALY'S BREWERIES, LIMITED, ALDERSHOT, HANTS.

I certify that owing to expense and loss of time involved that the representative of the said firm is not readily available and that a signed statement of his evidence has been read to the Accused and attached hereto as Exhibit "B".

W.B. Martin
Captain,
Asst Camp Commandant, H.Q. 2 Cdn.Div.

THIRD WITNESS:

Lieutenant N.S. Cuthbert, S. Sask. R., attached to H.Q., 2 Cdn. Div. having been duly sworn states:-

I am Lieutenant N.S. Cuthbert, H.Q., 2 Cdn. Div., I was the Secretary of "C" Mess, H.Q., 2 Cdn. Div., from 1 May, 41 to 31 JUL. 41.

Pte Dick, J.E., was employed as Mess Steward and as such I

THIRD WITNESS: (Contd.)

was authorized to make purchases on behalf of "C" Mess, H.Q., 2 Cdn. Div. During Jun., 41., or in any part of my term as Secretary there were no liquors whatsoever received at "C" Mess, nor have I seen any Friary Holroyd & Healy's Breweries, products in the Mess during my term as Mess Secretary, nor did I, as Mess Secretary, receive any statement of account or any notice whatsoever of any account whatsoever from the firm of Friary Holroyd & Healy's, Ltd.,

It was the practice for any bills to be sent to the Mess and in the ordinary course were first received by the Mess Steward "C" Mess. As Secretary of "C" Mess I balanced the mess books and I have personal knowledge that all alcoholic beverages sold in the Mess balanced with those known accounts paid for, which did not include the alcoholic beverages which appear in the charge against the Accused. All of the accounts, during my term as Secretary, were paid for by cheque and not by cash. The cash payments referred to in the statement of the 2nd witness did not come from our Mess Funds. At no time did Pte. Dick mention these accounts now charged against him to me although we had on numerous occasions discussed Mess business as to accounts paid and unpaid, nor did he ever complain th that any alcoholic beverages had been stolen from the Mess.

Pte Dick was absent without leave from 1400 hrs. 26 Jun. 41 until apprehended. That is all I have to say, Sir.

(R.S. Cuthbert) Lieutenant.

The Accused declined to cross examine this witness.

FOURTH WITNESS: Lieutenant R.A. Ireland, Calgary Highlanders, attached to H.Q. 2 Cdn. Div. having been duly sworn, states:

I am Lieutenant R.A. Ireland, H.Q., 2 Cdn. Div. I have been appointed Wine member of "C" Mess, H.Q., 2 Cdn. Div., on or about 9 JUN. 41. I immediately contacted Cpl. Dick who, as Mess Steward, was in charge of wines, and asked him for his stock book. He replied that he did not have one. I also made an inventory of alcoholic beverages about that date and there were no liquors whatsoever in stock, and I saw no product of Friary Holroyd & Healy's, nor did Cpl Dick, the Accused, complain or even intimate that any alcoholic beverages were missing either then or previously from the stock of "C" Mess. I have also been a member of "C" Mess from 20 Apr. 41. and I have never seen or purchased any liqueurs. A copy of a delivery slip from Friary Breweries shows a purchase on 29 May, 41, of five bottles of Dubonnet Wines. I prepared the financial statement of "C" Mess for the months of June and July, 41, and in my capacity I have examined all members chits; no sales of this wine were recorded and no Dubonnet was in stock when I took over my duties as wine member. It was with great surprize that I learned and informed the members that the alcoholic beverages appearing in the present charge against the Accused were bought in the name of "C" Mess and that the signature which appears on the Exhibits as stated by the 2nd witness is that of Cpl. Dick. I may state that in my civil occupation part of my duties was to compare and examine signatures.

(R.A. Ireland) Lieutenant

The Accused declined to cross examine this witness.

FIFTH WITNESS: Exam H.19845 Pte. Timlick, H.N., H.Q., 2 Cdn. Div. having ben duly sworn, states:

I am H.19845 Pte. Timlick, H.N., H.Q., 2 Cdn. Div. I was present when Cpl. Dick was apprehended between HEATH FIELD AND BATTLE, SUSSEX, on the day of the 23 JUL. 41, at 1200 hrs.

The Accused declined to cross examine this witness.

H.N. Timlick
H.19845 Pte Timlick, H.N.

Question to Accused by Officer detailed to take the Summary.

Q Do you wish to make any statment or to give any evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing and may be given in evidence.

A I have nothing to say, Sir.

I certify that the foregoing Summary of Evidence, consisting of three pages and Exhibits "A" and "B" was taken down by me in writing in the present of the Accused and rules of Procedure 4 (c), (d) (e) and (f) have been complied with.

W B Martin
Officer detailed to take Summary (W.B. Martin) Captain, Asst Camp Comd., H.Q., 2 Cdn. Div.

Date 15 Aug. 41
Place Blenheim Barracks, ALDERSHOT, England.

All Communications to be addressed to the Company and not to Individuals

WE SUPPLY YOU AT YOUR HOME.

JOHN LOVIBOND & SONS, Limited

FAMILY BREWERS, MALTSTERS,
WINE, SPIRIT & BOTTLED BEER MERCHANTS,
AERATED WATER MANUFACTURERS.

Telephone Nos
GREENWICH 0292-3-4
SALISBURY 2192
Telegraphic Addresses
"LOVIBOND, GREEN, LONDON"
"LOVIBOND, SALISBURY"

Breweries
GREENWICH BREWERY, S.E.
ST ANNS BREWERY, SALISBURY

Chief Offices
GREENWICH BREWERY,
LONDON, S.E.10.

Greenwich Brewery,
GREENWICH, S.E.10
August 9th. 1941.

I, A.G. Cordingley, Manager, Farnborough Branch state that on authorization from Officers Mess, H.Q. 2 Can. Div. I have been supplying Cpl. Dick, Mess Steward, with goods for the above Mess. As such all bills were made out to C. Mess 2 Can Div. H.Q. and signed by Cpl. Dick as taking delivery.

The attached are certified true copies of the bills of the goods supplied to Cpl. Dick, for "C" Mess, HQ "2 Can. Div.

A G Cordingley

Farnborough Branch Manager.

No. 2C

Branch 124

126 & 128 Lynchford Road,
Farnborough
Telephone: Farnborough (Hants) 237

19

Mr.

Bought of JOHN LOVIBOND & SONS, Ltd.,
Family Brewers, Wine Merchants,
GREENWICH AND SALISBURY.

Balance due

£	s.	d.

Goods Received by

Cask No. Delivered

FULL RETURNS AND ULLAGES

BOTTLE ALLOWANCES

RECEIPT FOR PAYMENT ON A/c

Received of Mr. _____ By Cash / Cheque

the sum of £ _____ s. _____ d. _____ For JOHN LOVIBOND & Sons, Ltd.

No. 29.

Branch 512

126 & 128 Lynchford Road,
Farnborough
Telephone: Farnborough (Hants) 237

June 9 19 1

Mr. [illegible]

Bought of **JOHN LOVIBOND & SONS, Ltd.,**
Family Brewers, Wine Merchants,
GREENWICH AND SALISBURY.

Balance due

	£	s.	d.
Hock		13	6
[illegible]		16	
[illegible]		4	6
[illegible]		7	6
[illegible]	1	1	6
Cocoa			

Goods Received by (Sgd) G Dick

Cask No. Delivered

RECEIPT FOR PAYMENT ON A/c

Received of Mr. [illegible] 19

the sum of £ [illegible] s. [illegible] d.

By Cash / Cheque

For JOHN LOVIBOND & Sons, Ltd.

FULL RETURNS AND ULLAGES

BOTTLE ALLOWANCES

No. 29 5/13

Branch: 126 & 128 Lynchford Road, **Farnborough**

Telephone: Farnborough (Hants) 237

19

Mr.

Bought of JOHN LOVIBOND & SONS, Ltd.,

Family Brewers, Wine Merchants,

GREENWICH AND SALISBURY.

Balance due

£	s.	d.
1	1	-

Goods Received by

Cask No. Delivered

FULL RETURNS AND ULLAGES

BOTTLE ALLOWANCES

RECEIPT FOR PAYMENT ON A/C

19

By { Cash / Cheque

Received of Mr. _____

the sum of £ _____ s. _____ d. _____

For JOHN LOVIBOND & Sons, Ltd.

No. 29

126 & 128 Lynchford Road.
Farnborough
Telephone: Farnborough (Hants) 237

Branch 584

June 20 19 41

Mr. PMC. Ty Office Ltd
2 Lavoria Dr

Bought of JOHN LOVIBOND & SONS, Ltd.,
Family Brewers, Wine Merchants,
GREENWICH AND SALISBURY.

Balance due

£	s.	d.
Wrot Back	1	3

Goods Received by

Cask No. Delivered

FULL RETURNS AND ULLAGES

BOTTLE ALLOWANCES

RECEIPT FOR PAYMENT ON A/c

19

By { Cash / Cheque

Received of Mr. _____

the sum of £ _____ s. _____ d. _____

For JOHN LOVIBOND & Sons, Ltd.

No 2

Branch 126 & 128 Lynchford Road, **Farnborough**

Telephone: Farnborough (Hants) 237

N 476

19

Mr.

Bought of **JOHN LOVIBOND & SONS, Ltd.,**

Family Brewers, Wine Merchants,

GREENWICH AND SALISBURY.

Balance due

	£	s.	d.
		10	6
	1	3	6
		13	6
	1	8	
		4	3
	1	14	-
		12	3
		7	-

Goods Received by

Cask No. Delivered

FULL RETURNS AND ULLAGES

BOTTLE ALLOWANCES

RECEIPT FOR PAYMENT ON A/c

19

By Cash / Cheque

Received of Mr. .....

the sum of £ ..... s. ..... d.

For JOHN LOVIBOND & Sons, Ltd.

ALL COMMUNICATIONS TO BE ADDRESSED TO THE COMPANY AND NOT TO INDIVIDUALS

126 & 128, LYNCHFORD ROAD, FARNBOROUGH, HANTS. Branch 7

P.M.C. Officers Mess C" Mess H.Q. 2 Can. Div.

DR. TO JOHN LOVIBOND & SONS, LTD

BREWERS, MALTSTERS.

WINE, SPIRIT & BOTTLED BEER MERCHANTS.

AERATED WATER MANUFACTURERS.

BREWERIES :— GREENWICH & SALISBURY

TELEGRAPHIC ADDRESS "LOVIBOND, LONDON" "LOVIBOND, SALISBURY"

TELEPHONE NOS. GREENWICH 0292. SALISBURY : 219.

TRADE MARK

Our Casks, Jars and Bottles are not used by us as measures but only as vessels for containing our Beers, Wines, Spirits and Waters. All our Bottles, Syphons, Jars, Casks, Stoppers, etc., are our sole and absolute property, they are not sold but only lent by us to our customers and must be returned to us when empty.

ACCOUNTS for BOTTLES, Etc.—In all cases where a charge has been made for any vessel or case used to contain our goods, that charge is a deposit and is only made as a security for the return of the vessel or case when empty. The amount will be credited or refunded to the customer when the empty is returned, and in no case is the charge made to constitute a sale of the vessel or case.

Delivery Book Counterfoil

1941.						
June.						
						No.
5.	To 1 Bot. Drambuie.	1.	2.	0.	2C.	124
9	To 1 Bot. Creme de Cacao.	1.	1.	6.	2C.	513
	" 1 Bot. Grants Cherry Brandy.		16	0.	2C.	513
	" 1 Bot. Chesky.	1.	0.	0.		
	" 1 Bot. Peach Brandy.	1.	3.	0.	2C.	584
20.	" 1x½ Bot. Chesky.		10.	0.	2C.	416
26.	" 2x½ Bot. Creme de Menthe.	1.	3.	6.		
	" 1x½ Bot. Cointreau.		13.	6.		
		£ 7.	10.	0.		

The above are liquors delivered to, and signed for by, Lt. JE Dick. on behalf of C" Mess. H.Q. 2 Can Div.

R.A.O.C. WITH COMPLIMENTS.

Any error in this account should be notified at once direct to Greenwich Brewery, Greenwich, S.E.

TELEGRAMS:
FRIARY BREWERY,
ALDERSHOT.

FRIARY ALES

HEAD OFFICE
GUILDFORD.
BRANCHES
DORKING.
SALISBURY PLAIN

TELEPHONE No 64.

Friary Holroyd & Healy's Breweries Limited.
(MILITARY DEPOT)
Grosvenor Road.
Aldershot.

STATEMENT OF TRADING TO:-

Officers' Mess,
"C" Mess,
2nd. Canadian Division, Headquarters.

I the undersigned, being manager of Friary Brewery Depot, Aldershot, produce herewith original delivery slips which represent goods bought on behalf of Officers' Mess, "C" Mess, 2nd. Canadian Division, Headquarters, by person whose name appears on slips as follows :- "J.E.Dick".

We have not received any letter, or payment by cheque, from the said Officers' Mess, "C" Mess, since trading, other than a cheque for £ 20 paid on the 5th. August last, and several payments in cash made by the said J.E.Dick.

These goods were sold to Corporal, Dick as mess steward of Officers' Mess, "C" Mess, 2nd. Canadian Division, Headquarters, and were so billed on delivery slip, and signed for as such by J.E.Dick.

I also wish to state these goods which appear on the delivery slip were actually delivered by me, and the prices therein charged were the proper authorised prices.

FRIARY BREWERY, LTD. (Aldershot)

Manager.

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

BOUGHT OF **FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,**
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr. [illegible] Date [illegible] 19

PACKAGES OUT	£	s.	d.
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

CASK BEERS — QUALITY	Brls. 36 Gals.	Kils. 18 Gals.	Firs. 9 Gals.	Pins 4½ Gals.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ LARGE	@	DOZ SMALL	@	¼ SCREW QUARTS
FRIARY LUNCHEON ALE			2		
,, ALE					
,, BROWN ALE					
,, INDIA PALE ALE					
,, XXXX STRONG ALE					
,, OATMEAL STOUT					
,, DOUBLE STOUT					
,, AUDIT					PIPS
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

WINES AND SPIRITS

1 Rum

1 Rum

RETURNS — NUMBER	
x 1 CASES	
x 2 CASES	
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES @	
,, ,, @	
,, ,, @	
SPIRIT BOTTLES	
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	

CASKS	NUMBER	SIZE

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

GOODS RETURNED

Received [signature]

Returns Correct

Drayman

No. ALD. 00379

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

BOUGHT OF **FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,**
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr. [illegible] Date [illegible] 19[illegible]

[illegible]

PACKAGES OUT NUMBER	£	S.	D.
1 x 1 CASES			
2 1 x 2 CASES		5	-
CRATES			
BOTTLES LARGE			
4 BOTTLES SMALL		4	-
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)		9	-

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

Received [signature]

Returns Correct

Drayman

CASK BEERS QUALITY	Bbls. 36 Gals.	Kils. 18 Gals.	Firk. 9 Gals.	Pins 4½ Gals.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ LARGE	DOZ SMALL	½ SCREW QUARTS
FRIARY LUNCHEON ALE			
,, ALE			
,, BROWN ALE			
,, INDIA PALE ALE			
,, XXXX STRONG ALE			
,, OATMEAL STOUT			
,, DOUBLE STOUT			
,, AUDIT			
BASS'S PALE ALE		4	4
WORTHINGTON'S PALE ALE			
GUINNESS'S EXTRA STOUT			

WINES AND SPIRITS

2 Cs. J. Gatting.

GOODS RETURNED

RETURNS NUMBER	
x 1 CASES	
x 2 CASES	
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES	
,, ,,	
,, ,,	
SPIRIT BOTTLES	7 6
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	

CASKS NUMBER	SIZE	
11	18	2 17 -
		9 -
		2 6 -

No. ALD. 00611

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

BOUGHT OF **FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,**
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr [illegible] Date July 7 1941

PACKAGES OUT			
NUMBER	£	s.	d.
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

Kindly examine all Goods before Signing Draymen's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose casks.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

Received [signature]

Returns Correct

Draymen

QUALITY	CASK BEERS — Mild 36 Gals.	Kils. 18 Gals.	Firk. 9 Gals.	Pins 4½ Gals.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ. LARGE	@	DOZ. SMALL	@	4 SCREW QUARTS
FRIARY LUNCHEON ALE					
,, ALE					
,, BROWN ALE					
,, INDIA PALE ALE					
,, XXXX STRONG ALE					
,, OATMEAL STOUT					
,, DOUBLE STOUT					
,, AUDIT					
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

WINES AND SPIRITS

1 Bar Refreshment [illegible]

GOODS RETURNED

RETURNS	
NUMBER	
x 1 CASES	
x 2 CASES	
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES @	
,, ,, @	
,, ,, @	
SPIRIT BOTTLES	
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	

CASKS	
NUMBER	SIZE

No. ALD. 00711

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 84

BOUGHT OF FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr. The Resident' Officers Mess Date 22 March 1941
C Mess Rest Canadian Div Ele Sqns "Reedie" 184 Farnboro

PACKAGES OUT	£	S.	D.
NUMBER			
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

Kindly examine all Goods before Signing Draymen's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are arranged to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

Received J. C. Dick

Returns Correct

Draymen

CASK BEERS	Bulk 36 Gals	Kils 18 Gals	Pins 9 Gals	Pins 4½ Gals	NUMBERS
QUALITY					
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ LARGE	@	DOZ SMALL	@	6 SCREW QUANTS
FRIARY LUNCHEON ALE					
" ALE					
" BROWN ALE					
" INDIA PALE ALE					
" XXXX STRONG ALE					
" OATMEAL STOUT					
" DOUBLE STOUT					
" AUDIT					
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

WINES AND SPIRITS

2 15·5 Glenlivet Scotch Whisky

GOODS RETURNED

RETURNS	
NUMBER	
x1 CASES	
x2 CASES	2
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	12
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES	
" "	
" "	
SPIRIT BOTTLES	
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	

CASKS	
NUMBER	SIZE
1	18

1 12 -

9 -

1 3 -

No. ALD. 00741

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

BOUGHT OF FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

NOTE.—OUR CASKS AND BOTTLES ARE VESSELS TO CARRY BEER, NOT MEASURES, BUT CARE IS TAKEN THAT THEY CONTAIN NOT LESS THAN THEIR REPUTED QUANTITIES.

Mr [illegible] Date 15th April 1941

[illegible]

PACKAGES OUT — NUMBER	£	S.	D.
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

CASK BEERS — QUALITY	Brls. 36 Gals.	Kils. 18 Gals.	Firk. 9 Gals.	Pins 4½ Gals.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ LARGE	@	DOZ SMALL	@	3 SCREW QUARTS
FRIARY LUNCHEON ALE					
" ALE					
" BROWN ALE					
" INDIA PALE ALE					
" XXXX STRONG ALE					
" OATMEAL STOUT					
" DOUBLE STOUT					
" AUDIT					
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

WINES AND SPIRITS

1 Bot Whisky Ferintosh
2 - Empty

GOODS RETURNED

RETURNS — NUMBER	
x 1 CASES	
x 2 CASES	
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES	
" "	
" "	
SPIRIT BOTTLES	
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	

CASKS

NUMBER	SIZE
Nil	

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

Received [signature]

Returns Correct

Drayman

No. ALD. 00888

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

NOTE.—OUR CASES AND BOTTLES ARE VESSELS TO CARRY BEER, NOT MEASURES, BUT CARE IS TAKEN THAT THEY CONTAIN NOT LESS THAN THEIR REPUTED QUANTITIES.

BOUGHT OF **FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,**
ALDERSHOT DEPOT:—GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr [illegible] Date [illegible] 19[illegible]

[illegible]

PACKAGES OUT

Number		£	s.	d.
	1 x 1 CASES			
	1 x 2 CASES			
	CRATES			
	BOTTLES LARGE			
	BOTTLES SMALL			
	FLAGONS			
	CYDER BOTTLES			
	CYDER CASES			
	SPIRIT CASES			
	do.			
	do.			
	SPIRIT JARS			
	TOTAL (A)			

CASK BEERS

QUALITY	Brls. 36 Gals.	Kils. 18 Gals.	Firs. 9 Gals.	Fins. 4½ Gals.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ LARGE	@	DOZ SMALL	@	½ SCREW QUARTS
FRIARY LUNCHEON ALE					
,, ALE					
,, BROWN ALE					
,, INDIA PALE ALE					
,, XXXX STRONG ALE					
,, OATMEAL STOUT					
,, DOUBLE STOUT					
,, AUDIT					PINTS
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

WINES AND SPIRITS

[illegible]

GOODS RETURNED

RETURNS

Number	
	x 1 CASES
	x 2 CASES
	CRATES
	BOTTLES LARGE
	BOTTLES SMALL
	FLAGONS, SCREW
	x ½ GALLON JARS
	x 1 GALLON JARS
	SPIRIT CASES @
	,, ,, @
	,, ,, @
	SPIRIT BOTTLES
	WINE BOTTLES
	FLAGONS
	CYDER BOTTLES
	CYDER CASES

CASKS

NUMBER	SIZE

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Top Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

Received [signature]

Returns Correct

Drayman

No. ALD. 00930

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

NOTE.—OUR CASKS AND BOTTLES ARE VESSELS TO CARRY BEER, NOT MEASURES, BUT CARE IS TAKEN THAT THEY CONTAIN NOT LESS THAN THEIR REPUTED QUANTITIES.

BOUGHT OF **FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,**
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr. [illegible] Date. Mch 22 19[illegible]

[illegible]

PACKAGES OUT	£	s.	d.
NUMBER			
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Drayman have been instructed accordingly.

Company's Official Receipt only recognised.

Received J. [illegible]

Returns Correct

Drayman

REGISTERED

CASK BEERS					
QUALITY	Bulk 36 Gals.	Kils. 18 Gals.	Firkins 9 Gals.	Firkins 4½ Gals.	NUMBERS
B.B.					
S.O.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ. LARGE	d.	DOZ. SMALL	d.	SCREW QUARTS
FRIARY LUNCHEON ALE					
,, ALE					
,, BROWN ALE					
,, INDIA PALE ALE					
,, XXXX STRONG ALE					
,, OATMEAL STOUT					
,, DOUBLE STOUT					
,, AUDIT					PINTS
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

WINES AND SPIRITS

3 Gin H.S.

GOODS RETURNED

RETURNS	NUMBER
x 1 CASES	
x 2 CASES	
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES @	
,, ,, @	
,, ,, @	
SPIRIT BOTTLES	
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	

CASKS	
NUMBER	SIZE

No. ALD. 01025

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

BOUGHT OF **FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,**
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr [illegible]

Date [illegible] 19

PACKAGES OUT — NUMBER	£	s.	d.
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

CASK BEERS — QUALITY	Brls. 36 Gals.	Kils. 18 Gals.	Firs. 9 Gals.	Pins. 4½ Gals.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ. LARGE	@	DOZ. SMALL	@	½ SCREW QUARTS
FRIARY LUNCHEON ALE					
" ALE					
" BROWN ALE					
" INDIA PALE ALE					
" XXXX STRONG ALE					
" OATMEAL STOUT					
" DOUBLE STOUT					
" AUDIT					NIPS
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

RETURNS — NUMBER	
x 1 CASES	
x 2 CASES	
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES @	
" " @	
" " @	
SPIRIT BOTTLES	
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Top Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

WINES AND SPIRITS

1 Doz Rum
2 - Sherry
1 Bt - Whisky

CASKS — NUMBER	SIZE

GOODS RETURNED

Received [illegible]

Returns Correct

Drayman

No. ALD. 01049

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

BOUGHT OF **FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,**
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr

Date 19

PACKAGES OUT — NUMBER	£	s.	d.
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

Received

Returns Correct

Drayman

CASK BEERS — QUALITY	Mild 18 Gals.	Mild 18 Gals.	Pint 9 Gals.	Pint 4½ Gals.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	QUART LARGE	QUART SMALL	½ SCREW QUARTS
FRIARY LUNCHEON ALE			
,, ALE			
,, BROWN ALE			
,, INDIA PALE ALE			
,, XXXX STRONG ALE			
,, OATMEAL STOUT			
,, DOUBLE STOUT			
,, AUDIT			PINTS
BASS'S PALE ALE			
WORTHINGTON'S PALE ALE			
GUINNESS'S EXTRA STOUT			

WINES AND SPIRITS

GOODS RETURNED

RETURNS — NUMBER	
x 1 CASES	
x 2 CASES	
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES @	
,, ,, @	
,, ,, @	
SPIRIT BOTTLES	
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	

CASKS — NUMBER	SIZE

No. ALD. 01059

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

NOTE. OUR CASKS AND BOTTLES ARE VESSELS TO CARRY BEER, NOT MEASURES. BUT CARE IS TAKEN THAT THEY CONTAIN NOT LESS THAN THEIR REPUTED QUANTITIES.

BOUGHT OF FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr [illegible] Date 4/12/9 19 44

[illegible]

PACKAGES OUT NUMBER	£	s.	d.
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

Received [illegible]

Returns Correct

Drayman

CASK BEERS QUALITY	Bbls. 36 Gals.	Kils. 18 Gals.	Firk. 9 Gals.	Pins 4½ Gals.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ. LARGE	@	DOZ. SMALL	@	4 SCREW QUARTS
FRIARY LUNCHEON ALE					
" ALE					
" BROWN ALE					
" INDIA PALE ALE					
" XXXX STRONG ALE					
" OATMEAL STOUT					
" DOUBLE STOUT					
" AUDIT					PIPS
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

WINES AND SPIRITS

3 Bon Pupito

GOODS RETURNED

RETURNS NUMBER	
	x 1 CASES
2	x 2 CASES
	CRATES
	BOTTLES LARGE
4	BOTTLES SMALL
	FLAGONS, SCREW
	x ½ GALLON JARS
	x 1 GALLON JARS
	SPIRIT CASES @
	" " @
	" " @
	SPIRIT BOTTLES
	WINE BOTTLES
	FLAGONS
	CYDER BOTTLES
	CYDER CASES

CASKS

NUMBER	SIZE

No. ALD. 01203

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

BOUGHT OF FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr [illegible] Date 4 21 19 11

[illegible]

PACKAGES OUT NUMBER	£	S.	D.
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

QUALITY	CASK BEERS: BASS 36 GALS.	KILK 18 GALS.	FIRK 9 GALS.	PINS 4½ GALS.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ. LARGE @	DOZ. SMALL @	4 SCREW QUARTS
FRIARY LUNCHEON ALE			
,, ALE			
,, BROWN ALE			
,, INDIA PALE ALE			
,, XXXX STRONG ALE			
,, OATMEAL STOUT			
,, DOUBLE STOUT			
,, AUDIT			NIPS
BASS'S PALE ALE		4	
WORTHINGTON'S PALE ALE			
GUINNESS'S EXTRA STOUT			

WINES AND SPIRITS

1 Bo Jon Rum

RETURNS NUMBER	
x 1 CASES	
x 2 CASES	
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES @	
,, ,, @	
,, ,, @	
SPIRIT BOTTLES	
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	

CASKS

NUMBER	SIZE

Kindly examine all Goods before Signing Dreyman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

Received [illegible]

Returns Correct

Dreyman

GOODS RETURNED

No. ALD. 01222

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

BOUGHT OF FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr. H. Frost. Office. Date April 5 1941
C. Mess. Ellis House. Ready for Issue

PACKAGES OUT	£	S.	D.
NUMBER			
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

CASK BEERS					
QUALITY	BBLS. 36 GALS.	KILS. 18 GALS.	FIRK. 9 GALS.	PINS 4½ GALS.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ. LARGE	@	DOZ. SMALL	@	2 SCREW QUARTS
FRIARY LUNCHEON ALE					
" ALE					
" BROWN ALE					
" INDIA PALE ALE					
" XXXX STRONG ALE					
" OATMEAL STOUT					
" DOUBLE STOUT					
" AUDIT					
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

WINES AND SPIRITS

4 Rum Ration

GOODS RETURNED

RETURNS	
NUMBER	
	x 1 CASES
	x 2 CASES
	CRATES
	BOTTLES LARGE
	BOTTLES SMALL
	FLAGONS, SCREW
	x ½ GALLON JARS
	x 1 GALLON JARS
	SPIRIT CASES
	" "
	" "
	SPIRIT BOTTLES
	WINE BOTTLES
	FLAGONS
	CYDER BOTTLES
	CYDER CASES

CASKS	
NUMBER	SIZE

Kindly examine all Goods before Signing Draymen's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

Received J. E. Rich.

Returns Correct

Draymen

No. ALD. 01388

DELIVERY TICKET (OFFICE COPY)

...PRESERVATIVE ... REGULATIONS 1925. ...CERTIFY THAT THE BEERS ... BY OR CONFORM TO THESE ...LATIONS

NOTE.—OUR CASES AND BOTTLES ARE VESSELS TO CARRY BEER, NOT MEASURES, BUT CARE IS TAKEN THAT THEY CONTAIN NOT LESS THAN THEIR REPUTED QUANTITIES.

TELEPHONE: ALDERSHOT 64

BOUGHT OF **FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,**
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr. The Resident Officer Mess Date 11 April 1941

C Mess 2 Cdn Div Hdqrs "Ellis House" Reading Rd Yately

PACKAGES OUT

NUMBER	£	S.	D.
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

Received J. Dack.

Returns Correct

Drayman

CASK BEERS

QUALITY	Brls. 36 Gals.	Kils. 18 Gals.	Pins. 9 Gals.	Pins. 4½ Gals.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS

	DOZ. LARGE	@	DOZ. SMALL	@	X SCREW QUARTS
FRIARY LUNCHEON ALE					
" ALE					
" BROWN ALE					
" INDIA PALE ALE					
" XXXX STRONG ALE					
" OATMEAL STOUT					
" DOUBLE STOUT					
" AUDIT					
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

WINES AND SPIRITS

2 Tots John Haig

1 " Jamaica Rum

GOODS RETURNED

RETURNS

NUMBER	
x 1 CASES	
x 2 CASES	
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES @	
" " @	
" " @	
SPIRIT BOTTLES	
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	

CASKS

NUMBER	SIZE
1	4½
2	4½

No. ALD. 01524

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

BOUGHT OF **FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,**
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr. [illegible] Date 12th April 19[illegible]

PACKAGES OUT

NUMBER		£	S.	D.
1	1 x 1 CASES			
	1 x 2 CASES			
	CRATES			
17½	BOTTLES LARGE			
	BOTTLES SMALL			
	FLAGONS			
	CYDER BOTTLES			
	CYDER CASES			
	SPIRIT CASES			
	do.			
	do.			
	SPIRIT JARS			
	TOTAL (A)			

CASK BEERS

QUALITY	Dbls. 36 Gals.	Kils. 18 Gals.	Firk. 9 Gals.	Pins 4½ Gals.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS

	QTR. LARGE	@	DOZ. SMALL	@	SCREW QUARTS
FRIARY LUNCHEON ALE					
" ALE					
" BROWN ALE					
" INDIA PALE ALE					
" XXXX STRONG ALE					
" OATMEAL STOUT					
" DOUBLE STOUT					
" AUDIT			1½		PINTS
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

WINES AND SPIRITS

1 Gin 1 Whisky

GOODS RETURNED

RETURNS

NUMBER	
	x 1 CASES
3	x 2 CASES
	CRATES
	BOTTLES LARGE
6	BOTTLES SMALL
	FLAGONS, SCREW
	x ½ GALLON JARS
	x 1 GALLON JARS
	SPIRIT CASES
	" "
	" "
	SPIRIT BOTTLES
	WINE BOTTLES
	FLAGONS
	CYDER BOTTLES
	CYDER CASES

CASKS

NUMBER	SIZE

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

Received [illegible]

Returns Correct

Drayman

No. ALD. 01554

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

NOTE. OUR CASKS AND BOTTLES ARE VESSELS TO CARRY BEER, NOT MEASURES, BUT CARE IS TAKEN THAT THEY CONTAIN NOT LESS THAN THEIR REPUTED QUANTITIES.

BOUGHT OF FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr. [illegible] Date [illegible] 19

[illegible]

PACKAGES OUT

NUMBER	£	S.	D.
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

Received [signature]

Returns Correct

Drayman

CASK BEERS

QUALITY	BBLS. 36 GALS.	KILS. 18 GALS.	FIRK. 9 GALS.	FINS 4½ GALS.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					
.					

BOTTLED BEERS	DOZ. LARGE	@	DOZ. SMALL	@	½ SCREW QUARTS
FRIARY LUNCHEON ALE					
,, ALE					
,, BROWN ALE					
,, INDIA PALE ALE					
,, XXXX STRONG ALE					
,, OATMEAL STOUT					
,, DOUBLE STOUT					
,, AUDIT					PTS
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

WINES AND SPIRITS

1 Port Old Ruby
1 - Sherry
1 - Whisky

GOODS RETURNED

RETURNS

NUMBER	
x 1 CASES	
x 2 CASES	
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES	
,, ,,	
,, ,,	
SPIRIT BOTTLES	
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	

CASKS

NUMBER	SIZE

No. ALD. 01605

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

BOUGHT OF **FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,**
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr. The President, Officers' Mess Date May 2 19 41
& Mess. HQ. 2 London Div. RA. Howe. Farnborough

PACKAGES OUT

NUMBER		£	s.	d.
	1 x 1 CASES			
	1 x 2 CASES			
	CRATES			
	BOTTLES LARGE			
	BOTTLES SMALL			
	FLAGONS			
	CYDER BOTTLES			
	CYDER CASES			
	SPIRIT CASES			
	do.			
	do.			
	SPIRIT JARS			
	TOTAL (A)			

CASK BEERS

QUALITY	Hhds. 36 Gals.	Kils. 18 Gals.	Firs. 9 Gals.	Pins 4½ Gals.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ LARGE	DOZ SMALL	½ SCREW QUARTS
FRIARY LUNCHEON ALE			
,, ALE			
,, BROWN ALE			
,, INDIA PALE ALE			
,, XXXX STRONG ALE			
,, OATMEAL STOUT			
,, DOUBLE STOUT			
,, AUDIT			AUDIT
BASS'S PALE ALE			
WORTHINGTON'S PALE ALE			
GUINNESS'S EXTRA STOUT			

RETURNS

NUMBER	
	x 1 CASES
	x 2 CASES
	CRATES
	BOTTLES LARGE
	BOTTLES SMALL
	FLAGONS, SCREW
	x ½ GALLON JARS
	x 1 GALLON JARS
	SPIRIT CASES (3)
	,, ,, (1)
	,, ,, (8)
	SPIRIT BOTTLES
	WINE BOTTLES
	FLAGONS
	CYDER BOTTLES
	CYDER CASES

CASKS

NUMBER	SIZE

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

WINES AND SPIRITS

1 Bot. Gin
2 — Spotsman
1 — Old Tom

GOODS RETURNED

Received J. Dick

Returns Correct

Drayman

No. ALD. 02000

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

BOUGHT OF **FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,**
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr. [illegible] Date [illegible] 19

PACKAGES OUT NUMBER	£	S.	D.
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Top Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

Received [signature]

Returns Correct

Drayman

CASK BEERS QUALITY	Bulk 36 Gals.	Kils. 18 Gals.	Firk. 9 Gals.	Pins 4½ Gals.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ. LARGE	@	DOZ. SMALL	@	¼ SCREW QUARTS
FRIARY LUNCHEON ALE					
,, ALE					
,, BROWN ALE					
,, INDIA PALE ALE					
,, XXXX STRONG ALE					
,, OATMEAL STOUT					
,, DOUBLE STOUT					
,, AUDIT					NOT
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

WINES AND SPIRITS

2 Bots Gin

GOODS RETURNED

RETURNS NUMBER	
x 1 CASES	
x 2 CASES	
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES @	
,, ,, @	
,, ,, @	
SPIRIT BOTTLES	
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	

CASKS 11/ 12 "

NUMBER	SIZE

No. ALD. 02292

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

NOTE.—OUR CASES AND BOTTLES ARE VESSELS TO CARRY BEER, NOT MEASURES, BUT CARE IS TAKEN THAT THEY CONTAIN NOT LESS THAN THEIR REPUTED QUANTITIES.

BOUGHT OF **FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,**
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr. Y. Lieut. Offrs Mess. Date 19th May 19 41

Capt Hon 2nd Com Dio "Ellis Hosp" Ripon Yorks

PACKAGES OUT (Numbers)	£	s.	d.
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES		2	6
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)		2	6

Kindly examine all Goods before Signing Draymen's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

Received J E Dick

Returns Correct

Draymen

CASK BEERS — QUALITY	Brls. 36 Gals.	Kils. 18 Gals.	Firk. 9 Gals.	Pins 4½ Gals.	NUMBERS
B.B.					
S.D.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ. LARGE	@	DOZ. SMALL	@	½ SCREW QUARTS
FRIARY LUNCHEON ALE					
" ALE					
" BROWN ALE					
" INDIA PALE ALE					
" XXXX STRONG ALE					
" OATMEAL STOUT					
" DOUBLE STOUT					
" AUDIT					KEGS
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

WINES AND SPIRITS

3 Bots Cream Sherry
2 " Port
3 " Australian Ruby

GOODS RETURNED

RETURNS (Number)	
x 1 CASES	
x 2 CASES	
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES @	
" " @	
" " @	
SPIRIT BOTTLES	
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	Nil 2 6

CASKS — NUMBER	SIZE	
Nil		
4	18 @	4 14 -
		4 14 -
		2 6
		4 16 6

No. ALD 02384

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

NOTE. OUR CASKS AND BOTTLES ARE VESSELS TO CARRY BEER, NOT MEASURES, BUT CARE IS TAKEN THAT THEY CONTAIN NOT LESS THAN THEIR REPUTED QUANTITIES.

BOUGHT OF **FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,**
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr. [illegible] Date 26 May 19[illegible]

[illegible]

PACKAGES OUT (Number)	£	s.	d.
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

QUALITY	CASK BEERS: Kils. 36 Gals.	Kils. 18 Gals.	Firs. 9 Gals.	Pins 4½ Gals.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ. LARGE	@	DOZ. SMALL	@	½ SCREW QUARTS
FRIARY LUNCHEON ALE					
,, ALE					
,, BROWN ALE					
,, INDIA PALE ALE					
,, XXXX STRONG ALE					
,, OATMEAL STOUT					
,, DOUBLE STOUT					
,, AUDIT					
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

RIPS

WINES AND SPIRITS

3 Doz Cider
1 Do Burgh

GOODS RETURNED

RETURNS (Number)	
x 1 CASES	
x 2 CASES	
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES @	
,, ,, @	
,, ,, @	
SPIRIT BOTTLES	
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	
CASKS	

NUMBER [illegible] 2 Pts L

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Top Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Drayman have been instructed accordingly.

Company's Official Receipt only recognised.

Received [illegible]

Returns Correct

Drayman

No. ALD. 02557

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

BOUGHT OF **FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,**
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr. [illegible] Date 29 Mar 19 21

[illegible]

PACKAGES OUT — NUMBER	£	s.	d.
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

CASK BEERS — QUALITY	Barls. 36 Gals.	Kils. 18 Gals.	Firk. 9 Gals.	Pins 4½ Gals.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ. LARGE	@	DOZ. SMALL	@	½ SCREW QUARTS
FRIARY LUNCHEON ALE					
,, ALE					
,, BROWN ALE					
,, INDIA PALE ALE					
,, XXXX STRONG ALE					
,, OATMEAL STOUT					
,, DOUBLE STOUT					
,, AUDIT					NIL
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

WINES AND SPIRITS

5 Vins Ordinaires
1 Empty

RETURNS — NUMBER	
x 1 CASES	
x 2 CASES	
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES @	
,, ,, @	
,, ,, @	
SPIRIT BOTTLES	
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	

CASKS

NUMBER	SIZE

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

GOODS RETURNED

Received [illegible]

Returns Correct

Drayman

No. ALD. 02643

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

NOTE. OUR CASKS AND BOTTLES ARE VESSELS TO CARRY BEER, NOT MEASURES, BUT CARE IS TAKEN THAT THEY CONTAIN NOT LESS THAN THEIR REPUTED QUANTITIES.

BOUGHT OF FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr. [illegible] Date [illegible] 19 [illegible]

PACKAGES OUT (Number)	£	s.	d.
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

QUALITY	CASK BEERS — Bulk 36 Gals.	Kils. 18 Gals.	Firk. 9 Gals.	Pins 4½ Gals.	NUMBERS
B.B.					
S.B.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ. LARGE	½	DOZ. SMALL	½	¼ SCREW QUARTS
FRIARY LUNCHEON ALE					
,, ALE					
,, BROWN ALE					
,, INDIA PALE ALE					
,, XXXX STRONG ALE					
,, OATMEAL STOUT					
,, DOUBLE STOUT					
,, AUDIT					PIPS
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

WINES AND SPIRITS

2 15s Scotch.

RETURNS (Number)	
x 1 CASES	
x 2 CASES	
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES	
,, ,,	
,, ,,	
SPIRIT BOTTLES	
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	

CASKS 1/4

NUMBER	SIZE

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Tap Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

GOODS RETURNED

Received [illegible]

Returns Correct

Drayman

No. ALD. 02858

DELIVERY TICKET (OFFICE COPY)

TELEPHONE: ALDERSHOT 64

BOUGHT OF **FRIARY HOLROYD & HEALY'S BREWERIES, LTD.,**
ALDERSHOT DEPOT:— GROSVENOR ROAD, ALDERSHOT.

HEAD OFFICE: GUILDFORD, SURREY.

Mr. [illegible] Date [illegible] 19[illegible]

PACKAGES OUT NUMBER	£	s.	d.
1 x 1 CASES			
1 x 2 CASES			
CRATES			
BOTTLES LARGE			
BOTTLES SMALL			
FLAGONS			
CYDER BOTTLES			
CYDER CASES			
SPIRIT CASES			
do.			
do.			
SPIRIT JARS			
TOTAL (A)			

CASK BEERS QUALITY	Brls. 36 Gals.	Kils. 18 Gals.	Firk. 9 Gals.	Pins 4½ Gals.	NUMBERS
B.B.					
S.O.A.					
P.A.					
XXXX					
I.P.A.					

BOTTLED BEERS	DOZ. LARGE	@	DOZ. SMALL	@	½ SCREW QUARTS
FRIARY LUNCHEON ALE					
" ALE					
" BROWN ALE					
" INDIA PALE ALE					
" XXXX STRONG ALE					
" OATMEAL STOUT					
" DOUBLE STOUT					
" AUDIT					NIPS
BASS'S PALE ALE					
WORTHINGTON'S PALE ALE					
GUINNESS'S EXTRA STOUT					

WINES AND SPIRITS

2 L in Apy Kept

RETURNS NUMBER	
x 1 CASES	
x 2 CASES	
CRATES	
BOTTLES LARGE	
BOTTLES SMALL	
FLAGONS, SCREW	
x ½ GALLON JARS	
x 1 GALLON JARS	
SPIRIT CASES @	
" " @	
" " @	
SPIRIT BOTTLES	
WINE BOTTLES	
FLAGONS	
CYDER BOTTLES	
CYDER CASES	

CASKS NUMBER	SIZE

Kindly examine all Goods before Signing Drayman's Note, as we cannot make any allowance for breakages or deficiencies after Signature has been given. To facilitate examination all Goods can be sent in loose cases.

N.B. Our Casks, Bottles and Jars are vessels to carry Beer, not measures, but care is taken that they contain not less than their reputed quantities.

Please ask for and see you obtain a supply of Shives and Taxi Corks, which the Company particularly request be used immediately the Casks are empty. Casks not returned within 12 months and all foul Casks to be paid for.

RETURN OF PACKAGES. Please note that our own Bottles and Cases are allowed for at the same price as charged on being returned to the Depot in good condition. No allowance however can be made for Bottles and Cases other than those belonging to us, and our Draymen have been instructed accordingly.

Company's Official Receipt only recognised.

GOODS RETURNED

Received [signature]

Returns Correct

Drayman

No. ALD. 02872

No. C.30300 Name DICK, J.E. Sqn., Battery, or Company — Corps R.H.L.I. — Date of enlistment 30/5/40 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc.

M.F.M. 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Completed six months service	30/11/40				
Aldershot	16-8-40	Pte		AA Sec 15 (1) AWL 1500 hrs 16 Sep. to 0630 hrs. 21 Sep. 40. Total 5 days 3 hrs 30 minutes	Cpl Teague	5 days CB Forfeits 5 days pay	23/8/40	Lt Col Weeks	
Aldershot	16-8-40	Pte.		AA Sec 17 Embezzling Regt. Property	Pte Allanson	30 days Det.	3/9/40	FGCM	
Aldershot	23-3-41	Cpl		AA Sec 11 failing to obey a standing order not wearing gaiters	Cpl Reid L/Cpl Whiteman	Reprimanded	29/3/41	Capt. J.T. Wilson	

Certified true and accurate copy as at 15 AUG. 41.

Capt.
Camp Commandant, H.Q. 2 Cdn. Div.

Substitute for A.FB.296

23

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

1 NO. C.30800 NAME Pte. Dick, J.E. UNIT H.Q. 2 Cdn Div.

2. OF THE CANADIAN ARMY, ACTIVE

3. AGE 35 DATE OF ATTESTATION 30 May 40

4. DATES OF PROMOTIONS, APPOINTSMENTS AND CONFIRMATIONS IN RANK(IF ANY)

Appointed A/Cpl without pay 18-3-41.

5. SINGLE OR MARRIED Widower NO OF DEPENDENTS None

6. NO. OF DAYS SPENT IN CLOSE ARREST TO DATE OF TRIAL

CIVIL (IF ANY)_____ MILITARY 30 HOSPITAL _____ TOTAL 30

7. A CERTIFIED TRUE COPY OF M.F.M. 6 MUST ACCOMPANY THIS CERTIFICATE

Dated at Aldershot

This 30 day of August 1941

[illegible]
(W.E. Martin)Captain
Comp Comnd., H.Q. 2 Cdn Div.
Unit.

~~[illegible]~~ YCM-B-84

~~[illegible]~~

Gnr. Henry. A.N.

MEDICAL OFFICER'S REPORT

(I have this morning examined)
I certify that No. G-1993 Gnr. DEWEY, Arthur Norman
(X-3 List 4 LAA Regt RCA)
of is in a fit state of health,
Convalescent #2 CCD
and able to undergo Trial by Court martial.
fit

J.R. Mitchell Capt
Medical Officer.

Station Knocke, Belgium

Date 10 Mar 45

M. F. B. 246

APP 'D'

A.P.T.C.

STATEMENT BY NO.555384 S/SJT. RAY. S.W. ~~RAYALXXXXIXXXXX~~

I was instructed my Major Lisle, through the R.S.M., to attend the Minerva Dance last night for the purpose of apprehending a suspect on a charge of rape. I entered the Minerva at 1900 hrs Sunday 11 Feb 45 and saw Sapper Korn as pre-arranged, who would point out the girl in question.

I saw Sapper Korn appear with a girl at 1940 hrs and was told by Sjt/I Barker that this was the girl in question.

At approximately 2120 hrs I was standing by the Bar at the entrance to the Minerva when Sjt/I Barker approached me and signified that the man had been seen. I instructed Sjt/I Barker to stand at the exit to the Hall, told Sapper Korn to take the girl to the Town Guard Room, and then, with Sjt/I Leathers I approached two Canadian soldiers and asked them to accompany me out of the Hall. They wanted to know what was wrong and why the request. I told them that if they would accompany me outside they would get a full explanation.

They accompanied me to the Town Guard Room quite willingly.

Major Lisle was then contacted and took over investigation.

S.W. Ray 12/2/45

This is Exhibit F referred to in the summary of evidence in the case of [illegible] No C 1943 Spr Dewey A.M., 4 A.A.A. Regt R.C.A., attached to No 2 Con Construction Regt, taken before me this 24 Feb 45

A.P. Brooks Capt

STATEMENT BY NO.975333 SJT/I BARKER. F.A.E. A.P.T.C.

I was instructed by the R.S.M. to go with S/Sjt. Ray and Sjt/I Leathers to the Minerva Dance Hall last night and to arrive there about 19.30 hrs for the purpose of apprehending a suspect on a charge of rape.

I arrived with S/Sjt Ray at 1900 hrs and ascertained from Sapper Korn that the girl had not yet arrived. At about 19.40 hrs I saw Sapper Korn enter the Dance Hall with a young lady and within a few moments confirmed with him that this was the girl in question.

At about 2120 hrs Sapper Korn told me that the girl had motioned out the man. He signified the man as a Canadian soldier at the Bar. I informed S/Sjt Ray who instructed me to stand at the exit.

When Sapper Korn had gone from the Dance Hall with the girl, S/Sjt Ray, Sjt/I Leathers and myself approached two Canadian soldiers who were requested by S/Sjt Ray to leave the Hall in our company. They did so and we walked with them into the Town Guard Room.

Major Lisle shortly arrived and took over investigation.

F.A.E. Barker 13/2/45.

Exhibit "E" referred to in the
[illegible] of Lieutenant [illegible] in case of No. [illegible]
[illegible] Court Martial held at [illegible] on the [illegible]
[illegible] day of [illegible] 1945.
[illegible] Lt-Col Commanding 2nd Light A.A. Regt. R.A.
[illegible] Capt

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
	Lt		Jean Paul	BERTRAND	CIC 10 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 14 Mar 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Brigadier (Rank.)	J C Stewart CBE DSO (Must be named. RP 106.)		RCA	(Unit.)

MEMBERS.

Lt Col	H W Rick, ED	CIC(MG)	X-9 List	9 CBR Bn
Major	E A Rogerson	CIC	X-9 List	3 Cdn NEID
Capt	MA Cardinal	CIC	X-4 List	3 Cdn NEID
Capt (Rank.)	J G GAGNON (Named or detailed. RP 106.)	CIC	X-4 List	13 CBR Bn (Unit.)

WAITING MEMBER.

Major	D C Shaw	RCASC	X-4 List	9 CBR Bn
Capt (Rank.)	C Hutchins (Named or detailed, if any. RP 106.)	CIC	X-4 List	13 CBR Bn (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	H A Hanson (Must be named, if any. RP 106.)		A/ADJA 2 CBRG (Unit.)

On Active Service in the Fd

in The Field (Country.)

"G S N Gostling" (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 14 Mar 45

Commanding 2 Canadian Base Reinforcement Group Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (FAMS, (To SHQ of AFHQ) 40-F & BTHQ 1 Cdn Corps)

Ref: 50/ /

Subject: Investigation of Alleged Rape by a Soldier

To:
O.C. Troops,
KNOCKE & HEIST.

Sir,

1. Acting on your instructions, I, Major J.W.Lisle, R.E., of 50 Reinforcement Holding Unit, at about 1030 hrs on Sunday, 11 Feb 45, proceeded to take a statement from Martha Maria Dezutter, a native of Knocke, who alleged that she had been raped by a soldier at about 2230 hrs on 10 Feb 45. Her statement is at Appendix 'A' attached.

2. From her statement it will be noted that there was the possibility that she might meet the soldier again; the following action was therefore taken:-

(a) I requested the girl to keep the appointment.
(b) I instructed 4 soldiers of 50 R.H.U. to be at the place of appointment, viz: the Minerva Cafe and await developments, and take into custody a soldier the girl may identify.
(c) I received a phone call from Sjt/I Barker at 2150 hrs that he had two Canadian soldiers in custody. One of them had been identified by the girl.
(d) I immediately proceeded to the Town Guard Room in order to take statements.
(e) The names of the soldiers were Gnr. Arthur Dewey and Gnr.Thomas Wright of No.2 Canadian Convalescent Depot. The girl was present at both interviews.
(f) Attached Appendix 'B' is statement made by Gnr.Wright.
(g) Attached Appendix 'C' is statement made by Gnr.Dewey.
(h) After investigation and taking statements I released from custody Gnr.Wright and ordered him to return to his unit.
(i) In view of the girl's statement, I placed under close arrest Gnr.Dewey for alleged rape. After placing him under close arrest I immediately informed the man's unit by telephone.

3. Please see attached statements made by S/Sjt.Ray, Sjt/I Barker and S/I Leathers at Appendix 'D'. Also statement by Sapper Korn at Appendix 'E'.

4. Report by Guard Commander is attached at Appendix 'F'.

5. M.O. REPORT.

6 APP 'H'

I have the honour to be, Sir,
Your obedient Servant,

Major, RE

12 Feb 45
HLA.

This is Exhibit 'B' referred to in the Summary of Evidence in the case of 1773 Gnr. Dewey A. No 4 AHU Regt. RCA. a patient at 2 Can Convalescent Depot, taken before me this 24th Feb 45

A. [illegible] Lt Col

Ref: 50/ /

Subject: Investigation of Alleged Rape by a Soldier

To:
O.C. Troops,
KNOCKE & HEIST.

Sir,

1. Acting on your instructions, I, Major J.W.Lisle, R.E., of 50 Reinforcement Holding Unit, at about 1030 hrs on Sunday, 11 Feb 45, proceeded to take a statement from Martha Maria Dezutter, a native of Knocke, who alleged that she had been raped by a soldier at about 2230 hrs on 10 Feb 45. Her statement is at Appendix 'A' attached.

2. From her statement it will be noted that there was the possibility that she might meet the soldier again; the following action was therefore taken:-

(a) I requested the girl to keep the appointment.
(b) I instructed 4 soldiers of 50 R.H.U. to be at the place of appointment, viz: the Minerva Cafe and await developments, and take into custody a soldier the girl may identify.
(c) I received a phone call from Sjt/I Barker at 2150 hrs that he had two Canadian soldiers in custody. One of them had been identified by the girl.
(d) I immediately proceeded to the Town Guard Room in order to take statements.
(e) The names of the soldiers were Gnr. Arthur Dewey and Gnr.Thomas Wright of No.2 Canadian Convalescent Depot. The girl was present at both interviews.
(f) Attached Appendix 'B' is statement made by Gnr.Wright.
(g) Attached Appendix 'C' is statement made by Gnr.Dewey.
(h) After investigation and taking statements I released from custody Gnr.Wright and ordered him to return to his unit.
(i) In view of the girl's statement, I placed under close arrest Gnr.Dewey for alleged rape. After placing him under close arrest I immediately informed the man's unit by telephone.

3. Please see attached statements made by S/Sjt.Ray, Sjt/I Barker and S/I Leathers at Appendix 'D'. Also statement by Sapper Korn at Appendix 'E'.

4. Report by Guard Commander is attached at Appendix 'F'.

5. M.O. REPORT.

6 APP 'H'

I have the honour to be, Sir,
Your obedient Servant,

Major, RE

12 Feb 45
Encl.

This is Exhibit 'B' referred to in the Summary of Evidence in the case of 1771 Gnr Dewey, A. No 4 AA Pnl RCA, a Patient at No 2 Can Convalescent Depot, taken before me this 24th Feb 45

A/ Brigadier Capt

APP 'G'

STATEMENT MADE BY GNR. DEWEY. ARTHUR NORMAN. NO. G1993.

NO 2 CANADIAN CONVALESCENT DEPOT.

AT THE TOWN GUARD ROOM AT APPROX. 2215 hrs. 11/2/45

QUESTION BY MAJOR LISLE: Will you tell me your movements last night?

ANSWER: When I went out last night three of us started. We were drinking, playing snooker and then went to the Dance.

QUESTION: What time did you leave the Dance Hall?

ANSWER: 9.45. I left by myself.

QUESTION: You went into the Dance Hall at what time?

ANSWER: I could not say for sure.

QUESTION: You were sober when you went in?

ANSWER: Not too bad Sir. It was round about 8 o'clock Sir.

QUESTION: What time did you leave the Minerva Dance Hall?

ANSWER: About 10 o'clock Sir.

QUESTION: By yourself?

ANSWER: Yes Sir.

QUESTION: You have no-one to prove that you did leave at 10 o'clock?

ANSWER: No Sir. Just my own word.

QUESTION: Which way did you turn when you came out of the Dance Hall?

ANSWER: Right Sir.

QUESTION: What time did you get in?

ANSWER: 1030 Sir.

QUESTION: Did you answer roll call at 11 o'clock?

ANSWER: Yes Sir.

QUESTION: Do you know this young lady?

ANSWER: No Sir, I have not seen her before.

QUESTION BY MAJOR LISLE TO MISS DEGUTTER IN PRESENCE OF GNR DEWEY.

Q Do you know this man?

ANSWER: Yes.

Q Did you know him before yesterday?

ANSWER: I am not sure. Perhaps once along the main street. He was talking to another soldier.

Q Are you prepared to swear on oath this was the soldier who raped you?

ANSWER: Yes. I would swear it if necessary right away.

Q Could you see the man's face quite clearly.

A ANSWER: At the beginning it was difficult to see in the darkness. Then a car passed and I saw his face clearly.

1993 Gnr Dewey A.N. Witness to the signature of Pte Knapp 30175461 R.C.A.M.C.

APP 'B' 10

STATEMENT MADE BY GNR. WRIGHT, THOMAS DAVID. NO.K73260

NO.2 CANADIAN CONVALESCENT DEPOT

AT THE TOWN GUARD ROOM KNOCKE AT APPROX.2200 hrs
11/2/45

QUESTION BY MAJOR LISLE: Can you give me your movements last night?

ANSWER: I went to the Dance, Sir, across the street. I stayed there until the last. I felt pretty good and waited there to the end. I finally found my tooth and from there I went home.

QUESTION: What time did you get home?

ANSWER: About 1030 or 1045.

QUESTION: Which way did you go?

ANSWER: Straight up the road.

QUESTION: Did you report to anybody when you got back?

ANSWER: No Sir.

QUESTION: Have you anybody to prove that you were in the Barracks at 1030?

ANSWER: Yes Sir, four or five fellows sleeping with me.

QUESTION: Did you meet Dewey last night?

ANSWER: As far as I can remember he was there at the Dance. Three of us went together.

QUESTION: Who did you go home with?

ANSWER: I went home with a friend.

QUESTION: Can you recognise him again?

ANSWER: Definitely.

QUESTION: Did Dewey go home with you?

ANSWER: What I can't say Sir. I was under the weather.

QUESTION: Did you meet Dewey this morning.

ANSWER: Yes, Sir, he was on Church parade.

QUESTION: What time was Church parade?

ANSWER: 9 o'clock.

QUESTION: I suppose you spoke about last night?

ANSWER: I told him I did not remember much about it.

QUESTION: He told you nothing of his movements last night?

ANSWER: Not a thing Sir.

QUESTION: And you both came down to the Minerva tonight?

ANSWER: Yes Sir.

Gnr. J.D Wright
E Phillips
COMS. RE

App 'B'
AD

STATEMENT MADE BY GNR. WRIGHT, T.D. - Cont.

QUESTION: Did Dewey tell you anything about his movements last night?

ANSWER: No Sir.

QUESTION: He did not mention how he got home?

ANSWER: No Sir.

QUESTION: And you went home with a friend you can verify?

ANSWER: One? Yes Sir.

Gnr. T.D. Wright
Witness to above signature
Pickup 20175H.I
L.G.M.S. R.E.

APP. 'G'

SUBJECT: Medical Examination of Mlle Degutter

I examined Mlle Martha Maria Degutter on the 11th February 1905 at approximately 1230 hrs. as requested by Maj Lisle, 53 R.H.A.

She claimed that at 2030 hrs on the previous evening, she and her female companion had been accosted by four soldiers in a lonely place. One of them forced her to the ground, put his arm across her mouth, and his knee in her stomach when she struggled, and then raped her. She says that she struggled but that he was too big for her. Her clothes were torn and her nose bled a lot. At 2200 hrs he allowed her to go.

Upon examination I found that she was of very short stature, but well developed. She was somewhat excitable, but owing to language difficulties it was difficult to assess the reasons of her distress. At this time I could discover no evidence of a struggle. There were no bruises or scratches, her nails were not broken, and she was wearing different clothes. She did not claim to be virgo intacta prior to this occasion, so it is difficult for me either to substantiate or deny the claim.

J. [illegible]
Capt RAMC
M.O. 53 RHA

C.R.S. Knocke
11/2/05.

APP 'H'

DURING THE COURSE OF OBTAINING SIGNATURES TO DOCUMENTS (APPENDICES A & B) NO.2017544 CQMS PICKUP. E. R.E. WAS REQUESTED TO TAKE DOWN A VOLUNTARY STATEMENT BY NO.B-136368, SIGMN RIDOB, NO.2 CANADIAN CONVALESCENT DEPOT, BLA.

Copy of original statement:-

I, Sigmn Ridob (B-136368) was at the dance on Sat night of Feb 10/1945, got separated from my two friends and was on the dance floor till approx. 9.30 then joined my two friends at the Bar, having a few more beers and resumed dancing.

At approx 10 o'clock saw Wright sitting on a chair sleeping, asked him how he felt, he answered he was O.K. Then I continued dancing till approx. 1015 and came over to Wright to take him home, shook him a few times and as soon as he got up he got sick, after he felt better took him outside, told him we were on the way home, when hementioned that he lost his tooth, we went back in the hall and I searched the floor where Wright got sick and found no tooth, went over to the lady of the bar and she told us to come back tomorrow for she had cleaned the floor with sand and was unable to look for it tonight.

I told her we'd look for it, she took us to the back of the hall to a pail of rubbish, when Wright and I found his tooth, and this time there were only a few at the hall, it was approx. 1030.

Then Wright and I continued home and came here (barracks) at approx. 1045, made his bed and undressed him and went to bed myself.

(Sgd) Sigmn Ridob. B.

Signed: E Pickup
CQMS. RE
2017544

APP 'A'

STATEMENT MADE BY MARTHA MARIA DEZUTTER (through Interpreter)
AT HQ 50 RHU on SUNDAY 11 FEBRUARY 1945.

I have a job to look after children at the Avenue de Zoute. The name of my employer is GEORGE HANON. I left the house of my employ at about 8.30 p.m.; it may have been later.

I walked towards home down Avenue Lippens and along Graafjansdijk. At a point where there are no houses I was assaulted by a soldier. I had seen behind me 3 soldiers and they were singing. Two were close together and the third one was aside. He walked along the trees and he was very drunk. They followed me for about 10 minutes. A civilian woman was passing me on a bicycle. Two soldiers grabbed the cycle from the woman and pulled the woman to the ground. The other soldier took me by the hair over to some trees, threw me into a trench and assaulted me. The exact spot was about 10 minutes walking distance from the junction of Avenue Lippens. I did not lose my head. A horse and cart were passing. I tried to cry but the soldier put his hand over my mouth and I could not cry out. The cart passed just near my body. When the cart had passed the soldier dragged me to one side. He fell into some water. He knocked me and I was bleeding from the nose. I tried to defend myself but he was much stronger and I could not defend myself as I tried to do. He said to me some German words. I think the soldier lost his hat. The soldier left me bareheaded but I cannot tell whether he had it in his hand. From my handbag I lost 350 francs in a small case and a glove. In the struggle something was pushed against my neck. The man finished up by saying "Tomorrow night you go to the Minerva at half past 7".

I think I would recognise the soldier. He was middle sized.

It was about 10.30 when it happened.

Dezutter Martha Maria

Witness to above signature E Pickup 2nd Lt RWAFF
C.A.M.S. R.E.

Note: Exhibit 'C' referred to in the summary of evidence is in the case of C.1993 Pte Wardley, AN., 4th AA Regt, R.A., stationed at 2 Cdn Corps Depot, tried by Field General Court Martial 24 Feb 45

APP 'E'

STATEMENT BY 14507670 SAPPER. KORN. A.H. 50 R.H.U.

I was instructed by Major Lisle, R.E. to take down shorthand noted of evidence from a girl, whom I now know to be Martha Maria Dezutter, who alleged she had been assaulted by a soldier.

It was arranged, and I was instructed, to escort the girl at the Minerva Dance Hall on Sunday evening and if the girl identified a soldier as the man who had committed the offence I would contact 3 P.T. Serjeants, who would be near at hand, and signify the man in question.

I gave the girl plenty of opportunity to scan soldiers present, both dancing and sitting-out, and at about 2120 hrs she clutched my arm and said "This is him" or "It is him". A soldier was passing behind me and I saw a Canadian soldier (whom I now know as Gunner Dewey) walk to the Bar.

I saw Sjt/I Barker, motioned out the man to him and kept him within sight whilst Sjt/I Barker acquainted S/Sjt Ray and Sjt/I Leathers of the identification. I confirmed with the girl the soldier in question and she had no doubt at all he was the man.

S/Sjt Ray then instructed me to take the girl to the Town Guard Room.

A.H. Korn Sapper 14507670.

This is what I defended on the
Summary Court on the case of
C4493 Gnr Dewey, A.N. 4 LAA Regt,
R.C.A., tried at 2 Cdn Conalescent
Depot, taken before me this 24 Feb 45
A/Sjt Duty Cpl

Exc.

I No 2026896 Sgt Twelvetrees E.G. was the Town Guard commander from 1700 hrs 10-2-45 until 1700 hrs 11-2-45

At 1100 hrs on the 11-2-45 a civilian reported to me that his sister had been assaulted by a drunken Soldier.

Articles of the girls clothing consisting of, a Brown overcoat, a Green check skirt, and a square of some silky material, were shown to me.

The overcoat was soaking wet with a mixture of mud and sand on the back, the skirt was in a similar condition, the was covered in blood.

I ascertained wether a doctor was necessary the answer being no I asked the brother if he and his sister would come to the Guard room at approximately 1030 hrs. the same morning.

I reported the matter to the Duty Officer at 0715 hrs the same morning as I consider this a convenient time, knowing that nothing more could be done until first parade.

NAME OF CIVILIAN MARTHA MARIA DE ZWAAN.
ADDRESS GRAAFIANDIJK 174. KRUCKE

Signed E.G. Twelvetrees Sgt R.E.
Depot Sub Unit
80 B.H.Q.

This is Exhibit 'A' referred to in the Summary of Evidence in the case of No C1993 Pte Downey J.H. of the 1 L.A.A.R.U. (Holland) at No 2 Civilian Internment Camp taken before me this 24 Feb-45

A. Brady Capt.

SECOND WITNESS CALLED BY THE DEFENCE (CONTD)

down to the Minerva Dance Hall where we ordered a few drinks. We played billiards while we were drinking. This carried on until approx 2015 or 2030 hrs when all 3 of us went to later reptdon upto the Minerva Dance Hall. All 3 of us remained there dancing until about 2315 hrs when the accused left the dance hall by himself. I remained in the dance hall with Gnr Wright the reason I did not leave when the accused left the dance hall was because Gnr Wright had had a little too much to drink and I wanted to take care of him. Gnr Wright lost his false tooth and I remained with him at the dance hall until it closed at approx 2230 hrs looking for his tooth which we finally found Gnr Wright and I left the dance hall together at approx 2245 hrs and went straight to our billets at the Central Hotel. I was not billeted in the same room as the accused. I did not see the accused after he left the dance hall at about 2215 hrs until the next morning at about 0900 hrs on church parade.

The accused declines to cross examine this witness.

Wes Ford

I certify that the foregoing summary of evidence consisting of 15 pages (including this page), was taken down by me in the presence of the accused on the 23rd and 24th February, 1945, and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been complied with.

Wes Ford
24 Feb 45

A J Brody Capt
Cdn Sec, Cdn HQ 21 A Gp
Officer detailed to take
the summary of evidence

FIRST WITNESS CALLED BY THE DEFENCE (CONTD)

Dance Hall. We played pool there and at approx 1945 hrs all 3 of us went into the Minerva Dance Hall together. We danced and I had quite a bit of beer there and got feeling pretty good. I lost my false tooth while at the dance hall and Redont and I stayed there looking for it right to the end of the dance at approx 2215 hrs. I then found my tooth and then Sqmn Redont and I went to our billets in the Central Hotel arriving there between 2230 and 2245 hrs. I had a drink with the accused and Sqmn Redont in the dance hall at about 2145 hrs. I do not know where the accused went after that. I was sleeping in a different room from the accused at that time. I don't know what time he was in his room when I got back as I did not look for him. I next saw the accused at Church Parade at 0900 hrs the following morning. I went to the Minerva Dance Hall again with the accused on Sunday night Feb 11th among there at approx 1830 hrs. The accused and I remained there until about 2130 hrs or 2145 hrs when an English staff sergeant came over to us and asked us to accompany him to the guard room, which we did.

The accused declines to cross examine this witness.

J. D. Wright

SECOND WITNESS CALLED BY THE DEFENCE: NO. B136367 Sqmn W m RIDOUT, HQ 4 Can Armd Bde Sigs, sworn, states: At approx 1800 hrs on Saturday, Feb 10th, 1945 I and the accused and Sqmn Wright together left No 2 Can Convalescent Depot and walked downtown to the cafe next [illegible]

EVIDENCE BY THE ACCUSED (CONTD)

at about 1930 or 1945 hrs I and Gnr Wright remained in the dance hall until about 2130 hrs when an English Staff Sergeant came over to us, and asked us if we would accompany him over to the Town Hall Guard room. We both asked him why and he said that he would tell us when we got outside. We went with him to the Guard Room where we were questioned by a British Major. It was then that I first learned that I was suspected of having raped a girl. I denied having any knowledge of the matter. The girl who was the first witness who gave evidence on this charge was present while I was being questioned. I had nothing whatsoever to do with what she claims happened to her. I have never been past the Minerva Cafe and I have never at any time been in or near the area where she claims she was attacked. My billet, in the Central Hotel is located in the extreme end of the town.

A. H. Blakely

Q. to accused: Do you wish to call any witnesses on your behalf.

A. by accused: Yes, I wish to call Gnr. Wright and Sgmn Pedant

A. H. Blakely

FIRST WITNESS CALLED BY THE DEFENCE. NO K-73230 Gnr Thomas David WRIGHT, 4 LAA Regt, RCA, a patient at No 2 Can Convalescent Depot, sworn, states:

On the night of Saturday, February 10th, 1945, I and the accused and Sgmn Pedant left No 2 Can Convalescent Depot together at about 1515 hrs and we went down to the bar next to the Minerva

J. D. Wright

EVIDENCE BY THE ACCUSED (CONTD)

The following day, that is, Friday February 9th 1945, I went on parade at 0830 hrs and remained on parade till 1130 hrs for dinner and went back on parade at 1330 hrs & remained on parade till 1630 hrs. I then had supper and went with Gnr Wright and Sgnmn Pidout to the NOVA Cinema which is about 10 minutes walk. We arrived at the show at about 1830 hrs and saw the show and returned to our billets at about 2200 hrs. We had tea & then went to bed. The next day that is Saturday February 10th, I went on parade at 0830 hrs and remained on parade until 1130 hrs. I then had dinner and went with Gnr Wright and Sgnmn Pidout to the Princess Cinema. We left after the show was over and returned to our billets at about 1700 hrs. We had supper and at about 1815 hrs I and Gnr Wright and Sgnmn Pidout left our billets and went to the Minerva Cafe which is right beside the dance hall where we had some beer and played billiards. At about 2015 or 2030 hrs the whole of us went to the Minerva Dance Hall. I left the remained in the dance Hall with Gnr Wright and Sgnmn Pidout until after 2215 hrs when I left the dance hall by myself leaving Gnr Wright and Sgnmn Pidout in the dance hall & left before they did because I had a slight headache. I walked straight up the road to my billet in the Central Hotel arriving there about 2300 hrs and I went straight to bed & remained in bed until I awoke up the next morning at about 0800 hrs. That night, that is Sunday the 11th I went to the Minerva dance hall with Gnr Wright arriving there

A.A. Adebody

SEVENTH WITNESS. No 555 384 Sgt J.W. RAY, A.P.C.

I certify that in my opinion the attendance of this witness on duty is, owing to the absence of this witness on duty not readily procurable, and a written statement of his evidence, purporting to be signed by him, has been read to the accused and is attached hereto as Exhibit "F"

L J Brody Capt

I do not require the attendance of Sgt J.W. Ray for the purpose of cross examination

A.H. Beardy

The accused was cautioned as follows:-

Q. Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence

A I wish to give evidence on oath

Pte accused, sworn, states

I arrived at No 2 Con Convalescent Depot with a draft from No 2 Con General Hospital, Egbert, at apprx 1200 hrs on 7 February 1945. This was the first time I had been to KNOCKE I was on parade until about 1700 hrs when we drew our blankets and were paraded to our allocated rooms at the Central Hotel on the main street That night that is on Feb 7th I went to the Runnaway Canada Hotel with Spurs Wright and Squib Pedont both of whom came with me from No 2 Con General Hospital We left the dance hall at about 2215 hrs and went straight to our billets in the Central Hotel It takes about half an hour to walk from the Central Hotel to the Runnaway

A.H. Beardy

FOURTH WITNESS (CONTD)

has been read to the accused and is attached hereto as Exhibit "B". The statement of Martha Maria Degutter referred to in the written statement of this witness as Appendix "A" is read to the accused and is attached hereto as Exhibit "C".

L J Brody Capt

I do not require the attendance of Major J W Hicks for the purpose of cross-examination

A H Kearney

FIFTH WITNESS No 14507670 Sgn A H KORN, ORHU

I certify that in my opinion, the attendance of this witness is, owing to his absence on duty, not readily procurable, and a written statement of his evidence, purporting to be signed by him, has been read to the accused and is attached as Exhibit "D"

L J Brody Capt

I do not require the attendance of Sgn A H Korn for the purpose of cross examination

A H Kearney

SIXTH WITNESS No 975313 Sgt F A E Barker, APTC

I certify that in my opinion, the attendance of this witness is, owing to his absence on duty, not readily procurable, and a written statement of his evidence, purporting to be signed by him, has been read over to the accused and is attached as Exhibit "E"

L J Brody Capt

I do not require the attendance of Sgt F A E Barker for the purpose of cross examination

A H Kearney

SECOND WITNESS (CONTD)

had been bleeding the night before. I examined her nose and could not find any evidence of any bleeding either inside her nose or outside at the time I examined her. She carried on what appeared to be a very fluent conversation with the interpreter and they did not appear to have any difficulty whatsoever in understanding each other. I started to actually examine her about 15 minutes after she had arrived in my office. I examined her hands closely and there were no scratches on them. If there had been any scratch across or near the knuckles of the left hand I am sure I would have noticed it. This girl was about 4 ft 10 inches tall and of plump build.

The accused declines to cross-examine the witness.

(+ Jun left Hon.

THIRD WITNESS. No 2026596 Sgt E. G. FURLONG, R Pat Battalion, 50 R.H.U.

I certify that in my opinion the attendance of this witness is, owing to his absence on leave, not readily procurable, and a written statement of his evidence, purporting to be signed by him, has been read to the accused and is attached hereto as Exhibit "A".

J. Brady Capt

I do not require the attendance of Sgt E.G. Furlong for the purpose of cross-examination

[illegible]

FOURTH WITNESS. Major J. W. LISLE, R.E., 50 R. reinforcement holding Unit

I certify that in my opinion, the attendance of this witness is, owing to his absence on leave, not readily procurable, and a written statement of his evidence, purporting to be signed by him

SECOND WITNESS: Captain Joseph Aidan IRWIN, 32 FDS, RAMC, sworn, states: At about 1230 hrs on 11th February, 1945, a girl who gave the name of MARTHA MARIA DEZUTER came into the CRS at Knocke where I was on duty as MO. I had been informed about half an hour earlier that she was being sent in to have an examination made. She came in alone. When I found she could speak some English I requested the services of Mlle CLAUS the matron of the civil maternity department in the same building as the CRS ~~and who also~~ to act as interpreter. When Mlle Claus arrived she obtained the girl's story from her and then told me that the girl claimed to have been raped by a soldier between the hours of 2030 and 2200 hrs on 10th February. While the girl was with her friend she was stopped by 4 soldiers at a lonely place. One of the soldiers threw her to the ground and put his arm across her mouth and his knee in her stomach. She said she struggled but he was too big for her and then he raped her. She also said it was dark and there were no passers-by. She and her girl friend were pulled off her bicycles. She also claimed her clothes were torn and her nose had quite a lot. I then examined the girl. Owing to the language difficulties it was hard for me to assess how distressed she was by the occurrence but she did seem somewhat frightened. She stated that she had no abdominal wounds. I did not ask her to remove any part of her clothing. She stated that she could discern no bruises or scratches on her face, hands or arms and her limbs were not broken. She stated through the interpreter that she was not a virgin prior to this occurrence, and she stated that her usual

FIRST WITNESS (CONTD) 7

He turned and walked towards the bar, & when he turned around I saw his face and immediately recognized him as the soldier who had attacked me the night before. I was sitting down with the military policeman at the time I ~~saw~~ recognized this soldier and I immediately told him that was the man. This soldier was about 10 yds away from me when I recognized him. The police then went up to the soldier. The soldier I recognized in the dance hall is this soldier now present in this room (the witness indicates the accused). I am certain that he is the soldier who attacked me. I am afraid I am pregnant because I have not yet had my period which was due on February 21st. I would not be able to recognize the woman who passed on her bicycle just before I was attacked. I would not be able to recognize the 2 soldiers who were walking on one side of the street when I was attacked. The place where I was attacked is about 20 minutes walk from the main street, Avenue Hippens. ~~The accused declines to cross examine this witness.~~

The route I followed on the night of Feb 10th after leaving my employer's home was along ZOUTELAAN ST to AVENUE HIPPENS, then I turned left on AVENUE HIPPENS & walked to POLDERWEG where I turned left & walked along Polderweg and then along GRAAF JANSDYK which is a continuation of POLDERWEG. I met the woman to whom I spoke for 20 minutes on Avenue Hippens where the woman lives and before passing the Maison Dance Hall I passed the Maison Dance Hall on Avenue Hippens on the way home at about 5 minutes past 9 on the night of Feb 10th. I did not go in but continued to walk home.

The accused declines to cross examine this witness.

Counter Martin

FIRST WITNESS (CONTD)

home. After I came home and had told my mother what happened my father asked me what happened and I told him my mother warned till him. My mother wanted to get my sister but I told my mother I would go and get my sister myself. My sister was in the house of the people next door and I went in there. This was about 15 minutes after I arrived home. I then told my sister what had happened. As soon as I came home and before I spoke to my sister I washed the blood from my face. At about 0100 hrs the same night I saw my brother Gerard and he took with him the coat and scarf I was wearing when attacked and also the 2 handkerchiefs stained with blood and I believe he also took my stockings. He brought everything back later the same night. I still had these things in my possession. My brother told me to report to the military police at 1030 hrs and I did so. While there I made a statement through an interpreter as to what had happened. I then went with the military police and showed them where this had happened. They then took me to a military doctor but he did not examine me. The military police told me to beat the Minerva Dance Hall on Avenue Kiffens, Knokke, at 1930 hrs to see if I could recognise the soldier who attacked me. I went to the Minerva at 1930 hrs 11 Feb 45 and went inside with one of the military police. It was already crowded with people. I looked around carefully but could not see any soldier I recognised. The military police then told me to stay there and to keep on looking for the soldier. At about 2100 hrs I saw a soldier standing watching the dancers

Schultz Matthew

FIRST WITNESS (CONTD)

them off of me. When he first attacked me I screamed for help but the soldier put his hand over my mouth and kept me from shouting after that. I saw this soldier walk back up the street in the direction from which he had come, after he let me get up. There are no houses or other bldgs between the place where I was attacked and the block of buildings in which my home is located. This house is about the 8th house from the beginning of the block. I did not see any person between the scene of the attack and my home. No vehicles passed me in either direction before I arrived home. The only injuries I suffered were a scratch across the knuckles of my ~~right~~ left hand and a bleeding nose. The scratch on my ~~right~~ left hand was not bleeding. My nose started to bleed shortly after he started to attack me when the soldier struck me in the face. My nose was still bleeding, but only slightly, when I came home. My hair was covered with mud and my coat, shoes and stockings were also covered with mud, because I had been lying on the wet ground. I had 2 handkerchiefs which I used to wipe the blood from my nose before I got home. Both these handkerchiefs were covered with blood. There was no blood on anything else. My hands were covered with blood from my nose. When I arrived home my mother opened the door for me. As soon as she opened the door my mother said to me "What has happened to you." I answered "I have been attacked by a soldier, he slapped me" and my mother said "But what did he do to you." I answered "Mother you can guess what a soldier in a strange country would." My father was in his bedroom when I came

Schultz Hamilton

FIRST WITNESS (CONTD)

a very few words and I do not know what he was saying to me. While I was on the ground he said to me "I make you comput" I understood that. A few minutes after this soldier forced me to the ground and while having sexual intercourse with me, my eyes became accustomed to the darkness and I was able to clearly distinguish his features and I then recognized him to be a soldier whom I had seen once before a few days earlier on the main street of Knocke, on Avenue Lippens, speaking to 3 or 4 other soldiers on the street. One of the soldiers whistled at me and I turned around and it was then that I noticed this soldier. This happened between 0900 hrs and 1100 hrs. I cannot remember what day this happened but it was 2 or 3 days before February 10th, 1945. I was alone at the time and I noticed the soldier as I walked past them. I did not stop at all but continued to walk to my place of employment. I did not speak to any of them, but just looked at them. I believe I would be able to recognize one other soldier who was in the group I passed on the street. The soldier who attacked me was wearing a uniform at the time. He was not wearing any overcoat. I believe he was wearing a ~~tam~~ beret at the time he came up to me. He was not wearing a beret or any hat when he left. At the time I was attacked I was wearing pants, a slip underneath my pants, a vest, a chemise, a shirt and a sweater pullover, a cloth coat, a scarf around my neck, and woollen gloves. I cannot remember whether I had my gloves on during the time I was being attacked. I did not wear any hat. The only garment which was torn in the struggle was my chemise which was slightly torn. The soldier pulled my pants down to below my knees but did not take

Schuller Mar Inc.

FIRST WITNESS (CONTD)

recover one of my shoes which had come off in the struggle and also to get my handbag which contained my working clothes and which I was carrying at the time I was attacked. The soldier remained at the spot where I had left him for a few minutes and I waited until he left and I then went back and recovered my shoe and my handbag. I then went home as quickly as I could. It took me about 10 minutes to get home walking and running. I arrived home at about 2245 hrs. I estimate that this soldier was with me for about one hour. There are no houses or other buildings at the place where I was attacked. There were no lights and I could not clearly distinguish the features of the soldier who attacked me, until after my eyes became accustomed to the darkness, while he was lying on me. I clearly saw his face in the head-lights of the passing auto as I have stated. No pedestrians passed along the road while I was being attacked. The only vehicles that passed were the buggy and the auto I have already mentioned. It was a dark night and it was raining from the time I left my employer's home until I arrived at my own house. As far as I know no person saw me being attacked except possibly the woman who passed on the bicycle and the other 2 soldiers. I could smell the breath of the soldier while he was lying on me and his breath smelled strongly of liquor. I cannot say whether the 3 soldiers were friends as I heard talking in English behind me but I cannot say whether the 3 soldiers were talking together or whether the soldier who was walking alone on one side of the street spoke to the other soldiers or not. The soldier who attacked me spoke to me from time to time while he was having sexual intercourse with me. He spoke in English but I could only understand

Beatrice Mallon

FIRST WITNESS (CONTD)

whom I do not know, came riding a bicycle towards me up the road. Just when she had passed me the 2 soldiers who had been walking on one side of the road grabbed her and made her get off her bicycle and the soldier who had been walking on the other side of the road came up to me and grabbed me by the hair and pushed me down to the edge of the road. I do not know what happened to this woman and the 2 soldiers who made her get off her bicycle as I did not see them afterwards after pushing me down to the side of the road the soldier then forced me to my knees on the ground. I was able to struggle up to my feet but the soldier forced me down to the ground on my back. I tried to get up, struggling with him but he was too strong and he forced me to remain on the ground on my back while he lay down on me the then inserted his male organ into my female organ and kept it there for about 10 minutes until a horse and buggy came along the road. The soldier then stood up in order to get away from the side of the road as the buggy was coming close to the edge of the road. When he did this I tried to run away but the soldier grabbed me and pushed me down again beside a hill and resumed sexual intercourse with me. Sometime later while he was having sexual intercourse with me and I was lying on my back, an auto passed down the road and I saw the soldier's face clearly in the headlights of the auto. A few minutes after the auto passed the soldier got up off me and let me get up. When we got up on our feet the soldier said to me in English "You come to-morrow night at half past eight to the Mwariwa". I answered "Yes". I then walked away a short distance towards home and then decided to return to the place where I had been attacked in order to

Schedule Mwariwa

Summary of Evidence in the case of No C-1993 Gnr ARTHUR Norman DEWEY, 4 LAA Regt, RCA, a patient at No 2 Cdn Convalescent Depot RCAMC, a soldier of the Cdn Army Overseas, charged with Rape under Sec 41 Army Act

By direction of the Commanding officer, the evidence is taken on oath

✓ Melle Marie NEYT, Clerk, No 2 Cdn Convalescent Depot, RCAMC, is duly sworn to act as interpreter.

FIRST WITNESS: Melle Martha Maria DE LUTTER, GRAAFJANSDYK, 174, KNOCKE, BELGIUM, housemaid, sworn, states (through the interpreter):

I was born on 2nd January, 1926, in Knocke, Belgium, where I have resided all my life. I am a spinster my own patron is housemaid. At about 2030 hrs on the night of Saturday, 10th February, 1945, I left the residence of George HANNON, on ZOUTELAAN ST, KNOCKE, where I was employed as a housemaid, intending to go to my home at 174 GRAAFJANSDYK, KNOCKE, to spend the night at home. It would ordinarily take me about 45 minutes to walk home. On the night of 10th February, 1945, about 10 minutes after I had started for home, a lady whom I did not know stopped me on the street and asked me for some information, and I spent about 20 minutes standing on the street talking to her. We then parted and I returned on my way home. I do not know who this lady is or where she can be located. About 20 or 25 minutes after I had parted from this lady and while I was walking along GRAAFJANSDYK ST towards home, I heard some men speaking English behind me and I looked around and saw 3 soldiers, 2 walking on one side of the road and one walking on the other side. I was walking in about the centre of the road. There are no sidewalks there. I cannot say how far the soldiers were away from me when I first saw them, but it wasn't very far. They kept on walking behind me. About 5 minutes after I had first seen these 3 soldiers behind me a woman

Martha DE LUTTER

RECORDED AT CMHQ IN AB 160 GCM-B-84

A Army Form A.9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General ~~and Divisional~~ Courts-Martial.

RECEIVED 10 APR 1945 JAG BRANCH C.M.H.Q.

Proceedings of a General Court-Martial held at Knocke, Belgium on the 10th day of March 1945 By Order of

Major-General E.L.M. Burns, DSO, OBE, MC

Commanding Cdn Sec 1 Ech - HQ 21 Army Group

dated the 8th day of March 1945

President.

Brigadier N.A. Bianelli
Cdn Armd Corps

Members.

Lt-Col W.L. Thompson 1 Cdn Adv Base Wksp RCEME
Major G G. MacKenzie, HQ 2 CBRG
Capt D.L. McJaunet, HQ 2 CBRG
Capt W.S. Sutherland, HQ 2 CBRG

Reviewed 6 Apr 45 John [illegible] Capt JAG Branch

PROCEEDINGS REVIEWED REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Date

Capt A.P.L. DesRosiers
Trial of ADJA HQ 1 Cdn Corps Judge Advocate.

C-1993 Gnr Arthur Norman Dewey
4 LAA Regt RCA att No. 2 Cdn
Convalescent Depot RCAMC

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court

The Court satisfy themselves as provided by Rules of Procedure 22 & 23

The accused is brought before the Court.

Prosecutor: Lieut J.K. Kidd, Cdn Sec 1 Ech HQ 21 Army Gp

defending officer: Major R F Willson, 1 Cdn Dis Centre

At 10:00 o'clock the Trial commences.

The order convening the Court is read, and is marked "X" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q.1 (Question by the President to the accused.) Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer No sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge before this Court-Martial.

Brigadier
Pres GCM

B

The President, members and judge-advocate are duly sworn

~~The following officers and men were duly sworn~~

Q.2 Do you object to G-45159 S/Sgt R.A. Brewer, Cdn Sec 1 Ech HQ 21 Army Group as shorthand writer?

A.2 No sir.

G-45159 S/Sgt R.A. Brewer is sworn as shorthand writer.

Q.3 Do you object to Melle Marie Neyt as interpreter?

A.3 No sir.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 16 (3), the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon the charge in the above-mentioned charge-sheet.

Q.4 Are you guilty or not guilty of the charge against you which you have heard read? *Question to the accused.*

A.4 Not guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to charge , the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

B2

NBAs
Pte.

CHARGE SHEET

The accused, C-1993 Gnr Arthur Norman DEWEY, 4 LAA Regt RCA att No. 2 Cdn Convalescent Depot, RCAMC, a soldier of the Cdn Army Overseas, is charged with:

FIRST CHARGE
Section 41
Army Act

"WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, RAPE

in that he

in the field, in Belgium, on the 10th day of February 1945 had carnal knowledge of Melle Martha Maria DEZUTTER, Graafjansdyk, 174, Knocke, Belgium, without her consent.

In the field
23 Feb 45

Officer Commanding
No. 2 Cdn Convalescent
Depot, RCAMC

Approved KR(Ba) 5/40
DJA

To be tried by General Court-Martial

(E.L.M. Burns) Maj-Gen
GO I/C
Cdn Sec 1 Ech - HQ 21 Army Group

In the Field
2 Mar 45

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A))

Q.4A Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

A.4A Answer. No sir

The prosecutor declined to make an opening address

~~xxxx

10

Q.5 Will you tell the Court your name?

A.5 Martha Maria Dezutter.

Q.6 Where do you live?

A.6 Graafjansdyk, 174, Knocke.

Q.7 What is your occupation?

A.7 House-maid.

Q.8 Where do you work?

A.8 In Zoutelan at Georges Hannon's.

Q.9 Do you know the number of that place?

A.9 There is no number.

Q.10 What is your age?

A.10 19 years.

Q.11 Will you tell the Court, in your own words, what happened on night of 10th February at 2030 hours?

A.11 I left the place at 8:30 where I worked - I was not sleeping there and the boss asked if he could accompany here after work, if she was not afraid alone, so the man only having one hand she said, I will walk home alone.

Q.12 What place was that she left what place?

A.12 George Hannon's place Zoutelan.

Q.12 Please go ahead?

A.12 I continued my way and on the way a lady stopped her and asked an address, she didn't know the address and she continued her way after having spoken a long while with the lady she continued her way to the Polderweg.

Q.13 Where did you speak to the lady?

A.13 The monument place in the Avenue Lippen.

Q.14 And you continued along home?

A.14 Then she continued her way by the Polderweg, then she came on her street, Graafjansdyk, when she heard people behind her speaking English.

Q.15 Who was behind her?

A.15 There were soldiers, she thought they were soldiers because

she heard them laughing - but there were only soldiers.

Q.16 How many soldiers?

A.16 When they were somewhat nearer she saw there were only three soldiers, there were two of the soldiers on one side of the street and one soldier on the other side, they were laughing and talking and singing and then she heard one of them calling "a girl".

Q.17 Which side of the street were the soldiers on?

A.17 She doesn't quite know what side of the street she was - she doesn't remember but she knows one of the soldiers was on one side of the street and two others on the other side.

Q.18 Where was she?

A.19 She was on the middle of the street , once on the side - you know.

Q.20 She was on the middle of the street you say?

A.20 She does not remember whether she was in the middle of the street or side of the street when the soldier came up, she heard them calling, "a girl" and then very shortly after the boy attacked her and she saw the two others on the other side with a lady who came from the otherside with a bicycle, she didn't see what happened to the lady on the bicycle because she was pulled to the ground by the soldier.

Q.21 Does she recognize the other two soldiers?

A.21 No.

Q.22 What happened then?

A.22 Then he threw her in the ground and she wanted to yell and she couldn't because he grabbed her on the ground.

Q.23 Where did the soldier grab her?

A.23 He pulled her by the hair and pulled her to the ground.

Q.24 Why couldn't she yell?

A.24 She tried to yell but there was nobody.

Q.25 What happened then?

A.25 Well then the soldier laid on her and she couldn't yell, she couldn't move, she laid with her head beside a tree when she

heard a car coming.

Q.26 What happened then?

A.26 They were nearly in the middle of the road when a horse and buggy came, so they had to get out of the way of it.

Q.27 Was the man lying on her then in the middle of the road?

A.27 Yes - she doesn't remember very well but she said he once went away from her and came back and wouldn't leave her alone a long time.

Q.28 While he was lying on her in the middle of the road what was happening?

A.28 She says he was lying on her when the buggy passed they...

JA: What did the witness actually say?

Int: She said they were having sexual intercourse.

JA: Is that what the witness actually said?

Int: Yes.

Prosecutor continues

Q.29 Was his male organ.....

Def: This is a very weighty part of the case and I don't think such a leading question should be allowed.

Pros: What is sexual intercourse?

Def: I think my friend should at this point put the question, "What were you doing in the middle of the road?"

Prosecutor continues

Q.30 What do you mean by sexual intercourse?

A.30 (No answer)

Pres: I think if you asked her in detail what were they doing?

Prosecutor continues

Q.31 In detail what were you doing?

A.31 She said, I want to go home, he said, "No, another hour, I will make you caput".

Q.32 While they were lying in the middle of the road what were they doing, in detail?

A.32 (No answer)

JA: Will you break this down in bits, stop the witness and get her to give evidence in small bits and stop her going too fast and translate literally what she said.

A.32 What she said was they were lying there and she always wanted to move away and at last they got again at the side of the road and then she said, "I want to go home" and he said, "I caput you another hour I caput you".

Q.33 What do you mean by sexual intercourse - in detail the motions?

A.33 When she wanted to shout he pushed his hand in her mouth and she couldn't yell.

Q.34 What were they doing while they were lying on the road?

A.34 She said, while they were lying there she always struggled against him but he always pushed her down.

Q.35 JA: If you will allow me Mr. Prosecutor. You said that the accused and yourself - pardon me - you said that the soldier and yourself were having sexual intercourse in the middle of the road?

A.35 He wanted to lay on her - you know - to have sexual intercourse but she always crawled away and she doesn't know whether they really had it in the middle of the street.

Prosecutor continues

Q.36 Then what happened?

A.36 They always moved and I cannot quite remember - you know - whether we had sexual intercourse because we moved from one place to another and she doesn't know.

Q.37 Where did they move to off the centre of the road?

A.37 He took her handbag and threw it on the side of the road, then he pushed her down again and when he was lying on her a car - an automobile came and she doesn't remember whether he stood up or not, she doesn't remember very well.

Q.38 Did she see the man lying on top of her?

A.38 Yes.

Q.39 When?

A.39 She saw him before the car came and when the car came the lights she saw him perfectly well.

Q.40 Did you recognize him?

A.40 She recognized him because she saw him before on the main street, Avenue Lippens .

Q.41 Is he in the Court today?

A.41 Yes (Accused is indicated).

Q.42 JA: Where in the court room?

(Witness points to the accused)

Prosecutor continues

Q.43 What happened then?

A.43 She was always asking - she wanted to go home and she said he said words she understands in English as, "jiggy-jig," and he said, "another hour" and he laughed at her.

Q.44 What conversation went on while you were lying there?

A.44 And then he was always speaking, she didn't understand a word and then she said, "I will go to the Town Major," and he always continued talking and then she understood, "Will you be at the Minerva tomorrow night to the dance?"

Q.45 What did she say?

A.45 She said, "Yes", with the idea maybe she would see him again tomorrow and she would find out who the man was.

Q.46 What clothes were you wearing that evening - in detail?

A.46 She had chemise, pants, corset, woollen underwear a skirt an pullover and her apron still on and her coat on.

Q.47 Did you - have you - just ask her a yes or no question - did you have sexual intercourse this night with all your clothes on.

A.47 She had all her clothes on but he pulled her pants down.

Q.48 Will you tell the court, correctly and in detail just what happened when he pulled your pants down?

A.48 She....

Pros: Just let her take it easy here so we can get it in

Q.61 When he continued his way where was he at that time?

A.61 He continued his way back to the village.

Q.62 What was the accused wearing?

A.62 He had no overcoat on and she doesn't even remember if he had a beret or if he had it in his hands, she doesn't remember she knows he had no coat on.

Q.63 What articles of clothing did you pick up?

A.63 She went back, she lost a glove, she was looking for it, she didn't find it and then she didn't think of her purse, it was the next day she realized she lost it.

Q.64 Where did you go then?

A.64 Then she went home.

Q.65 Is this approximately where you were on the road?

(Shows witness a map)

JA: Will that be produced as evidence?

Pros: Yes.

JA: (to defence) Have you seen that?

Def: The only thing about that map if my friend is going to produce it, I think after describing the streets he should ask the witness.

Pros: I was going to produce it and then get her to name the route she took so the court could follow it.

Prosecutor continues:

Q.66 That is the Zoutlan?

A.66 She doesn't know.

Q.67 That was your home?

JA: Just a minute - ask the witness if she understands that plan - we are just losing time - ask her if she knows?

Prosecutor continues:

Q.68 We went over this - Avenue Lippen, the Graafjansdyk?

A.68 She came from the Avenue Zoutelan, walked down Avenue Lippen, turned left into the Polderweg and then Graafjansdyk.

Q.69 Where did you leave from?

A.69 From the.....

detail.

A.48 She said he just did all he could to have this sexual intercourse with her, even though she struggled against him there was no use and they had this sexual intercourse.

Q.49 They had sexual intercourse?

A.49 Yes.

Q.50 Would you ask her now, what is sexual intercourse?

A.50 She said, I cannot say anything else, she says that he had his.....

Q.51 He had what, "his sexual..."?

A.51 Yes, in hers.

Q.52 His sexual organ in hers, is that what she means?

A.52 Yes.

Q.53 How far did he have his sexual organ into hers?

A.53 I cannot say.

Q.54 His sexual organ was in her sexual organ?

A.54 Yes.

Q.55 His sexual organ was in her?

A.55 Yes.

Q.56 After you were lying on the side of the road what did you do?

A.56 She says, when we were on the side of the road I had to pull my legs in or the automobile would have ridden over my legs.

Q.57 What happened then?

A.57 Then he stopped another while on her and she left she says.

Q.58 When she left - where did you go when you left?

A.58 He left.

Q.59 He left?

A.59 Then he went his way back towards the village of Knocke, she continued her way - she didn't continue very far because she forgot her handbag and a few of her clothes.

Q.60 What did she do then?

A.60 Then when she saw that he continued his way she came back and got the rest of her things she forgot there.

Q.70 JA: Do you understand this map here?

A.70 Witness: No, she doesn't understand anything about this map.

Prosecutor continues

Q.71 When you left your employer where did you go at 2030 hours?

A.71 It was more than half past eight when she left.

Q.72 What street?

A.72 She left the place where she worked at more than half past eight, came through the street, which is the Avenue Zoutelan and walked down the main street.

Q.73 What time did you arrive home?

A.It was a quarter to eleven when she arrived home by her watch but it was a bit fast.

Q.74 What were you wearing?

A.74 She had her coat, one glove on and one off, she took her scarf off before she came home.

Q.75 Where are the clothes today?

A.75 She just has her coat and the hankerchiefs - two handkerchiefs. She didn't bring along the torn pieces because they are mended already.

Q.76 Is that the coat she had?

A.76 Yes.

Q.77 Is it in good condition?

A.77 It was only new, it was worse before but it is now dry.

Q.78 Where are the handkerchiefs?

A.78 In the pocket.

(Witness shows handkerchiefs to the Court)

JA: Will you produce those as exhibits?

Pros: Yes.

Pres: We cannot take those as exhibits.

Q.79 What did you do when you got home?

A.79 When she came home she said she had her hands full of blood and her mother said, what happened to me and she said, "Well mother you can imagine what happened."

Q.80 What did you say?

Def: I wonder if we can have the exact words?

Prosecutor continues

Q.81 What did you say to your mother?

A.81 When she arrived she was full of mud, her hair, her scarf, her hands were full of blood.

Q.82 Where did the blood come from?

A.82 From her nose and she had the handkerchiefs in her hands.

Q.83 What started your nose bleeding?

A.83 Because he knocked her in the face.

Q.84 What was the rest of your body like?

A.84 She was just full of mud - you know - and wet because it was raining.

Q.85 What did you do when you got home?

A.85 She didn't stop home a long time because her sister was next door and she went to her sisters.

Q.86 What did you say to your sister?

A.86 She told everything to her sister and then in the meanwhile her sister went back home and then her brother came.

Q.87 What do you mean by, "everything" you told everything to your sister? What do you mean by everything?

A.87 She didn't say where they had been lying she just told her sister they had sexual intercourse.

Q.88 Then what happened?

A.88 Then she stayed there next door with her sister and the lady also, they were speaking, and in the meanwhile the brother came home - no at this place but - and he came up next door also and asked what happened.

Q.89 What happened then?

A.89 While her brother was home the lady from next door took her upstairs and gave the girl a rinsing, an injection.

Q.90 An injection?

A.90 Yes.

Q.91 What kind of an injection?

A.91 She didn't know what it was, she never seen that before.

Q.92 Where did she give her the injection?

A.92 She gave her the injection in the kitchen.

Q.93 In her kitchen?

A.93 Yes.

Q.94 What portion of her body did she give her the injection?

A.94 She said it was with a long rubber - what you call it - she never seen it before.

JA: A tube?

Int: Yes.

Q.95 What happened then?

A.95 They stopped a long time there with the body, they all stayed up until the brother came back.

Q.96 Came back from where?

A.96 From a cafe, which is a hairdresses, at the same time he came from this place.

Q.97 What happened then?

A.97 Then they went both home, she and her sister and they stayed home and talked a long while until the brother came back - it must have been more than one o'clock.

Q.98 Where did he come back from this time?

A.98 He first went to the Town Major and then he went to a few other places that she doesn't remember but he was one place where soldiers stand guard in the main street - It must have been the police I think.

Q.99 You said that the accused was lying on you on the side of the road and you recognized him. When did you next see him?

A.99 She says she had seen the soldier....

Q.100 No I asked when did she next see him - they were lying on the side of the road?

A.100 Sunday.

Q.101 Where?

A.101 In the Minerva.

Q.102 Why did you go to the Minerva?

A.102 Her brother had been told the night before that she had to be at a certain place at half past 10 Sunday morning and then the police said she had to be at the Minerva at half past seven.

Q.103 Who did you go to the Minerva with?

A.103 With her boss where she is working because she didn't like to go alone.

Q.104 And who else?

A.104 With her boss, he went with her to the door of the Minerva.

Q.105 You stated you next saw the accused at the Minerva. At what time?

A.105 She went in with one of the soldiers, the one standing outside the door now, she says she sat down and then they danced.

Q.106 What time?

A.106 What time?

Q.107 Yes?

A.107 Half past seven.

Q.108 Did you see the accused there at half past seven?

A.108 No.

Q.109 When did you see the accused?

A.109 About 9 o'clock.

Q.110 What happened?

A.110 Then he asked her to dance again, they danced a few more dances and then they went to another table and he said when you recognize the soldier tell me, then she saw two soldiers standing looking at the dancers and one of them turned around and she recognized it was him.

Q.111 How did you recognize him?

A.111 She recognized him at once, it was the same one, he looked at her and he laughed.

Q.112 He looked at her and laughed?

A.112 Yes.

Q.113 Did the accused understand what you were talking about?

Def: We are dealing with a point of identification, I don't think it is proper, I realize it is difficult to get it out of the witness but I don't think we should include some conversation.

Pros: I understand that she said ~~she~~ something and he laughed and I asked her, did he understand what she said.

Def: May I say we are on a point of identification and a great deal depends on this. I think the witness should be retired and anybody else who is necessary and deal with this subject because this is a very material part of the case.

Pros: I will pass over that, I don't think we got the right answer.

Prosecutor continues:

Q.114 How do you recognize the accused?

A.114 She saw it was him, the same.

Q.115 What made you think it was him?

A.115 She saw when he turned him around he was frightened to see, was rather surprised to see her, he smiled - you know.

Q.116 Did she recognize him by his boots - I trust that is not leading?

A.116 Not by the shoes by his face.

Def: My friend asked him by the boots.....

Pros: I asked if it was leading.

JA: It doesn't really matter we are getting the same thing. Give us what the answer was?

A.116 No not by the boots by the face.

Prosecutor continues

Q.117 What happened then?

A.117 They she said to the police that sat beside her that this was the soldier, then he stood up and then the accused

went with the other soldier to the counter and got two glasses of beer.

Q.118 What happened then?

A.118 Then the police that sat beside the girl went up to the accused and said something and after that the accused went to the table with his two glasses of beer.

Q.119 What happened then?

A.119 Then she saw the accused go to the lavatory and the one following him then slapped him on the shoulder like that (indicates).

Q.120 What happened then?

A.120 Then the police said to put on your coat and she did put on her coat and they both went to the soldier.

Q.121 What happened then?

A.121 Then they both went with the police to the place where a guard stands in the main street and they said something and then they went back to the Minerva to see if her brother was not there.

Q.122 Will you describe to the Court the district in which you were attacked. That is when you were lying on the side of the road, lying in the centre of the road, what kind of a district is it?

A.122 It was in a sand path.

JA: What kind of a road is it?

Witness: It is not a nice pavement, it is of rough stones.

Prosecutor continues

Q.123 What is on the side of the road?

A.123 It is not a pathway, it is sand and earth.

Q.124 Is there anything along the sides of the road there?

A.124 Trees.

Q.125 Anything else?

A.125 On the other side of the street there are also trees and a kind of a ditch.

JA: Is it populated or is it in or out of town?

Witness: There are no houses at all.

JA: Where are the nearest houses?

Witness: The next house was on the side of the village - on the side on the way back.

Q. JA: How far away is it?

Witness: From her home it was about 10 minutes but from the other side she couldn't say how far it was.

JA: When you arrived home on Saturday the 10th of February did you require a doctor?

Witness: No.

Def: I might say I think there is no objection to that question because the witness who did declare that is not able to be here. I have no objection to it.

Prosecutor continues

Q.126 You say you spoke to your sister when you got home. How old is your sister?

A.126 She will be 21 in April - her sister.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q.127 Could you tell the Court just how this soldier took hold of you the first time?

A.127 He threw her on the ground.

Q.128 No, I would like you - will you describe or tell us where he took hold of you?

A.128 She doesn't know whether - where, she knows he pushed her on the ground she says.

Q.129 Could you, with the interpreter with Miss Neyt, show us how he took hold of you?

(Demonstrates by placing hand on back of neck and pushing downward).

Q.130 Did he push you on the ground face forward at that time?

A.130 She fell a bit on the side - you know - because she struggled again.

Q.131 Were you lying on your face when you fell to the ground?

A.131 No, she didn't lay on her face.

Q.132 How were you lying?

A.132 She doesn't know how she laid but she knows she didn't lay with her face on the ground.

Q.133 How did he take hold of you next?

A.133 She doesn't know - as if he wanted to lay on her - he tried to lay on her but she doesn't know how he got hold of her.

Q.134 Did you at that time - was this in the centre of the road?

A.134 It was once in the middle of the road and once in the side of the woad.

Q.135 Do you remember this soldier lying on you when you were in the middle of the road?

A.135 Yes, he was on her in the middle of the street.

Q.136 What did he do on her in the middle of the street?

A.136 She remembers he laid on her in the middle of the street but they didn't have sexual intercourse in the middle of the street.

Q.137 Well, were all your clothes still on you when you were in the middle of the street?

A.137 Yes.

Q.138 And where did you go from the middle of the street?

A.138 He first pushed her on one side of the road and then they came out on the other side of the road by the small ditch.

Q.139 Did you get up off the centre of the road on your own accord?

A.139 She always tried to get up but she couldn't get up.

Q.140 How did she finally get up?

A.140 She never could get straight up - it was half way up - he pushed her down on the floor again and she yelled.

Q.141 Where did you first have sexual intercourse with the soldier?

A.141 In the middle of the street they didn't have sexual intercourse but on the side of the road.

Q.142 On the side of the road - how was the soldier lying?

A.142 He laid on her and her head was in the mud and it was raining.

Q.143 Did you have your coat on at that time?

A.143 Yes, she had her coat on, she never had it off.

Q.144 Did you have the dress on then too?

A.144 Yes.

Q.145 And the corsetn?

A.145 And the corset too.

Q.146 And the pants?

A.146 She still had her pants and he pulled it down and she still had it on one leg.

Q.147 How did the soldier pull your pants down?

A.147 He sat with his knee on her, he pulled down the pants and she couldn't do anything against it.

Q.148 Was he lying on you when he pulled your pants down?

A.148 He left her a bit - he lifted her a bit up, she says.

Q.149 How did he get it over the heavy parts of your body, like your back or thighs?

A.149 Because he is much stronger than she is and she couldn't do anything against it and when she did something he slapped her.

Q.150 Did you see this soldier undo his pants?

A.150 Yes, she recognizes him alright then when she saw who it was.....

Q.151 How did he undo his pants, did he get up from you?

A.151 She doesn't know, she doesn't remember.

Q.152 How - you have said that he had your pants down below your knees?

A.152 Yes, below her knees.

Q.153 And the pants were still just hanging below your knees?

A.153 She only noticed when she stood up then that her pants still hung on one leg.

Q.154 Well, were your pants completely off on one leg?

A.154 Just hung on the one leg.

Q.155 Did you help in any way with getting these pants off you?

A.155 No, she didn't.

Q.156 Were the pants torn?

A.156 Only on the side - the middle there was lace.

Q.157 Where are the pants now?

A.157 They are home - her pants and you cannot see anything because they are mended, it was full of mud.

Q.158 Why did you not bring them here today?

A.158 She didn't want to bring it along because you cannot see anything any more because she washed it.

Q.159 Was your chemise torn in any way?

A.159 It was only torn a bit underneath but it was of ersatz and it wasn't very strong and then the button was pulled off from above.

Q.160 Is a chemise a piece of clothing that is fastened between the legs or just loose?

A.160 Loose.

Q.161 Now, what type of corsets were you wearing?

A.161 A rose one, pink.

Q.162 What type - can you stand up and show us how far down on the legs it came?

A.162 It was to be worn from here to there (indicates).

Q.163 It would not reach down to your thighs?

A.163 No.

Q.164 Did you have sexual intercourse with this soldier that you mentioned on more than one occasion that night?

A.164 Yes several times.

Q.165 In different places?

A.165 Yes.

Q.166 Do you know how many times?

A.166 She doesn't remember quite well - you know - but she knows on the side of the street it was the worse.

Q.167 Well, after you got up off the side of the street did you have intercourse again?

A.167 He had been more than 3/4 of an hour on her without getting

off she said.

Q.168 He was on her more than 3/4 of an hour without getting off?

A.168 She said more than a half hour.

Q.169 Where was this?

A.169 On the side of the street with her head by the tree.

Q.170 That is another occasion from the one on the side of the road?

A.170 She doesn't remember if this was the second or not.

Q.171 Do you remember having sexual intercourse with this soldier after that?

A.171 Yes, when that car passed they didn't stop along there anymore, when he stood up then from her he didn't stop long he went away right then.

Q.172 Are you pregnant now?

A.172 She doesn't know.

Q.173 You had your period on the 21st of February?

A.173 She had them but a few days later.

Q.174 Pardon?

A.174 She did have them but a few days late - not as usual.

Q.175 Do you know whether you are pregnant now or not?

A.175 She doesn't know - she said she had them not long after, but not as usual.

Q.176 How long did you say this soldier was with you altogether on this evening in question?

A.176 It was more than an hour.

Q.177 And she said about 3/4 of an hour was spent on one occasion when this soldier stayed on her all the time. Is that correct?

A.177 She thinks it must be that long because she found it very long and she didn't have a watch.

Q.178 Was his sexual organ in her sexual organ all that time?

A.178 Most of the time it was always in her but she doesn't remember very well.

Q.179 You said before that he inserted his male organ into your female organ and stayed there about 10 minutes and then a horse and buggy came along and then you moved. Is that the first time you had intercourse that night with this soldier you refer to?

A.179 She doesn't remember very well if he had his sexual organ in her or not, she doesn't remember.

Q.180 Are there any houses in the area where this attack occurred between that spot and your own home?

A.180 Yes there is because her house is the eighth house of the block - there are seven houses before her house.

Q.181 How close are the houses in the direction of her home?

A.181 A few minutes - about five minutes.

Q.182 When this soldier was lying on top of you how - you said that he was talking to you for some time. Were you talking to this soldier?

A.182 She didn't understand anything it was English, he spoke English.

Q.183 You have said that he spoke some German at one time. Do you know what was said to you then?

A.183 She understood, "ik maakt gij caput"

Q.184 Did you have any bruises on your body at all as a result of this?

A.184 On her fingers here (indicates) scratched.

Q.185 I belive that has been referred to here coming from her nose?

A.185 It was only from her nose because she says she is very sensitive of bleeding out of her nose.

Q.186 She is very sensitive?

A.186 Of bleeding from her nose.

Q.187 You have said when you got home you said to your mother in reply to a question "Mother you can guess what a soldier in a strange country wanted", is that what you said to your mother?

AD

A.187 Her mother kept on asking her"but what did he do", she didn't like to say it, she was confused a bit, shy and she said, "Well mother you can guess, or think, a soldier being in a strange country what he wants."

Q.188 This night at the Minerva Cafe what time did you first see the accused soldier in the Minerva Cafe?

A.188 9 o'clock.

Q.189 Whd did he approach you at all in the Minerva Cafe?

A.189 She sat with the police at the table and he came from the dancing, where they dance, he sat by the counter.

Q.190 Is that when he passed her on the way to the bar then?

A.190 Yes, he passed her by when he came to the counter.

Q.191 But did he go near you at all besides that?

A.191 He passed her just behind the back and the police beside her, going up to the bar.

Q.192 Did you see this soldier dancing here that night?

A.192 She didn't see him dance, she saw him come out of the people standing around the dance.

Q.193 Was he sitting at the table?

A.193 No, straight around and when he turned around she recognized him.

Q.194 Was this shortly after he arrived there?

A.194 She couldn't tell she didn't see when he came in.

Q.195 Did you see him buy drinks there before that?

A.195 No she just saw him walking by to the desk then - the bar.

Q.196 When this escort asked this accused person to leave the cafe with them did this accused object?

A.196 Pardon.

Q.197 When the escorts asked the soldier to leave the room did he object?

A.197 No, when the police went up to the accused soldier then he still went to the table with two classes of beer and after that he went to the lavatory and he came back to this place.

Q.198 He didn't leave right away with these escorts?

A.198 No, the police stopped with her until he went to the lavatory.

Q.199 Were the police dressed as provost with white belts and white gaiters?

A.199 No, it was the one who was standing here outside with spectacles she said.

Q.200 It wasn't the regular provost?

A.200 She didn't notice whether he had his white belt or white gaiters.

Q.201 You mentioned at one time in a statement that your handbag with so many hundred frances had been taken. Did you recover your handbag?

A.201 It was her purse - no she didn't get them back, it was a purse and she lost 350 francs - didn't get them back the only thing she had was 20 frances in the bag of her coat.

Q.202 She didn't recover the bag or money?

A.202 No.

Q.203 Now you also said in your statement before that you saw the accused person on the main street of Knocke two or three days before this. Are you able to tell us definitely whether the accused person is the one you saw in Knocke two or three days before?

A.203 She thinks it must be him

Q.204 What makes you say that?

A.204 When she saw his face back she is sure it must be the one who whistled at her standing in the main street.

Q.205 How many days before was this?

A.205 It was a week - she cannot tell how many days but it cannot be very long, only a few days.

Q.206 When you went back to the scene of the incident that night did you see the soldier's beret there?

A.206 No.

Q.207 Did your whole affair with this soldier you mentioned take

over a period of an hour that night?

A.207 Well as she counts the time - she got home and from the moment she was speaking with the lady at the monument place she thinks it is more than an hour.

Q.208 Did you not at any time consent to sexual intercourse with the soldier you mentioned?

A.208 No she didn't.

Q.209 Could you not at any time throughout the course of that hour get away from this soldier?

A.209 She couldn't get away at all.

Q.210 Not even when the buggy or the car came along?

A.210 No he held her - you know - and knocked her down each time and said, "I will make you caput".

Q.211 Could you show us on the ground in the area where this occurred - could you show the Court by going out there where this incident occurred?

A.211 She could show the place, but not the tree - you know - where it happened but she could show the place where it happened.

THE PROSECUTOR DECLINED TO RE-EXAMINE

Prosecutor: I would like to put a question to the witness through the Court, "Has she been medically examined"?

QUESTIONED BY THE PRESIDENT

Q.212 Have you been medically examined since this has happened?

A.212 No she has been to the doctor, the English doctor, where she had to go and he didn't examine her and she twice went to another doctor and he wasn't home.

Q.213 The medical officer didn't examine her?

A.213 No.

Q.214 But checked over her hands, her face - nothing at all?

A.214 She was there, he didn't examine her at all, he asked when she had her last period and if she didn't have any more come back and see him.

Q.215 Did you have any marks at all on you as the result of this attack?

A.215 No, only on my - on her hand, she didn't notice that she had scratches at all.

Q.216 Nothing on her legs?

A.216 No, she had long stockings on, there was nothing in her legs.

Q.217 How were her stockings held up?

A.217 Sport socks under the knees, just below the knees with a little elastic.

Q.218 They were not attached to her corsets?

A.218 No.

Q.219 You said that at the time you were attacked there were two other soldiers on the side of the road. What happened to them?

A.219 She saw the lady coming with a bicycle and the other way and the two soldiers ran after her and then she was just knocked down by the soldier and didn't see what happened.

Q.220 Didn't see anything of the lady on the bicycle or the other two soldiers?

A.221 She just saw that the soldiers pulled the lady down from the bicycle and she didn't see any more.

Q.222 The soldiers pulled the lady down off the bicycle?

A.222 Yes, and continued away with her and she didn't see any more.

Q.223 Did the lady struggle?

A.223 She just heard her calling or saying a few words, she didn't understand what.

Q.224 Did she appear to be in distress?

A.224 She couldn't tell, she couldn't say what happened to her.

Q.225 You say that you were in the centre of the road when this buggy came along and that you then were forced over to the side of the road?

A.225 She doesn't even remember now where it was - whether it was a buggy or horse or automobile, she doesn't remember any-

more just what happened then.

Q.226 When the horse came along was it walking or trotting?,

A.226 Running.

Q.227 It was?

A.227 Trotting yes.

Q.228 Why didn't you shout?

A.228 She did want to shout but he put his hand in her mouth and she couldn't shout.

Q.229 Did you bite his hand?

A.229 She couldn't.

Q.230 Did she struggle at all?

A.230 She struggled and she did whatever she could but she couldn't do anything.

Q.231 When the car came along did you try to attract attention?

A.231 She tried to get away and she tried to shout but she couldn't.

Q.232 How close was the buggy from you when it passed?

A.232 It was quite near from where they lay.

Q.233 What does she mean by quite near, will she demonstrate?

A.233 She is not quite sure but she remembers he pushed her away when the horse and the buggy came he pushed her out of the way.

Q.234 How far?

A.234 She couldn't tell you how far it was.

Q.235 You say you talked to the soldier while all this was going on and the soldier talked to you?

A.235 She spoke and he spoke. She said she wanted to getaway but he spoke in English but she didn't understand him.

Q.236 How did he speak?

A.236 She tried her best to explain herself in English and she said, "I want to go home".

Q.237 Well if she could say that why couldn't she shout?

A.237 She did shout but there was nobody around to hear it and she said he let her yell but he still put the hand in her mouth.

Q.238 How are your panties held up - normally?

A.238 With elastic.

Q.239 And she says that one leg of her pant was out of her pants, didn't she?

A.239 One leg - it was hanging on one leg.

Q.240 The pants were not torn?

A.240 It was only loosened a little bit and she doesn't know whether it happened that night or it was like that.

Q.241 Her dress or apron she had on, were they torn at all?

A.241 It is the same skirt she has on now, it was full of mud.

Q.242 But it was not torn?

A.242 No.

Q.243 Will she just take off her coat and put it on again?
(Witness takes off coat)

Q.244 Is the other coat that was worn that night - would you pick it up and hold it up please? Put it on please?
(Witness puts other coat on).

Q.245 Do it up?
(Witness buttons her coat)

Q.246 Has it been cleaned at all since?

A.246 She started to clean it when she came home and her brother said, "You shouldn't clean it at all, leave it as it is".

Q.247 What did she clean?

A.247 Her coat because she thought they would not have asked for it.

Q.248 What did she clean off her coat?

A.248 There was all kind of dirt.

Q.249 On the back - ask her that?

A.249 Yes, she cleaned off her back because it was worse.

Q.250 There was more dirt on the back - that is probably where she took the dirt off?

A.250 Yes.

Q.251 Was her coat open during the struggle?

A.251 She noticed afterwards that everything was open but her belt was still done but the rest of the buttons were open.

Q.252 You might turn around now?

(Witness turns around)

Q.253 You say you struggled - how did you struggle, how did you endeavour to prevent the acts of the accused?

A.253 She did all she could, turned over and she tried always and always kept her handbag in her hands because she thought she would get away.

Q.254 Didn't use your hands at all?

A.254 She tried but he held her hands, took hold of her hands. Even if he hadn't done that she couldn't do anything.

Q.255 He also had other things in operation at the time - couldn't you have scratched him or anything at the time?

A.255 She don't think she could and she didn't even thing to do that.

JA: - QUESTIONED BY THE JA

Q.256 How wide is the street at the place where the soldier first pushed you down - about how wide?

A.256 It would not be wider than from here to the table, the street you know, and then for the sides also the same.

Q.257 It could be wider than from there to this table, that is the stone, cobbled portion?

A.257 Yes, she indicates the stone street as wide from here to the table and the sides also.

Q.258 On each side?

A.258 No the sides would not be that wide.

Q.259 Two cars passed on - could two cars pass on the street?

A.259 No.

(JA: Witness indicates about 8 to 10 feet).

Q.260 When he first put you down were you on the cobbled part of the road or the stone part?

A.260 On the side when he pushed her down.

Q.261 On the side?

A.261 She doesn't remember very well, she knows one thing, she didn't fall on the stones so it must have been on the side.

Q.262 How long had you been there when the horse and buggy came along?

A.262 She doesn't know how long.

Q.263 Was it an hour?

A.263 No it wasn't an hour.

Q.264 Was it an - was it a half hour?

A.264 She remembers one thing when the automobile passed that not long after they left.

Q.265 I am talking about the horse and buggy, did it come before the automobile?

A.265 First the horse and buggy and the horse and buggy came from the village, the town of Knocke, and the automobile came from the other side.

Q.266 How much time was there between the time the horse and buggy came and the automobile? Can you figure approximately?

A.266 She forgets now, she remembered a long time but now she forgets how long it would be.

Q.267 You said you were in the middle of the street when the horse and buggy came?

A.267 They were in the middle of the road but he pushed her on the side and she cannot remember very well how things went.

Q.268 What distance did you have to go to reach the side of the road by you?

A.268 Only one step, she says.

Q.269 Do you mean to say you didn't get up at all to go from the middle of the road to the side when the horse and buggy came?

A.269 She doesn't quite remember if they stood up for the horse and buggy or the automobile but she remembers for one thing they didn't get up.

Q.270 For one occasion you did stand up? Is that right?

A.270 She is not quite sure but she thinks it is for the horse and buggy they stood up and for the automobile they didn't get up because she had to pull her legs in to get away from the automobile.

Q.271 How did you get up for the horse and buggy?

A.271 She couldn't get straight up, she wanted to get up but she couldn't get straight up.

Q.272 Did you get on your feet?

A.272 She wanted to get up on her feet but he always pushed her back.

Q.273 Can you show us how he pushed you down on this occasion?

A.273 She couldn't say whether he pushed her really and how she pushed her down.

Q.274 Try and remember this, it is very important?

A.274 Now she says that they didn't even get up he just pushed her a little farther and he put his hand in her mouth.

Q.275 In her mouth or across her mouth?

A.275 He once pushed them in her mouth and then he laid both hands on her mouth once, the two hands on her mouth, then with one hand and then with his knee on her.

Q.276 So you didn't get up at all when the horse and buggy came?

A.276 She remembers getting up on her feet but he pushed her down but she doesn't remember.....

Q.277 Try to remember - you told us you got up when the horse and buggy came and then you say you were pushed along the ground. Tell us which is the truth or which is correct?

A.277 She remembers for the horse and buggy she wanted to get up but he pushed her down and she couldn't get on her feet but for the automobile she had to pull her legs in for the automobile.

Q.278 Couldn't you yell when the horse and buggy went by?

A.278 She did yell when the horse and buggy passed but she had no time to yell the second time, he always kept her from yelling.

Q.279 About your panties - you say they were held up by elastic, is that at the waist?

A.279 Yes.

Q.280 Was there any elastic above the knees?

A.280 No.

Q.281 I mean in the "V" shape?

A.281 No.

Q.282 You said you think that you had seen this soldier before that night in the main street?

A.282 She says, I am not sure it is the same one because when they asked her on Sunday she said I am nearly sure it was.

Q.283 Do you mean on Sunday you were nearly sure that the soldier you saw was the one who pushed you to the ground?

A.283 She is not quite sure - you know - but she thinks it must have been him before, she didn't speak with him before on the main street, she thinks it must be the one.

Q.284 Let us get that clear I think there is a misunderstanding. Did you ever see before the soldier who attacked you that night in question - had you ever seen him before?

A.284 She thinks it must be him because walking up to her work there was a bunch of soldiers there and they whistled and she turned around and she says I think it was the very same one.

Q.285 How long did you see him when he was with the soldier and he whistled?

A.285 She saw them before - she passed by and when they whistled she turned around but she saw him.

Q.286 Are you sure that you saw him?

A.286 She thinks even if she had never known him before she could say the Sunday night it was the one attacked her on Sunday night.

Q.287 But you may have made a mistake when you say you have seen him before?

A.287 She doesn't think she is wrong, that is the one she seen in the Avenue Lippen but she is quite sure it is the same one from the Saturday night.

Q.288 What kind of weather wasit on that Saturday night - what kind of night was it?

A.288 When she left her work it was not raining much and while

she got there it was raining a little.

Q.289 Was it dark?

A.289 It was very dark but she got used to it, she saw quite well it was the soldier.

QUESTIONED BY THE PRESIDENT

Q.290 It was raining?

A.290 Yes.

Q.291 Any lights in the area?

A.291 There are no lights at all - there are lights but they don't burn she says.

Q.292 Was there any other lights other than the car when it passed?

A.292 No other lights.

Q.293 Just from the car?

A.293 Just from the automobile.

JA CONTINUES

Q.294 And what did you notice about the accused - did you notice anything special about that soldier?

A.294 She didn't notice anything special but she only recognizes the soldier.

Q.295 If say, a car hadn't come with a light do you still say you could have recognized that soldier?

A.295 She didn't - yes.

Q.296 Even if no light had come on with an automobile you still could have recognized the soldier?

A.296 No, after a while it was very dark - after a while she did see it was him because she looked to see the face.

Q.297 You will answer my question this time, will you please. Supposing a car had not come with the headlights on would you have been able to recognize the soldier? Will you answer, "yes or no" and not make a speech about it?

A.297 Yes, by the time being with him, she says it was him.

Q.298 You still haven't answered my question...

Questioned by the President

Q.299 When the lights of the car showed up the soldier what was he actually doing?

A.299 Yes he was lying on her.

Q.300 What was he doing with his hands?

A.300 She wanted to shout again to yell when the car came and he put both of his hands over her mouth.

Q.301 Up by her eyes?

A.301 Yes nothing on her eyes she could see.

JA CONTINUES

Q.302 Weren't you blinded by the headlights and - of the automobile?

A.302 No she was not blinded at all because she seen the man as good as she could as she sees him now.

Q.303 Did the soldier get up when the automobile came?

A.303 It must have been then, they didn't get up for the automobile because she was with her head against the tree and she had to pull her legs in for the car.

Then you did get up when the horse and buggy came by?

She thinks it must have been then.

And did he still have his hands on her mouth when the horse and buggy came by?

could get up half way and then down again she away, couldn't get on her feet.

you had sexual intercourse several times in ces. Is that right?

nt places and on different occasions but

e side of the road by the tree was the

emember how many occasions?

w how many times.

n two?

ere was a very long time and then

she got there it was raining a little.

Q.289 Was it dark?

A.289 It was very dark but she got used to it, she saw quite well it was the soldier.

QUESTIONED BY THE PRESIDENT

Q.290 It was raining?

A.290 Yes.

Q.291 Any lights in the area?

A.291 There are no lights at all - there are lights but they don't burn she says.

Q.292 Was there any other lights other than the car when it passed?

A.292 No other lights.

Q.293 Just from the car?

A.293 Just from the automobile.

JA CONTINUES

Q.294 And what did you notice about the accused - did you notice anything special about that soldier?

A.294 She didn't notice anything special but she only recognizes the soldier.

Q.295 If say, a car hadn't come with a light do you still say you could have recognized that soldier?

A.295 She didn't - yes.

Q.296 Even if no light had come on with an automobile you still could have recognized the soldier?

A.296 No, after a while it was very dark - after a while she did see it was him because she looked to see the face.

Q.297 You will answer my question this time, will you please. Supposing a car had not come with the headlights on would you have been able to recognize the soldier? Will you answer, "yes or no" and not make a speech about it?

A.297 Yes, by the time being with him, she says it was him.

Q.298 You still haven't answered my question...

AB

Questioned by the President

Q.299 When the lights of the car showed up the soldier what was he actually doing?

A.299 Yes he was lying on her.

Q.300 What was he doing with his hands?

A.300 She wanted to shout again to yell when the car came and he put both of his hands over her mouth.

Q.301 Up by her eyes?

A.301 Yes nothing on her eyes she could see.

JA CONTINUES

Q.302 Weren't you blinded by the headlights and - of the automobile?

A.302 No she was not blinded at all because she seen the man as good as she could as she sees him now.

Q.303 Did the soldier get up when the automobile came?

A.303 It must have been then, they didn't get up for the automobile because she was with her head against the tree and she had to pull her legs in for the car.

Q.304 Then you did get up when the horse and buggy came by?

A.304 She thinks it must have been then.

Q.305 And did he still have his hands on her mouth when the horse and buggy came by?

A.305 She only could get up half way and then down again she couldn't run away, couldn't get on her feet.

Q.306 Now you say you had sexual intercourse several times in different places. Is that right?

A.306 Yes in different places and on different occasions but when they were on the side of the road by the tree was the worse.

Q.307 Now, try and remember how many occasions?

A.307 She doesn't know how many times.

Q.308 Is it more than two?

A.308 She knows that once was a very long time and then when she

wanted to move.....

Q.309 In how many places - you said several times - how many about?

A.309 They first went from one side of the street to the other and then the middle of the street and then again by the side of the tree.

Q.310 Did you have sexual intercourse on each of these places?

A.310 She remembers one thing, he pushed her once and she was in the ditch in the water.

Q.311 Did - you said at some time the accused slapped you?

A.311 He pushed her.

Q.312 Did he slap you in the face?

A.312 It wasn't really hard - it was because she couldn't yell - wouldn't give any yell or shout.

Q.313 Was it when he put his hand on her face, your mouth you said?

A.313 Because she was struggling - you see again she wanted to get away.

Q.314 Did he slap you at any time?

A.314 He slapped her in the face and pushed her.

Q.315 How often?

A.315 She wanted to get away and she wanted to shout and there was nobody and he let her shout and he said that in another hour, "one hour" he said in German or Flemish.

Q.316 When did your nose start bleeding?

A.316 When he pushed her in the face her nose started bleeding.

Q.317 Was it when the horse and buggy came along?

A.317 Her nose started bleeding very shortly after they met, she doesn't remember where it was - whether it was when the horse and buggy went by.

Questioned by the President:

Q.318 She produced two handkerchiefs - did she use the two handkerchiefs?

A.318 She touched her face with her hand and she felt it was wet and bleeding and she took her hankerchief and always had her handkerchief in the hand.

JA CONTINUES

Q.319 Always had the handkerchief in the hand?

A.319 She once had one in the hand and the other in the bag and changed because she was very careful of her coat not to have anything on it.

Q.320 How long did that bleeding last?

A.320 Her nose bled the whole time and a lot and even when she left she looked and it was still bleeding after.

QUESTIONED BY THE PRESIDENT

Q.321 She protected her coat?

A.321 Yes, because it was a new one, it was a short time she had it on and she was very careful about it.

Q.322 The soldier didn't try to prevent you from using your handkerchief?

A.322 No he didn't try to but he pushed her hands away anyhow.

Q.323 When the light of the car passed he never put his hand over her eyes at all?

A.323 No he didn't put his hands over her eyes, he always had his arms on her and she could see anyhow.

Q.324 Where were his hands when the car passed?

A.324 Just when the car was passing he put his hands on her mouth.

Q.325 Her nose still bleeding?

A.325 She doesn't know whether it was bleeding at just that moment because she always had a handkerchief.

QUESTIONED BY THE COURT

Q.326 How did she put her handkerchief to her nose and he had both hands across her mouth?

A.326 She doesn't know or remember how - you know - just then when

he had his hands on her mouth whether she had her handkerchief to the nose or not, she doesn't remember.

DEFENCE THROUGH THE COURT

Q.327 I have another question to ask the Court as to the chastity of this girl. I think it should be established through the doctor. If you think it is in order.

JA: Unless you intend to bring evidence to discredit the witness, no.

QUESTIONED BY THE COURT

Q.328 When this automobile passed, she said in her evidence she drew her legs in presumably to let the automobile pass, were the lights of the automobile showing full on the accused or on the left hand side of the face?

A.328 She doesn't remember, she only knows one thing, it was very clear.

Q.329 His face was very clear?

A.329 Yes.

Q.330 Where were her hands at that time?

A.330 She doesn't know where her hands were at that time but only knows she remembers she wanted to shout and he put his hands on her mouth.

AT 12:20 the Court adjourns until 2:00 o'clock.

AT 2:00 o'clock the Court reassemble pursuant to adjournment, present the same members as when adjourned.

(At 2:00 o'clock the Court adjourn and visit the scene of the incident).

QUESTIONED BY THE PRESIDENT

Q.331 Will you point just where this happened - to the best of your ability?

A.331 She cannot say whether it is this side or the other side,

Q.332 Where was she walking?

A.332 Here on the left.

Q.333 Where was the woman with the bicycle?

A.333 Here on the left.

Q.334 In what direction did she come from?

A.334 She came from towards Knocke.

Q.335 Did the woman on the bicycle pass on the left or the right?

A.335 On the left.

Q.336 Where did the men stop the woman with the bicycle?

A.336 (Indicates a spot just a few yards past her).

Q.337 She said during this occurrence it happened on the road and on both sides of the road?

A.337 They were first on the road with one foot in the ditch, he first stopped her on the street then pushed her on the left and then went over to the other side.

Q.338 How did she get to the other side?

A.338 She says before he pushed her down he pushed her on the otherside and then she doesn't quite remember.

Q.339 From which direction did the buggy approach and from which direction did the car approach from?

A.339 (Indicates towards Knocke) when the buggy came she is not sure he pushed her against the tree.

Q.340 It came from where?

A.340 (Indicates towards Knocke).

Q.341 What direction is this?

(Interpreter: About west)

Q.342 Which side were you on when the buggy passed?

A.342 She is not quite sure, she thinks it is on the left.

Q.343 And when the car passed which side?

A.343 When the automobile passed she laid there with her head against the tree and her legs against the stones, so when the automobile came from this side (indicates towards Knocke) she had to pull her legs in.

Q.344 Was she at any time outside the trees on either side?

A.344 He always forced her to the ground and they struggled on both sides and she doesn't remember which side she was on.

President: Do you want to put any questions through the Court, Mr. Prosecutor?

PROSECUTOR THROUGH THE COURT

Q.345 How much water was there in this ditch on February 10th?

A.345 (No answer)

Q.346 Was there water in the ditch on February 10th?

A.346 There was more water than now, it had been raining sometime and she was wet half way, her leg.

Q.347 She lost her purse here didn't she?

A.347 Her bag was on the left side, she had an apron out of her bag lying on the left side, she is not quite certain whether it was in the grass or on the road.

Q.348 She picked up her stuff didn't she?

A.348 All she knows her clothes were out of the bag and she doesn't remember where it laid.

DEFENCE THROUGH THE COURT

Q.349 When the automobile came by where were you, where was the soldier lying in relation to you, was he on top of you at the time?

A.349 She laid there and the soldier laid above and on top of her.

Q.350 Did you notice at any time whether he had flashes on his arm?

A.350 No.

Q.351 At any time did you see any indications on his arm as to what he belonged?

A.351 No, she never noticed.

Q.352 Anything on his shoulder?

A.352 She never noticed anything, she didn't pay attention to it.

JA: Did the soldier have a cap on when the lights were on from the car?

Witness: She doesn't know where he - whether he had a beret on or not and she never noticed when he left.

Pres: She never noticed whether he had a beret or not?

Witness: She thinks when she first saw him he had a beret but when he left she doesn't know.

Questioned by JA

Q.353 Is she sure it was a beret or what kind of cap was it?

A.353 She isn't even quite sure he had one on, she isn't quite sure whether he had one on, she thinks she saw one.

Q.354 How wide would you say the road is here from there to there(indicates from shoulder to shoulder of road)

A.354 She says she thinks it would be 5 metres.

(President paces width of road)

Pres: 7½ to 8 yards - about 22 feet.

Questioned by the President

Q.355 The car and buggy came from town?

A.355 The buggy from town and the car from the other side.

Q.356 She was on that side by the tree when the car came along?

A.356 Yes she was on that side when the automobile came, she was against the tree.

Q.357 Did she see the car coming?

A.357 Yes.

Q.358 She must have been looking that way?

A.358 She laid mit with her face to the automobile.

DEFENCE THROUGH THE COURT

Q.359 During the whole of the hour were they in this area here?

A.359 All in this place, she is not sure.

Q.360 How big an area can she describe?

A.360 She is not even quite sure where it was, right here or further up.

Q.361 How much ground did they cover?

A.361 Since she met the lady with the bicycle was from the car (indicates parked vehicle) up to here, this area.

Q.362 After he knocked her down what sort of area did he cover

here?

Q.362 She is not sure - you know.

Q.363 Roughly, approximately?

A.363 15 yards.

Q.364 She says they struggled over that sized area?

A.364 Yes.

Q.365 Where did they finally finish up, which way did the soldier go when he left?

A.365 She went her way back - she didn't notice.

Q.366 What direction?

A.366 This direction (indicates west towards town).

Q.367 Towards town?

A.367 Yes.

(President and Members and Judge-Advocate return to the Court room)

QUESTIONED BY THE DEFENCE THROUGH THE COURT

Q.368 Did you see any soldier or soldiers following you on the way out to this area along Graffjansdyk Street?

A.368 No, she met some other soldiers in the village before she went on her road.

Q.369 Was she talking to them?

A.369 No.

Q.370 She said, three soldiers followed her before?

A.370 Yes, followed her.

Q.371 How long had they been following her - when did she first notice them?

A.371 She cannot say just the right time.

Q.372 Does she know the first time she noticed them?

A.372 It could not be very far behind her because she heard one or two of them saying, "a girl" and then she was attacked by the soldier.

Q.373 The first time she noticed them was when they were singing?

A.373 She heard them talking, that is the first time she noticed

them, she heard them talking and speaking English, of course, and singing.

QUESTIONED BY THE PRESIDENT

Q.374 During the time that you were being assaulted did you notice anything about the soldier that assaulted you?

A.374 No she didn't see anything special.

Q.375 Did she notice anything about him?

A.375 She just noticed he didn't have an overcoat on.

Q.376 During the time she was being assaulted she heard the soldier - the soldier spoke to her - what did he say, can she say what he said at all?

A.376 All she understood was "Please jiggy-jig".

Q.377 And it was repeated a number of times?

A.377 When he asked her about the Minerva he asked her some question several times about the Minerva and then a lot of other things she didn't understand, but she understood the Minerva and the other, "Please jiggy-jig", that is all she understood.

Pros: I think it is only fair that you ask what her reaction was when this, "Jiggy-jig" was said?

President continues

Q.378 What was her reply to this remark?

A.378 She didn't think anything by that, she thought all kinds of things she said.

Q.379 But he did repeat "Minerva" and "Jiggy-jig"?

A.379 Yes he repeated them several times.

Q.380 She should be able to recognize the soldier's voice - would you know the soldier's voice?

A.380 She says she is sure it was him.

Q.381 I know but.....

A.381 She would recognize his voice.

IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83 (B).

A2

WITNESS WITHDRAWS

****

2ND WITNESS for the prosecution — Madam M M DEZUTTER, Graafjansdyk, 174, Knocke, Belgium, being duly sworn, is examined by the prosecutor:

Q.382 Will you tell the Court your name and where you live?

A.382 Madam Dezutter.

Q.383 Where do you live?

A.383 Graafjansdyk, 174.

Q.384 Have you any daughters?

A.384 Yes.

Q.385 What are their names?

A.385 Three daughters.

JA: Is Melle Martha Maria Dezutter your daughter, aged 19 years?

Witness: Yes.

Prosecutor continues

Q.386 What time did Martha Dezutter arrive home on the evening of 10th of February 1945?

A.386 Quarter to eleven.

Q.387 What was her condition?

A.387 She rapped at the door and her mother opened the door and then she saw she was hurt and she cried and she was all full of mud all over.

Q.388 Anything else?

A.388 She was hurt with her handkerchief with blood on her hands, still crying and her mother asked her what happened to her.

Q.389 Yes?

A.389 She said to her she was attacked on the way and she left her job at half past eight.

Q.390 Did she tell her anything else?

A.390 She first of all washed her hands then and her face and she said to her mother, she was a bit astonished that she

came home that night she was going to sleep where she worked but some people were sleeping upstairs from Brussels.

Q.391 Did she tell her what happened?

A.391 Her mother asked her who she had been attacked by and she said a soldier.

Q.392 Did she tell you the story before her sister - that is leading?

A.392 No she didn't say anything to her mother about it and then she washed her hands and face and went next door to the sister and in the meantime her son came in from a little cafe where he was and her mother told the story to her brother.

Q.393 Do you know why she told her Sister Marie?

A.393 She doesn't know why she went to her sister to tell the story, in the meantime she went to bed - she is just telling what she knows.

CROSS-EXAMINED BY THE DEPENDING OFFICER

Q.394 Did the daughter after you asked her what had happened, did you say to her - as you were - Did she say to you, "You can guess what a soldier in a strange country wanted?

A.394 That is what the daughter said.

THE PROSECUTOR DECLINED TO RE-EXAMINE.

IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83 (B).

WITNESS WITHDRAWS.

****

3RD WITNESS for the prosecution — Mlle Maria DEZUTTER, Graafjansdyk, 174, Knocke, Belgium being duly sworn, is examined by the prosecutor

Q.395 Will you tell the Court your name and where you live?

A.395 Maria Dezutter, Graafjansdyk, 174.

Q.396 Are you a sister of Martha Dezutter?

A.396 Yes.

Q.397 Will you tell the Court what you sister told you on the night of the 10th of February 1945 when she arrived home?

A.397 She wasn't home, she was next door busy sewing when she came in, she asked Martha what happened and if you would know she said, "I was attacked by a soldier and just look what I look like now". That is what Martha said and she asked the sister, Martha what the soldier did she said, "I guess you can guess what the soldier did".

Q.398 Why did she tell you before her mother?

A.398 She was a bit shy to tell her mother about it and she preferred to tell her sister.

Q.399 What is your age?

A.399 I will be 20 years on the 8th of April.

Q.400 What is Martha's age?

A.400 She will be 19 in January.

THE DEFENDING OFFICER DECLINED TO CROSS-EXAMINE

IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH RP 83 (B).

WITNESS WITHDRAWS.

****

4TH WITNESS for the prosecution — Major J W LISLE 50 Reinforcement Holding Unit, having been duly sworn, is examined by the prosecutor:

Q.401 Will you tell the Court your name and who you are?

A.401 I am Major J W Lisle, 50 Reinforcement Holding Unit.

Q.402 Major Lisle, I just want to clear up a point here. There are various statements and a lot of hearsay has gone in and just to keep your mind free from that I wish you would tell the Court how you happened to get mixed up in an investigation and just the things you did?

A.402 At 10:30 I was going to my duties and on my way up there I met my Colonel, who is CO Troops Knocke, he told me there

was a young lady.....

Q.403 JA: As a result of what you were told what did you do? Anything you were told is not admissible in evidence, you can tell us what action you took as the result of something.

A.403 I was requested by the officer here to tell the whole story - on entering my office on the 11th of February there was a girl there who said she wanted to make a complaint against a soldier. I engaged an interpreter, on investigation she said on the night before....

Q.404 JA: There again we cannot have what she told you?

A.404 The result of her complaint was to ask her questions and ultimately I arranged for some soldiers of the unit to go down to a meeting place where she had arranged to meet the accused soldier and try and get hold of him, if possible. That evening, the same day, I had a phone call from the town guard room, it is the town guard room of 50 RHU and they said this man....

Q.405 JA: Again we cannot have that as to what they said. Did they do anything?

A.405 Yes, I went down to the guard room and in the presence of the guard and interpreter and the accused man I asked questions, in the presence of the man of course.

Prosecutor continues

Q.406 Just one moment before you start into that. Who were the men you detailed to go to the Minerva Cafe?

A.406 S/Sgt Ray, Sgt Barker, Sgt Leathers and Spr Korn.

Q.407 And you said in the guard room that the accused was present and Miss Dezutter was present and you were present. What transpired there, what did you ask the accused?

JA; Just a moment, was this voluntary and before any evidence can be brought out it certainly belongs to the defence to object.

Def: I object to the whole statement.

AD

JA: Do you intend to put that in?

Pros: No sir, just what is said in front of them if the defending officer didn't object.

Q.408 JA: Did you warn the accused before you asked him?

A.408 No, I was simply making an investigation.

THE DEFENDING OFFICER DECLINED TO CROSS-EXAMINE

IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83 (B).

WITNESS WITHDRAWS

xxxxxxxxxxxxxxxx

5TH WITNESS for the prosecution

14507670 Sapper A H KORN, 50 Reinforcement Holding Unit, being duly sworn, is examined by the prosecutor:

Q.409 Will you give the Court your name, rank and number?

A.409 14507670 Spr Korn A H, 50 Reinforcement Holding Unit.

Q.410 Attached to who?

A.410 50 Reinforcement Holding Unit BLA.

Q.411 What did you do on the evening of Sunday 11th February 1945?

A.411 I attended the Minerva Dance Hall on instructions of Major Lisle 2 i/c of my unit, at about 1900 hours.

Q.412 Were you alone?

A.412 Yes sir, at 1900 hours I was alone.

Q.413 What happened then?

A.413 Within about 10 minutes of 1900 hours S/Sgt Ray, Sgt Barker and Leathers appeared where I was standing at the bar and asked me if the girl in question had showed up.

Q.414 It was the girl in question?

A.414 A girl in question. It was the girl I had seen in the office of the RHU.

Q.415 Who was she?

A.415 Miss Dezutter.

Q.416 The one in the light grey coat?

A.416 Yes sir.

Q.417 When did she arrive?

A.417 Actually she didn't arrive in the dance hall as I expected, I had handed.....

Q.418 JA: Did you see her that night?

A.418 Yes.

Q.419 JA: At what time?

A.419 1940.

Q.420 JA: Where?

A.420 Outside the dance hall.

Q.421 Did you go in with her?

A.421 I then collected her and went into with her.

Q.422 JA: What happened then?

A.422 I motioned her to a vacant seat and took one myself and acted like her escort.

Q.423 Did she that night identify anybody in the dance hall?

A.423 Yes sir.

Q.424 Whom?

A.424 A soldier whom I now know as Gnr Dewey.

Q.425 Can you see him around?

A.425 Yes sir.

Prosecutor continues

Q.426 What time was that?

A.426 It was about 2115 hours.

Q.427 Will you tell the Court in your own words exactly what happened when she identified Gnr Dewey?

A.427 She touched my arm and said, "This is him" or something to that effect and I realized that somebody was passing behind me. I got up to have a good look at the person in question, whom I now know as Gnr Dewey. I got my coat in readiness to go from the dance hall and at the same time pointed him out to Sgt Barker and he in turn pointed Gnr Dewey out to S/Sgt Ray and Sgt Leathers.

Q.428 Where was Sgt Barker and Sgt Ray when the girl identified the accused?

A.428 I don't know where Sgt Ray was sir.

Q.429 They were not with you?

A.429 No Sgt Barker was only a few feet away.

Q.430 It would not have been possible for them to hear anything she said?

A.430 No sir, they might have sensed something but they never knew anything, I told Sgt Barker this was the fellow she identified.....

JA: Just a moment don't tell that.

QUESTIONED BY THE JA

Q.431 Was there anything else happened when she identified the accused?

A.431 No sir, she remained in the seat under instructions of myself when the three NCOs in question knew the men I left it in the Sgt's hands and withdrew to the guard room.

Q.432 How can you say that is him?

Def: All we are doing here is establishing the fact that the girl identified the accused.

JA: Identified the accused that is all.

Prosecutor continues

Q.433 This is the accused?

A.433 Yes sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q.434 Did you see the accused person go into the dance hall that night?

A.434 No sir.

Q.435 You didn't notice how long he was sitting in the dance hall?

A.435 No sir.

A29

Q.436 Did you pay any attention to this fellow before he was identified?

A.436 No sir.

Q.437 You are not able to say how long he was in there?

A.437 No sir.

THE PROSECUTOR DECLINED TO RE-EXAMINE.

IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83 (B).

WITNESS WITHDRAWS.

xxxxxxxxxxxxxxxx

Pros: If the defending officer has no objections, in view of the evidence of this witness I will not call Sgt Ray and Barker.

Def: I certainly agree this is the fellow the girl identified in the dance hall. I would like to examine Sgt Ray on one or two questions.

6TH WITNESS for the prosecution

No. 555384 S/Sgt S W RAY, A.P.T.C., being duly sworn, is examined by the prosecutor:

Q.438 Will you tell the Court your name and number?

A.438 S/Sgt Ray, 555384.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q.439 Were you in the Minerva Dance Hall on the night of 11th February when the accused was identified by Miss Dezutter?

A.439 Yes sir.

Q.440 And were you one of those who took the accused person and another soldier into custody?

A.440 Yes sir.

Q.441 What was the attitude of these people coming out of there?

A.441 I asked them to go and they asked why and they came quite willingly.

Q.442 Did they object in any way?

A.442 No not at all.

Q.443 Did they go and answer all the questions that were asked?

A.443 I wasn't there when they were questioned, they accompanied me to the town guard room quietly.

THE PROSECUTOR DECLINED TO RE-EXAMINE
QUESTIONED BY THE PRESIDENT

Q.444 You apparently asked two other Canadian soldiers to accompany you to the guard room?

A.444 No just the accused and the other soldier with him.

Q.445 Well from the previous statement, "You approached 2 Canadian soldiers and asked them to accompany you out of the hall"?

A.445 Yes sir.

Q.446 Who were the two soldiers?

A.446 One was the accused and the other was a man who was with him at the time.

QUESTIONED BY THE JA

Q.447 Why the second one, why did you ask the second one to come?

A.447 I didn't know at all which was which.

Q.448 You were not sure?

A.448 So I asked both of them to come, they were both together.

Defn: I just have one more question.

Questioned by the defending officer

Q.449 Did you notice when the accused came into the dance hall that night?

A.449 I didn't exactly see him come in - no.

Q.450 Had you paid any attention to him before that?

A.450 No sir.

Q.451 You didn't notice what he was doing?

A.451 No sir not at all, the only indication I had was when Spr Korn and the girl motioned me.

Q.452 How many people were at the dance?

A.452 Quite a number.

Q.452 Would you say 100 - 200 - 300?

A.452 I would say nearer 300.

Q.453 Mostly troops?

A.453 Troops and civilians.

IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH RP 83 (B).

WITNESS WITHDRAWS.

xxxxxxxxxxxx

Pros: That is all the witnesses for the prosecution sir.

THE PROSECUTION IS CLOSED.

President: (to accused)
You will now proceed with your defence. You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination. You may, however, make a statement without being sworn, and you will not be subject to cross-examination. But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony. You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

QUESTIONED BY PRESIDENT

Q.454 Do you wish to give evidence yourself as a witness, make a statement, or do neither?

A.454 I will give evidence on oath.

Q.455 Do you intend to call witnesses on your behalf?

A.455 Yes sir.

Q.456 Are they witnesses as to character only?

A.456 No sir.

THE DEFENDING OFFICER DECLINED TO MAKE AN OPENING ADDRESS.

1ST WITNESS for the defence

C-1993 Gunner Arthur Norman DEWEY, 4 LAA Regt RCA att No. 2 Convalescent Depot, RCAMC, having been duly sworn is examined by the defending officer:

Q.457 When were you born?

A.457 16 September, 1924.

Q.458 And how old are you now?

A.458 20 sir.

Q.459 When did you enlist in the Cdn Army?

A.459 9th day of June 1941.

Q.460 How old were you then?

A.460 16 sir.

Q.461 When did you arrive in France?

A.461 "D" Day sir.

Q.462 And where did you leave your unit?

A.462 Nijmegen.

Q.463 Now, you have sat here in the Court and heard a great deal of discussion about what occurred on the night of the 10th of February, will you, in your own words, tell the Court what your actions were, what you did and what you know of this matter on the 10th of February?

A.463 About 1630 hours myself and Gnr Wright and Sigmn Ridout proceeded down to go to the dance, we went into the cafe next door to the dance, we had a few drinks, played some

billiards and we went into the dance, went in about 8:30. We stayed at the bar, had some more to drink and was feeling pretty good, approximately 2215 or 2230 I left the dance hall myself and I came straight home to bed.

Q.464 What cafe was this?

A.464 I think it is the Minerva Cafe, I would not swear that is the name of it.

Q.465 Is it on the main street?

A.465 Yes sir, just right next door to the dance hall.

Q.466 And was the dance held in the Minerva Cafe?

A.466 The Cafe is here and you go out of the cafe and come into the dance hall, the same building but different entrances.

Q.467 Did you go home from there alone?

A.467 Yes sir.

Q.468 And are you able to say what time you got home?

A.468 I would say around 11 o'clock sir.

Q.469 You have heard the witness, or complainant, Miss Dezutter tell a story here today of what happened on Graafjansdyk Avenue, what have you to say about what she said involving you?

A.469 I deny having anything to do at all with her.

Q.470 Had you ever seen her before?

A.470 No sir, not until Sunday night in the dance hall - next night in the dance hall.

Q.471 You went with us out to the scene of this incident-had you ever before been on this road?

A.471 No sir.

Q.472 Do you know that part of town?

A.472 No sir, I don't.

Q.473 Have you walked down that way?

A.473 No sir.

Q.474 When did you arrive here in town, at 2 Cdn Conv Depot?

A.474 February 8th approximately 1000 hours sir.

Q.475 You heard this girl say that she thought you were possibly the one among

other soldiers who whistled to her on one occasion before. What do you say about that?

A.475 I don't imagine it was me sir.

Q.476 Do you know?

A.476 I don't know sir.

Q.477 Do you remember whistling at any girls on the street corners?

A.477 No sir.

Q.478 Were you standing there with any other soldiers when that was done?

A.478 No sir.

Q.479 You also described here in Court what happened on Sunday night, the 11th of February, will you tell the Court what you did on Sunday night, the 11th of February?

A.479 Well Gunner Wright and I proceeded to the dance hall where we arrived there between around eight and approximately sometime after nine. An English S/Sgt asked if we minded accompanying him outside. We asked him why and he said he would explain when we got outside, he told us to come over to the town hall guard room. So we went over with him and Major Lisle told me to give my movements up to one o'clock which I did.

Q.480 Did you answer what questions that Major Lisle asked you?

A.480 Yes sir.

Q.481 Is that true also of Gnr Wright?

A.481 Yes sir.

Q.482 Were you held in custody there overnight?

A.482 Yes sir.

Q.483 What time did you go into the dance hall on Sunday night?

A.483 Somewheres between 7 and 8 sir.

Q.484 Did you leave the dance hall between then and the time you were identified by the Sgt?

A.484 No sir.

Q.485 What were you doing in the dance hall that time?

A.485 Well, we were having the odd drink and dancing a bit.

Q.486 And while you were in there do you remember seeing the girl, Dezutter, that is here today?

A.486 Yes sir.

Q.487 Did you speak with her?

A.487 No sir.

Q.488 Did she say anything to you?

A.488 No sir.

Q.489 How much did you have to drink that Sunday night?

A.489 I would not like to say for sure sure - I had quite a little bit.

Q.490 Were you able to know what you were doing?

A.490 Yes sir.

Q.491 Could you dance alright?

A.491 Yes sir.

Q.492 Did you dance with this girl?

A.492 No sir.

Q.493 Were you and your comrades seated at any tables that night?

A.493 No sir, we were standing along side the tables.

Q.494 Did you see her near you?

A.494 We were standing at the head of the tables and she was sitting on the foot of the tables.

Q.495 Do you know how long she sat there?

A.495 No sir.

Q.496 When did you first see her there?

A.496 I first noticed here - her about 20 to 9, around there some time.

Q.497 Did she say anything to you between 20 to 9 and 9:20?

A.497 No sir.

Q.498 Were you in there all that 40 minutes?

A.498 Yes sir.

Q.499 Can you tell me what happened at 2 Cdn Convalescent Depot on that Sunday morning, that is on the morning of the 11th

of February?

A.499 On the morning of the 11th February we were all fallen out for Church Parade and while we were fallen out for Church Parade, they had an identification parade, after that we all went to church.

Q.500 And you saw that parade broken up?

A.500 Broken up into RC and UC.

Q.501 Where were you?

A.501 Protestant Church Parade.

Q.502 Was that parade inspected by an officer and NCO?

A.502 Yes sir.

Q.503 And were you among the ranks at the time of this inspection?

A.503 Yes sir.

Q.504 How were you dressed?

A.504 I was dressed in my battle dress and my beret.

Q.505 The same way as you are dressed now?

A.505 Yes sir.

Q.506 Same?

A.506 Yes sir.

Q.507 Have you more than one uniform?

A.507 Just have one sir.

Q.508 Has that uniform been cleaned lately?

A.508 No sir, just pressed.

Q.509 What about a beret, have you more than one beret?

A.509 No sir, just the one.

Q.510 Did you wear your beret to the cafe and dance on the night of 10th of February?

A.510 Did you go home with it.

Q.511 On this Identification Parade again, did you know what that was about at the time it was held?

A.511 No sir.

Q.512 Did you know about it later on?

A.512 Well, around 11 o'clock in the morning we heard something about an Identification Parade, some girl had been

raped.

Q.513 Where was this?

A.513 In the lounge at Central Hotel.

Q.514 At 11 o'clock that morning you did know what this was about, did you?

A.514 Yes sir.

Q.515 Who else was with you?

A.515 Gnr Wright and Sigmn Ridout.

Q.516 The three of you there?

A.516 Yes sir.

Q.517 On the 11th of February on the evening you and Gnr Wright did go back to the Minerva Cafe?

A.517 Yes sir.

Q.518 Did you have unit flashes or unit markings on as you have now on the night of 10th/11th February?

A.518 Yes sir.

Q.519 In the Minerva Cafe on the night of the 11th of February you have said you remember seeing this girl there and you have heard her today say that you smiled at her. Do you remember that?

A.519 I would not like to say if I had or not, sir, I might and I might not have.

Q.520 Did you speak to her?

A.520 No sir.

Q.521 On the night of the 10th of February are you able to tell us reasonably accurately what time you got home?

A.521 I would say around 11 o'clock, sir, I would not like to state accurately, I didn't have a watch, I estimated around 11 o'clock.

Q.522 Do you know whether the other two comrades were in when you got home?

A.522 No sir, I don't.

Q.523 You slept in the same room with them?

A.523 No sir.

Q.524 What do you say about the whole story that has been told here today involving you?

A.524 It don't sound so good.

Q.525 Did you admit any part of it or what is your reaction to it?

A.525 I deny the whole statement sir.

Q.526 Have you ever seen this girl before the night of the 11th of February?

A.526 No sir.

CROSS-EXAMINED BY THE PROSECUTOR

Q.527 What time did you arrive in the Convalescent Depot - what date?

A.527 February 8th sir.

Q.528 They have parades there in the mornings have they not?

A.528 Yes sir.

Q.529 In between each parade would you have breaks - do you not?

A.529 Yes sir.

Q.530 The soldiers when they are broken off loiter around the streets, do they not?

A.530 It all depends sir.

Q.531 Some do?

A.531 If you are at the Casino you stay at the Casino.

Q.532 Where do you train?

A.532 When you fall in the parade you go for a route march, probably somewheres in the country and then you are marched in the Casino.

Q.533 Were you ever broken off in front of the Grand Hotel?

A.533 No sir.

Q.534 You mean to say there would not be soldiers loitering there just before the meal parade?

A.534 No sir.

Q.535 There wouldn't be any soldiers there?

A.535 No

Q.536 Waiting for meals?

A.536 There is no parade they just ring the gong.

Q.537 Are there no parades that form up on the street?

A.537 There is from Flanders, they form up on the street.

Q.538 Where do you form up?

A.538 I live in the Central, they just ring the gong and you go into the messhall.

Q.539 Have you ever been broken off on the street here after a route march?

A.539 No, you have your route march first in the morning then they take you to the Casino to do one hours PT, after that you go back.

Q.540 Don't you go back in an orderly parade?

A.540 In Coy's sir.

Q.541 And you go to the Central Hotel?

A.541 Yes sir, to the back of it.

Q.542 You are never broken off in the front of it?

A.542 No sir.

Q.543 When you are broken off in back is it not possible to walk out to the street?

A.543 Yes sir.

Q.544 You have never been broken off in the street in Knocke here?

A.544 No, only in the back street.

Q.545 You have been on the street talking to soldiers in daylight hours - would you stand there and deny you never have been on the street talking to soldiers?

A.545 Not the main street.

Q.546 Not the main street?

A.546 No sir.

Q.547 Never been standing on it?

A.547 Not during parade hours or while we broke off for a cigarette.

Q.548 But you have been standing on the street having a cigarette with the other soldiers?

A.548 Yes sir.

Q.549 So that in the summary when you said you have been on parade at different times that doesn't mean you have been on the street with other soldiers?

A.549 About the first two days sir it keeps you well off the street going to lectures, reading camp standing orders and continual parades.

Q.550 You went to the Minerva Cafe with Ridout and Wright?

A.550 Yes sir.

Q.551 What time did you leave?

A.551 That was on the 8th sir?

Q.552 On the 10th?

A.552 We left the hotel at 1630.

Q.553 I mean the Minerva Cafe to go home?

A.553 Around 10:30.

Q.554 That is approximately?

A.554 Approximately sir.

Q.555 You had been drinking?

A.555 Yes sir.

Q.556 With your pals?

A.556 Yes sir.

Q.557 Were you dancing?

A.557 Yes sir.

Q.558 After the dance would you get together and sort of have a little chat with your pals?

A.558 Not always.

Q.559 If you go with a soldier to a dance you pretty well stick together?

A.559 Pretty well sir.

Q.560 When last did you see Ridout?

A.560 About 25 to 9 sir.

Q.561 About 25 to 9?

A.561 About 25 to 10.

Q.562 Are you sure - how do you know?

A.562 I couldn't tell you the exact time sir, it was just my estimation of the time, I had no watch and I didn't see a clock around.

Q.563 25 to 10?

A.563 Yes sir.

Q.564 Was the last you saw of Ridout?

A.564 Yes sir.

Q.565 When did you last see Wright?

A.565 That is the last time I saw both of them because we were drinking at the bar.

Q.566 Where did you go after that drink?

A.566 I stayed right at the bar, soon Wright and Ridout went out dancing.

Q.567 What time did they leave the dance hall?

A.567 I don't know sir, I left before them.

Q.568 Why did you leave the dance hall?

A.568 I wasn't feeling so good, I had quite a bit of liquor down there - some new liquor, they had it, it didn't suit me very well so I left before they did.

Q.569 Were you feeling intoxicated?

A.569 No sir.

Q.570 You were in perfect senses?

A.570 Yes sir.

Q.571 You didn't speak to Ridout or Wright when you left?

A.571 No sir.

Q.572 You didn't even wave to them or they didn't see you - where were they when you left?

A.572 I don't know sir, I just left them to go out of the dance hall.

Q.573 Didn't you think they would worry about you when you went home?

A.573 No sir.

Q.574 How long have you known these men?

A.574 I have know Wright a long time sir.

Q.575 How long approximately?

A.575 About six months.

Q.576 How about Ridout?

A.576 I knew him from No. 2 General Hospital.

Q.577 About how long?

A.577 One month, month or half.

Q.578 How - you didn't speak to either when you left?

A.578 No, sir, not to my knowledge.

Q.579 You didn't think it was strange to go off on your own?

A.579 Oh! no sir.

Q.580 Before today had you - at 2 o'clock - had you ever been on Polderweg?

A.580 What do you call that sir.

Q.581 The street, the Polderweg, that is where we were today when we went out at 2 o'clock?

A.581 No sir.

Q.582 You have never been on that street before?

A.582 I don't know what street you mean sir, the only street I have been on.....

Q.583 You remember where the Court went out today, they pointed out certain places and things. Have you been out there before?

A.583 No sir.

Q.584 Didn't even know the street was out there?

A.584 No sir.

Q.585 You didn't know where Graffjansdyk Road is?

A.585 No sir, never heard of it before.

Q.586 You never heard where Polderweg Street was?

A.586 No sir.

Q.587 On the 24th of February you wouldn't even know where Graffjansdyk Road was?

A.587 No sir.

Q.588 Could you explain to the Court why you would say on the Summary.....

JA: Just a second, if you want to direct the witness to anything he has said on the summary it is proper to read it to him and then ask him if that is what he said.

Q.589 Do - did you say on the 24th of February, "I have never been in or near the area where she claims to be attacked?

A.589 That is right.

Q.590 Why do you say that?

A.590 Because it is true.

Q.591 You said a minute ago you didn't know where Polderweg or Graafjansdyk were and why would you state to the officer taking the summary you had never been passed the Minerva Cafe?

A.591 He showed me on the map where it is - this place was and wanted me to show him where the Minerva Dance Hall was and the Grand Hotel was and he asked me if I had been out there before.

Q.592 And you said previously you didn't know where the Polderweg or Graafjansdyk Road - you were wrong?

A.592 No sir, I don't know where it was yet I was out there today but I couldn't turn around and take you back out.

Q.593 Have you got a beret?

A.593 Yes sir.

Q.594 How long have you had this beret?

A.594 Since down in France sir.

Q.595 Who did you sleep with over in the barracks?

A.595 Right now sir?

Q.596 Yes?

A.596 Two other persons sir.

Q.597 I mean who did you sleep with on the night of the 10th of February 1945?

A.597 I don't know them sir, they were perfect strangers to me,

the three other men in the room besides myself, I don't know who they were.

Q.598 When you were accosted by the English soldier or English Sergeants in the Minerva Cafe on the night of the 11th of February what did you say?

A.598 I wasn't sir, I was questioned by an English S/Sgt on the 11th of February.

Q.599 On the 11th of February what did you say?

A.599 He asked us if we would accompany him outside.

Q.600 Did you say anything to Mlle Maria Martha Dezutter?

A.600 No sir.

Q.601 Did you look at her?

A.601 Yes sir.

Q.602 Did you laugh?

A.602 No sir.

Q.603 You didn't do anything?

A.603 Well smiled at her.

RE-EXAMINED BY THE DEFENDING OFFICER

Q.604 First of all, on this question of location at the time of the summary of evidence was taken by an officer - possibly you remember Capt Brody - did he have with him at the time a map such as that?

A.604 Yes sir, he did.

Q.605 Were you pointed out on the map the location of these various places by him?

A.605 Yes sir.

Q.606 And was it at that time you made this statement here you had never been out that way?

A.606 Yes sir.

Q.607 You didn't make this statement.....

A.607 I seen the map and made the statement.

Q.608 What happened to you after the 11th of February?

A.608 After the 11th of February?

Q.609 Yes?

A.609 Well I spent the night of the 11th February in the Town Hall Guard Room, after that in the morning one of our R P picked us up that morning.

Q.610 Have you been in custody ever since then?

A.610 Since the - on the 21st of February.

Q.611 Since you came to this town so far as parades were concerned they lasted from February 8th to February 10th?

A.611 Yes sir.

QUESTIONED BY THE PRESIDENT

Q.612 When was your uniform pressed?

A.612 Last night sir.

Q.613 Did you have to report to anybody at the Central when you returned that night of the 10th?

A.613 No sir.

Q.614 Did you see anyone you knew in the Central that night when you got in there?

A.614 No sir, I didn't.

Q.615 Did you see anybody first thing in the morning?

A.615 Yes sir, I seen Gnr Wright and Sigmn Ridout at breakfast.

Q.616 What was - what time was that?

A.616 Sundays I think it is 8 o'clock sir.

Q.617 You have heard about this identification parade, was that an actual identification parade on Sunday morning?

A.617 Yes sir.

Q.618 Which you attended?

A.618 Yes sir.

Q.619 What happened?

A.619 We went on Church Parade sir - I mean this identification parade somebody was to identify somebody.

Q.620 Anybody try to identify anybody?

A.620 Yes sir there was an officer and sergeant major inspected

the ranks.

Q.621 They just looked you over?

A.621 They just gave us the, "open order" and walked down through the lines.

Q.622 Were there any civilians at that parade?

A.622 No sir

Def: It wasn't a real identification parade, sir, there had been an order issued and the uniforms were checked, there clothes were inspected, it is not proper to say it was an identification parade, the troops knew nothing about it.

President continues

Q.623 You don't remember who was in your room on the night of the 10th?

A.623 No sir, they were perfect strangers, they came in from the same draft but from and English Hospital.

Q.624 You got up the same time?

A.624 Yes sir.

Q.625 Do you know them now?

A.625 I think they have gone out on draft sir.

IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH RP 83 (B).

WITNESS RESUMES HIS SEAT.

[redacted]

2ND WITNESS for the defence

K-73280 Gnr Thomas David WRIGHT, 4 LAA Regt RCA att No. 2 Convalescent Depot, being duly sworn, is examined by the defending officer

Q.626 Do you remember the night of 10th February 1945?

A.626 Yes sir.

Q.627 Who were you with that night?

A.627 With Dewey and Ridout.

Q.628 Will you tell the Court what you did on the late afternoon until you finally went home and went to bed telling who you were with and what time you got back?

A.628 We left our place about 6 o 'clock and we went down to the Minerva pub and then we stayed there and we drank there until about 8:15 and then we went into the Minerva Dance Hall, we stayed there until the end - well Ridout and I stayed there until the end. During that period I got feeling pretty good in the dance there and roughly about 10:30 Ridout and I left the dance hall and we went up to our billets at the Central Hotel. We got in the billets about 10:30 or quarter to eleven.

Q.629 How were you feeling then?

A1629 I was feeling pretty good sir, I was feeling pretty high.

Q.630 And are you the one who lost a tooth?

A.630 Yes sir.

Q.631 Did you subsequently find that?

A.631 Yes sir.

Q.632 And did you get in bed by yourself?

A.632 No sir, Ridout helped me in bed.

Q.633 How do you know these questions of time if you were feeling that good?

A.633 Well, 9:30 was the last time I looked at my watch - well from there on I really got pretty high and Ridout danced there and he always kept his eye on me he said.

Q.634 Always kept his eye on you?

A.634 So I would not fall over or go asleep or anything like that.

Q.635 Now, there has been some evidence here today that a girl was assaulted that night in the far end of town, away from the direction of the Grand Hotel and the Central Hotel and the Minerva Cafe. Were you that night beyond the Minerva Cafe on the main street?

A.635 No sir, we stayed in the pub until 8:15 and went to the dance and then home.

Q.636 Were you on an inspection - aparade the next morning at the Central Hotel?

A.636 Yes sir.

Q.637 And what happened on that parade?

A.637 We all got looked over and we all went to church sir.

Q.638 And what part of the parade were you in?

A.638 First part, the first rank.

Q.639 What I mean by that is Catholic or Protestant?

A.639 Protestant sir.

Q.640 Was there someone looked over your ranks at that time?

A.640 The Sergeant Major and an officer, if I am not mistaken.

Q.641 What did you do after that?

A.641 I went back to billets.

Q.642 Did you go to church that morning?

A.642 I am not sure about that - that is quite a while...

Q.643 You are not sure you went to church?

A.643 No sir.

Q.644 This incident happened on the 11th of February - you remember being with the accused person that morning?

A.644 Yes sir.

Q.645 When do you remember being with him?

A.645 On the roll call sir, on the 9 o'clock roll call.

Q.646 Did you see him again that morning?

A.646 Yes sir I seen him about 11 o'clock.

Q.647 You don't know whether you were with him in church or not?

A.647 I am not quite sure about that.

Q.648 Have you been to church since?

A.648 Once sir, but I don't know what Sunday it was, the first or second Sunday we were here.

Q.649 Did you arrive here on the 8th of February with him?

A.649 Yes sir.

Q.650 Were you at the Minerva Cafe with him on the 11th of February?

A.650 Yes sir.

Q.651 Do you now know who Miss Demutter is?

A.651 I know her since I saw her.

Q.652 Did you see her on that night of 11th of February?

A.652 Yes sir.

Q.653 Were you talking with her?

A.653 No sir.

Q.654 Did you dance with her?

A.654 No sir.

Q.655 Did you know when you got back to the Central Hotel whether the accused person was in his room or not?

A.655 When was that?

Q.656 On the night of the 10th?

A.656 I don't know about that, I was feeling pretty high and Ridout took me straight to his room.

Q.657 Did you sleep in the same room with him?

A.657 No sir.

Q.658 Do you remember giving a statement at the Summary of Evidence taken by a Captain Brody who came here?

A.658 Yes sir.

Q.659 Pardon?

A.659 Yes sir.

Q.660 After you and the accused person were identified by the Sgts at the Minerva Cafe on the night of the 11th did you go with the accused person to be interviewed by Major Lisle?

A.660 Yes sir.

Q.661 And were you released that night?

A.661 Yes sir.

Q.662 And you have been carrying on with parades and duties at the Convalescent Depot since then?

A.662 Yes sir.

CROSS-EXAMINED BY THE PROSECUTOR

Q.663 How did you happen to lose your tooth at the Minerva Cafe?

A.663 Iwas sick sir.

Q.664 Where did you find the tooth?

A.665

A.665 Found it in one of those small ash cans sir.

Q.666 Where did you think you lost it?

A.666 In the dance hall sir.

Q.667 You had quite a bit to drink?

A.667 Yes sir.

Q.668 Did Pte Dewey leave the dance hall on the night of the 10th before or after you looked at your watch?

A.668 No sir.

Q.669 When did he leave?

A.669 About 10:15 sir, as far as I can gather.

Q.670 About 10:15 - he stayed until 10:15?

A.670 Yes sir.

Q.671 How do you know he stayed until 10:15?

A.671 Ridout told me sir.

Q.672 Ridout told you - you don't know whether he was there or not - when did you last see the accused, Dewey?

A.672 Next morning sir, at nine o'clock.

Q.673 When last in the cafe?

A.673 9:30 with - that was in the dance hall sir.

Q.674 You saw him about 9:30?

A.674 Yes sir, that is thelast time I looked at my watch.

Q.675 Did he come over to say goodbye to you then?

A.675 No sir.

Q.676 When you were accosted on the night of the 11th in the Minerva Cafe by the two English S/Sgts what did you say?

A.676 I asked him what it was for sir.

Q.677 What did Dewey say?

A.677 He asked the same as far as I can recall.

Q.678 What were Dewey's reactions?

A.678 Normal sir.

Q.679 Did you know where you were at all times on the night of the 10th of February?

A.679 Up till 9:30 yes sir, and from the time I left the dance hall right up I can state where I was because he was with

me all the time.

THE DEFENDING OFFICER DECLINED TO RE-EXAMINE

QUESTIONED BY THE PRESIDENT

Q.680 In your statement at the summary you said you had a drink - you said "I had a drink with the accused and Sigmn Ridout in the dance hall about 2145 hours"?

A.680 Yes sir.

Q.681 How do you establish that fact?

A.681 That was the last time I looked at my watch sir then - from there on... .....

Q.682 You said you looked at your watch about 9:30. Did you have a drink after you looked at your watch?

A.682 With Dewey and Ridout.

Q.683 After you looked at your watch?

A.683 Yes sir roughly 9:30.

Q.684 On the night of the 11th what time was it you went into the dance hall - the next night, Sunday night?

A.684 About seven o'clock sir, or roughly about seven.

Q.685 You went into the dance hall then?

A.685 Yes sir, that was Sunday.

Q.686 Who went in there with you?

A.686 Dewey and myself.

Q.687 Ridout with you?

A.687 No sir.

IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH RP 83 (B)

WITNESS WITHDRAWS.

****

3RD WITNESS for the defence

B-136368 Sgmn William RIDOUT, HQ 4 Cdn Armd Bde Sigs att No. 2 Convalescent Depot RCAMC, being duly sworn, is examined by the defending officer

Q.688 Do you know the accused person?

A.688 I do sir.

Q.689 Do you remember the night of 10th of February?

A.689 I do sir.

Q.690 Will you tell the Court all your movements, where you were and what you did on that night involving the accused person - accompanying the accused person - giving times and places if you can?

A.690 Well, on the night, the Saturday February 10th three of us left the Central Hotel proceeding to this cafe next to the Minerva, I think the name of it is Minerva Cafe, that is where we did our drinking. While drinking we played billiards, we didn't leave the cafe until about 8:15, went into the dance hall and danced in there and drank at the bar. Then approximately 9:30 the three of us got together again and we had a few more drinks and kept on dancing and this was about 10 to 10. Gnr Wright was sitting in the chair and he was feeling kind of sick and I asked him how he felt and he said he felt alright.

Q.691 Did you see the accused person after you had the drink with him - did you see Dewey after 9:30?

A.691 I didn't see him until about 10:15 - I said to him to go ahead I will take care of Wright and after he left I started to pick up Wright and he felt sick and I managed to get him outside and he felt sick again; after he came too he told me about his teeth, he said he lost his tooth, I told him never mind we will look for it tomorrow and he said, no we will have to find it tonight. I went back in to the first spot he got sick and found the lady of the bar had swept it up and I went to the bar and asked the lady if she seen it and Wright said lets go look for it.

Q.692 When did you and Wright leave?

(JA: Let's not go into detail.

A.692 About 10:30.

Q.693 Where did you go?

A.693 Straight to the billets.

Q.694 What billets?

A.694 Central Hotel.

Q.695 How was Wright feeling then?

A.695 Getting along fine sir.

Q.696 Did you go directly to the Central Hotel?

A.696 Yes we did sir.

Q.697 And what did you do in the building?

A.697 I took him upstairs, undressed - pardon me - I made his bed, undressed him, put him in bed.

Q.698 Do you remember the next morning on the 11th of February?

A.698 I do sir.

Q.699 What went on at the Convalescent Depot that morning?

A.699 We were all called out for this Church Parade and while we were waiting in line at the back of the building they made an inspection, we didn't know what it was all about.

Q.700 Were you on that parade?

A.700 Yes sir.

Q.701 Did you know later on what that was about?

A.701 No I didn't.

Q.702 You never heard what that was about?

A.702 Only when Gnr Wright came back that night and told us that Dewey was picked up.

Q.703 That is the first you heard of it?

A.703 Yes sir.

Q.704 Did you go with him to the cafe on the night of the 11th?

A.704 No sir, I was on fire picquet sir.

Q.705 Were you on the night of the 10th along the main street beyond Minerva Hotel at any time?

A.705 No sir.

Q.706 Were you with Gnr Wright all the time?

A.706 Yes sir.

Q.707 Do you know whether he was or not?

A.707 The three of us were playing billiards there I mean.

Q.708 Did he leave the cafe at any time?

A.708 No sir.

Q.709 Do you know whether the accused person was in bed when you got back or not?

A.709 No sir.

Q.710 Did you live with him - do you sleep in the same room?

A.710 No sir.

Q.711 Do you sleep in the same room as Wright?

A.711 Yes sir.

CROSS-EXAMINED BY THE PROSECUTOR

Q.712 What time did you state you had your last drink with Dewey on the night of the 10th of February in the Minerva Cafe?

A.712 It was at the dance hall we had our last drink.

Q.713 Is not the dance hall the Minerva Cafe?

A.713 There is a cafe and the next door there is a dance.

Q.714 Where did you have this last drink?

A.714 At the dance hall at approximately 9:30.

Q.715 How do you know it was 9:30?

A.715 Well sir, there is a clock just in front of the bar in the wall.

Q.716 Was it going?

A.716 Yes sir and I have one here sir.

Q.717 Which did you use?

A.717 I used the one at the bar.

Q.718 You are sure you didn't use your wrist watch?

A.718 I am sure sir.

Q.719 You went to the Minerva Cafe with Dewey?

A.719 Dewey and Wright sir.

Q.720 And you had been chumming around together all evening?

A.720 Yes sir all evening sir.

Q.721 And did Dewey wave goodbye to you when he left or what did he do?

A.721 He just stated he was leaving - I told him I would take care of Wright.

Q.722 He told you he was leaving?

A.722 Yes sir.

Q.723 He said to you he was leaving?

A.723 That is right sir.

Q.724 Did you see him leave?

A.724 Yes sir.

THE DEFENDING OFFICER DECLINED TO RE-EXAMINE

IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE83(B).

WITNESS WITHDRAWS

xxxxxxxxxxxxxxx

4TH WITNESS for the defence — Captain A L PICARD, No. 2 Cdn Convalescent Depot, RCAMC, being duly sworn is examined by the defending officer

Q.725 Do you remember the morning of the 11th of February?

A.725 Yes sir.

Q.726 What is your position at 2 Cdn Convalescent Depot?

A.726 I am 2 i/c of 2 Division.

Q.727 Did you receive some information on the 11th of February by reason you took some action?

A.727 I was advised by the Orderly Sergeant that a parade was to be held so I proceeded from where I was at the time down to the Central Hotel, the HQ of the Div and there found a message from the Depot Headquarters stating that a parade was to be.....

JA: Just a second now - hearsay cannot be brought in by the defence no more than by the prosecution.

Q.728 What orders did you receive?

A.728 My orders were to the A/SM to call a parade of the complete Division, which would be inspected.

Q.729 Anything further than that?

A.729 The parade was called and inspected by myself and two Sergeant Majors with me.

Q.730 What were you looking for?

A.730 We were looking for stains, blood stains, any mud or stains of any kind on all the men's clothing that would indicate they had been brushed or washed recently.

Q.731 Is that the extent of your search?

A.731 That was the extent of my search.

Q.732 Were all the troops inspected that morning?

A.732 Yes sir.

Q.733 Who were theother persons involved in that search?

A.733 A/RSM Armstrong and one of his Coy Sgt Major's, CSM Glazier.

Q.734 And who accompanied you?

A.734 Sergeant Major Armstrong.

Q.735 Did you do any inspecting yourself?

A.735 I inspected one rank of the Coy.

Q.736 And who did the rest?

A.736 Sergeant Major Armstrong took one rank and Sergeant Major Glazier did the other.

Q.737 And was anybody reported to you that anything was on them you were searching for?

A.737 No sir.

THE PROSECUTOR DECLINED TO CROSS-EXAMINE

IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH RP 83 (B).

WITNESS WITHDRAWS

****

5TH WITNESS for the defence

G17067 CSM R S ARMSTRONG, 2 Cdn Convalescent Depot, RCAMC, being duly sworn, is examined by the defending officer

Q.738 Will you give the reporter your name, your number, rank and appointment?

A.738 G17067 CSM Armstrong, R.S. No. 2 Convalescent Depot.

Q.739 Do you recognize the accused person here today?

A.739 Yes sir.

Q.740 Do you remember the morning of the 11th of February?

A.740 Yes sir.

Q.741 Capt Picard gave evidence here that a parade was held on that morning and that his Sergeant Major reported the result to him. Are you the Sergeant Major?

A.741 Yes sir.

Q.742 What type of parade was that?

A.742 It was a written order came down from the Adjutant at approximately 9:15 that morning to hold the parade for inspection of clothing then to see if any blood stains were - or mud marks on the clothing.

Q.743 And how many men did you have at or in your Division that morning?

A.743 301 sir.

Q.744 Were all the men accounted for?

A.744 Yes sir.

Q.745 How were they broken down?

A.745 I had 21 on fatigues and the remainder on parade, we inspected the parade outside Captain Picard, myself and one of the CSMs of the Coy - inside we had the fatigues inspected sir.

Q.746 Did someone inspect the clothing of the 21 fatigue men?

A.746 Yes sir the Captain and myself.

Q.747 Was anything found that morning on any of the men's clothing or any subsequent search you had made?

A.747 No sir, no marks whatever on anyone.

Q.748 Did you see Dewey and Grn Wright around there that morning?

A.748 I recognized the three of the chaps that morning as I went through the corridor on the parade.

Q.749 Do you know whether they were on the fatigue men parade?

A.749 No, they were not fatigue men.

THE PROSECUTOR DECLINED TO CROSS-EXAMINE

IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83 (B).

WITNESS WITHDRAWS.

****

THE DEFENCE IS CLOSED.

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS.

Defence:

Mr. President and Gentlemen, may it please the Court, this has been, and is a very serious case. It is a serious crime of which the accused is charged with and it's consequences are serious. I don't propose to review all the evidence that has come before you, I don't feel it necessary the case has been tried in the course of a single day and I am sure all the facts are fresh in your minds. I would like to speak for a few moments on some of the outstanding points of the case because it does involve the application of the law to a certain set of facts as we have them here. I will not try to transgress on the rights of the JA insofar as the law is concerned because I know full well you do take all your law from him, so that any remarks I do make about the law are only what I do believe it to be and will be chiefly briefs of law and I am merely to refer to them insofar as to confine the questions of law to the facts here. One of the first points I wish to

make is on the question of onus of proof and that is, the onus of proof is on the prosecution as you know and I submit here that the prosecution have not established beyond a reasonable doubt that the accused person is the person who committed this crime. The case has been most ably presented by the prosecution but there are still shortcomings in the case which I believe do not sufficiently satisfy. I suggest this, take for instance the underclothing of the girl, I say here that the girls undgrclothing, her pants, her chemise, her stockings, her shoes and such things of that kind, material evidence, should have been before the Court. I suggest particularly the question of her pants and chemise; if she struggled over a period of an hour as she allegedly did and the girls pants are taken from the body over one foot and remained hanging from one leg, I suggest the pants are an important thing. If it was that kind of a struggle that might have disclosed it. The other thing I suggest that has some bearing so far as the onus of proof is the fact that it is not possible here for the court to examine any medical evidence of any kind. That may be partly the question of circumstances because this incident is reported at a very late hour at night but at no time is there any medical evidence brought into the case involving the sex nature of the charge and that might have had some material bearing on it.

The second point I wish to speak on for a moment is that of consent. Now, the question of consent here is one of the elements of this crime and it is a very important one;to my mind there is no doubt that sexual intercourse was had on this evening by this girl and possibly in the area that she speaks of. It is part of the case of the prosecution to establish that that was done without consent and I submit when these proceedings started on that night in question there must have been words and this may have occurred on each side of the road as suggested, but certainly throughout these proceedings sometime or other the question of consent must have been settled.

Then a word on the question of identification comes here. Much of the case has been spent on the point of identification. I say that identification can be broken down under two headings, that is, first at the scene of the incident and secondly the identification at the dance hall. Now, the girl says at the scene of the incident she recognized the accused person by headlights and by his features, that is her own evidence and that is the only evidence on the question of identification, there is no non-partisan evidence as to his identification anywheres in that area that night. It is quite true that after they spent an hour there altogether this girl should know the person she spent the hour with. You may be satisfied on that point and you may again be not. Now the identification at the dance hall. The accused person, his story is that he went there, I believe between 7 and 8 o'clock, I think one of the witness places it as early as 7 o'clock, I don't believe the girl got there until 7:40 and no identification took place until 9:20. I suggest that is material, that dance hall was crowded that night and it may be it took that time to make up someone's mind but that doesn't matter, if the accused's features were definitely in her mind I think she could very readily walked right up to him.

Then on the question of corroboration - the law on this is quite clear, it certainly is not impossible for the Court to convict without corroboration. I want to review for a moment the incidents which happened here and where this question of corroboration lands us. There is the girls story of her going home and the fact that she is attacked on the street in which she resides, there is no one tying in the identity of the accused person or his presence there on that hour save this girl and I put this, that that position gets no better by her merely identifying the accused person in the cafe that night, that the corroboration must be such as in some relevant manner would implicate the accused person and throughout this case it is impossible to find anything of that nature. Now, the complainant - the complaint itself certainly is not corroboration of that story.

The complaint itself heads towards another point and that is the consistency of the girl's story but does not corroborate what went on there that night.

Now then at the cafe, one cannot find anything which corroborates it in any way, it is merely a question of identification, it is still the girl saying, "It is him". On the question of corroboration it is my submission here you have only before you the evidence of the girl against the evidence of the accused person and his comrades. We have, of course, the evidence of the complaint which does tell of the consistency of the story of the girl.

Now, I want to say a word about the conduct of the accused in this affair. The accused does admit he was at the Minerva Cafe, the next morning an inspection is held when all these men were checked over and the accused person and his pal Wright knew of that and then on Sunday night they went back to the Minerva Cafe and they stayed there all evening until they were picked up by the police and asked to go with them - I ask you, is that the act of a man with a guilty mind? I don't think if he had been a party to this act he would have been near the Minerva Cafe that night. Now, what about her words about meeting her at 7:30 at the Minerva Cafe. Is it likely that in these circumstances he would make arrangements to meet the person at the Cafe, I suggest that is not a very realizable consequence, that it could not happen that way. Another question on the point of view of the talk of the accused person after he is taken into custody the next night, he asks "What is it all about" and he and Wright go out together in company with the sergeants and later interviews their officer, every question that is put to them they answer and nothing further is asked and the accused person is taken into custody. The time of the taking of the Summary of Evidence he is asked if he wishes to make a statement and he tells all he knows and here before you today he has told it to you again, and I suggest to you this is not the act of a person who committed an act of this kind.

There is a great question of credibility before the Court and I must leave that to you. You have seen the witnesses for both the prosecution and defence, they are directly opposed to each other, there is the evidence of the girl and her mother and her sister as apposed to the evidence of the accused person and his two comrades. I suggest to you again that the story of the girl still remains uncorroborated. That is all.

****

THE PROSECUTOR MAKES A CLOSING ADDRESS

Prosecutor:

Mr. President and Members of the Court I too do not wish to bring in more law to the case in reply to the defending officer's address but I do wish to state a little law.

We have the story of a young Belgium girl, 19 years of age, who leaves the establishment of her employer at approximately 2030 hours and walks home. She meets a lady on the road and spends a certain amount of time with her - a half hour supposedly - on the way home she was attacked by a soldier and previously to the attack she said there were three soldiers in the area, one attacked her and two went after another woman. On being attacked she stated that she was forced to the ground and I believe she said she was grabbed by the hair. I wish to point out there, sir, the defence has raised considerable facts on it's side as to consent, now, I just wish to quote there one definition of rape, "The unlawful carnal knowledge of a woman without her consent by force, fear or fraud". Now, the rebuttal of the defending officer has been to "force" only. I suggest to the Court it was not only force - she was not only forced into this compromising position but it was stated that, "I make you caput" which I take to mean "I will kill you". This far you have got an accused person who is much bigger than the girl, the girl if she didn't tell me her age I would judge to have been about 15 years old.

Regarding consent I wish to point out that, quoting from Archbold's R v Young, "It is no excuse that the woman consented at first, if the offence was afterwards committed by force or against her will; nor is it any excuse that she consented after the fact." Now there has been much examination, cross-examination and questions by the court on the contradiction of time spent in the struggle on the road. I submit to the Court that once the accused has threatened her or used force on her and committed an act of sexual intercourse by using such force then they could lay there all night if they wanted to. Such is not the case, she stated in her evidence she did try to get away and she couldn't, you can understand that bearing in mind the fear and force both. When the act was over she went down the road, remembered she forgot some of her wearing apparel and purse, she stated that she watched until the accused got out of the way. While she was lying on the road I would give a great deal of credibility to her evidence in the manner in which her eyes got accustomed to the darkness enabling her to recognize and later identify the accused is as good as any optician would do, the girl coming into the open, having a struggle, hit on the nose and made to bleed, this would cause some blindness and it does take a while to get accustomed to the darkness. She states that in her young naive little way. Her statements throughout, where there wasn't the element of confusion were consistent and straight forward. When she arrived home she immediately told the story to her sister. Now the Court may put some weight that the mother asked her, "What happened", now there is a girl who walked home, is covered with mud and blood and she is in such a condition that would require her mother to make some exclamation like that. There is a reference in Archbold's in regards to eliciting information out of the prosecutrix such as that, there is no leading questions or anything, the mother stated that, which is consistent with the sworn evidence here. The crime is a peculiar one in that there are no witnesses to it as you saw today, it was in a lonely place, there were no buildings adjacent to it, she made an outcry but she was stopped at times, at other times she might have

been able tomake an outcry but bearing in mind the element of fear she was wise not to make an outcry. In regard to that I wish to state on corroboration we have one witness who states a story and the evidence of the plaintiff is quite correct, it is not corroboration but there is the circumstantial evidence behind it, there is also I think circumstances which make the witness a very competent witness, in that she being the party ravished is of good fame and she searched for the accused when he fled, she was in a place where the act was alleged to have been committed where such it was possible she might have been heard she made an outcry and the like circumstances carry a strong but not conclusive presumption that her testimony is false or feigned. That is the quotation from Archbold's at p.1024 refers to competency of witnesses in such a peculiar circumstances as this. If we are not going to take the word of the witness it means that in circumstances such as this leaving aside the alibi of the accused if the Court don't believe the story of the prosecutrix then it would mean that any man could get a girl alone in a place where she could not be heard or seen and carry out his dirty business and then get off scot-free, so although we have not brought out any corroboration we have a great deal of circumstantial evidence. The girl goes to the Minerva Cafe, she was told by Major Lisle and she said "yes" to the accused there on the road and if she had said "no" what would he do; there was the element of fear. When she went to the Minerva Cafe she had an impression on her mind in the Minerva Cafe, she sat there and she for sometime didn't recognize anyone and the defending officer has said there were a great many people there and all of a sudden, "that is him" she said; that is all we have to go on. Unfortunately the accused is a soldier it is difficult to identify him by dress alone, it is only visual features you can identify people on and that is all the girl can go on to identify him, which she did in Court and at the Minerva. The circumstantial evidence strikes me as being peculiar, there were three men followed her down the road, the same three men come before a

Court with an alibi and it also involves the Minerva Cafe, which came out in evidence indicated that the girl was to go to the Minerva Cafe too. I think, although there is no corroboration and it states in Archbold's that corroboration is not essential but in practise is required, yet in this case you not only have a case which is border-line in one regard you have it border-line in the other regard, that you have one witness and peculiar set of circumstances in that the rape took place at a lonely spot, she should have made an outcry which she did, she must have objected once, if she didn't continue to object I leave it to you did she not object because of fear and did she not object later on because of fear and there was no way she could help herself at all and that is the situation that the prosecutrix found herself in, I leave it to the Court and dc wish to point out that my case was based on a few of the points of the law I have quoted.

****

THE JUDGE ADVOCATE SUMS UP

JA:

Mr. President, before going into the duties and functions of the Court I wish to remind you of the main principle of British justice, which is that a man charged with a crime is presumed to be innocent - or as you may be familiar with the provisions of MOL as is stated at p.58 para 67 (reads para). By reasonable doubt which is mentioned here it is meant common sense doubt arising out of the evidence which has been brought before you. Now, your duties and functions here today are those which would correspond to civilian duties and functions of a judge and jury. You are complete judge of the facts, in that, you are called upon to decide from the evidence which facts you take as being established, if any, and which you do not wish to accept as established, if any, if you don't wish to do so. From this evidence it is your duty to deduce any facts which fall logically from the evidence which has been brought before the Court. Now you are also are judges of points of law, you and you alone are the ones to decide on the law of the case. On the

other hand you must remember that the function of the JA on the Court is to advise you on points of law and you are in no way obliged to take his advise but you must not disregard it except for very weighty reasons.

The offence is rape, and a definition of rape is found at Archbold's 1018 31st Ed 1943 "Rape is the unlawful carnal knowledge of a woman without her consent by force, fear or fraud." Therefore it is up to the prosecution to establish, to substantiate the charge of rape, to establish there was carnal knowledge, that it was unlawful, that is not carnal knowledge between a man and his wife, that there was no consent on the part of the woman and that it was by fear, by force or by fraud. I won't go into the details of these, if there are any points on which you wish to be clarified you may do so. Now you have had evidence of a fresh complaint, I may point out it is one of the very few instances where hearsay evidence is admitted as is said on page 1023 the same author, "In the case of rape or kindred offences, the fact that a complaint was made by the prosecutrix shortly after the alleged offence, and the particulars of such complaint, may be given in evidence so far as they relate to the prisoner, not as evidence of the facts complained of, but as evidence of the consistency of the conduct of the prosecutrix with her evidence given at the trial." In other words the complaint doesn't establish the facts complained of but simply as stated, show consistencey on the part of the prosecutrix. Now, as was pointed out by both the prosecution and the defending officers in cases like this one involving decency the question of corroboration must be considered, and it is said again, same author p.1025, "Though corroboration of the evidence of the prosecutrix is not essential in law, it is, in practise, required and it is the practise to warn the jury against the danger of acting upon her uncorroborated testimony, particularly where the issue is consent or no consent." Now what is the corroboration here - going back to MCL at p.84 Section 45, " Except where a statute makes provision as to the nature of the evidence

necessary, the corroboration required is independent testimony which confirms in some material particular not only the evidence that the crime has been committed, but also that the accused committed it." In other words you must have evidence which would be absolutely independent of the plaintiff or the testimony of the complainant and which would tend to shownot only that a crime has been committed but also that the accused committed it, mind you it is not meant by that this evidence could be that of a witness present at the commission of the offence but corroboration may be taken from the whole circumstances of the case and it is a matter of fact for you to decide whether from such circumstances there is or there is not corroboration. Of course, in the definition of rape I didn't mention there has got to be evidence of penetration and penetration to the least degree is sufficient to constitute rape. Under Army Act 56 in a case of rape you are entitled to bring in a lesser finding, that is 56 allows a Court which deals with a civilian offence to find an accused guilty of a lesser offence should there be a lesser offence under civil criminal law and providing of course the evidence justifies doing so. In the case of rape the lesser offence is indecent assault.

In closing I would like to remind you again that the accused must be given the benefit of any reasonable doubt, this is one of the most sacred privileges which our British Justice grant, it must never be forgotten.

Mr. President is there anything you wish me to advise the Court on further?

President: No.

Prosecution: No sir.

Defence: No sir.

xxxxxxxxxxxxx

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused C 1993 Pte Arthur Norman Dewey 4 LAA Regt RCA att 102 Con Convalescent Depot RCAMC. is not Guilty of the charge.

The finding of not guilty is announced in open Court.

10 Mar 1945.

[signature] Maj Pres.

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Cross-examined by the accused.

[Instruction.—If in course of the answers of the witness to a prosecutor some matter of extenuation has been elicited, the finding of the Court remains open, but if any exculpatory statement or admission is made by the accused to the Court the prosecutor must call the attention of the Court to the fact, and the Court must reopen case, the witness and accused if that subsequently proceeded.]

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

Army Form A 47

COURTS-MARTIAL

X

Form of Order for the assembly of a General or District Court Martial.

1-1993 Gnr Arthur Norman Dewey 1 LAA Regt RCA att No 2 Cdn Convalescent Depot RCAMC

ORDERS By Major-General E.L.M. Burns, DSO,OBE,MC Commanding the Cdn Sec 1 Ech - HQ 21 Army Group

(Place and Date) In the Field - 8 Mar 45

The detail of officers as mentioned below will assemble at 2 Cdn Conv Depot on the 10th day of March at 1000 hrs for the purpose of trying by a General court-martial the accused person named in the margin and such other person or persons as may be brought before them.*

PRESIDENT.

Brigadier N.A. Gianelli Cdn Armd Corps is appointed president.†

MEMBERS.

Note.—The president must be named. The members and the waiting members may be mentioned by name, or the number and ranks and the unit to which they belong may alone be stated.

Lt.-Col W.L. Thompson, 1 Cdn Adv Base Wksp RCEME

Major to be detailed by HQ 2 CBRG

Two Captains to be detailed by HQ 2 CBRG

WAITING MEMBERS.

Captain to be detailed by OC 2 Cdn Conv Depot

JUDGE-ADVOCATE.

Capt.A.P.L.Desrosiers A.D.J.A. 1 Cdn. CORPS has been ~~xxxx

5 H. 44

to Dick, L. J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B115912 Pte Lester John DICK 6 Cdn Repat Dep

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note [illegible])	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 40	NOT GUILTY	GUILTY	
2nd	AA Sec 8(1)	NOT GUILTY	GUILTY	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To perpt all ordinary Pay for a period of Thirty (30) days.

(Sgd) ..... Judge-Advocate, if any. Date awarded. 27 NOV/45 President. (RP 45, 50)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be entered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed ——

I direct that the accused be not committed to prison on detention barracks until further ordered. (1) (1. AA 57A. Delete if not used.)

Date 28 Nov 45 (Sgd) ..... Commanding Cond Coy A Group Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKED. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
B115912 Pte Lester John Dick	30 Nov 45	E Jacques Lt Col

D.O 154 d/ 30 Nov. 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5 Jan 46

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA51 40/P & S/1698 (H.Q.)) 4/38B

Convened by Order of Col F K Matheson T/Comd "A" Gp CRU dated 24 Nov 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B115912	Pte		Lester John	DICK	6 Cdn Repat Dep

PROCEEDINGS REVIEWED
[illegible] K J Brady Maj
STAFF OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date/s) 22 NOV 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INIT'ALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1230 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans .....
~~The Interpreter is sworn.~~(1) Do you object to ~~CAPTAIN GRACE KIMSTRA AS~~ shorthand writer? Ans NO SIR
The shorthand writer is sworn.(2)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans NO SIR.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	D.L. REDMAN MD	MP CRU
Member	CAPT	F.X. BERGERON	1 C.REP BEP
Member	LIEUT	C G MURRAY	1 C. REP BEP
~~Judge-Advocate~~			
Prosecutor	LIEUT	N.C. TREMBLAY	1 C. REP DEP
Defending Offr	CAPT	G. KERR	1 C REP DEP

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (1)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (his) (~~her~~) plea ..... (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.) When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings.

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form A

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E2 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of parts D1 to D8 inclusive of Record Form D on p 3.* *RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO - SIR.(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE-ATT
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 1st charge(s), and allowed on the ~~.....~~ charge(s), and that, accordingly, the trial will proceed ~~on the former, but the accused is (are) found Not Guilty~~ on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. Give Evidence. Do you intend to call witnesses on your behalf ? Ans. Yes Sir. Are they witnesses as to character only ? Ans. NO - SIR.
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE ATT
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A65. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 84(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~.....~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 1st charge(s), being subject to confirmation, will be promulgated later.(1)
Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (5), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO - SIR.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or MFB 294.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Beg Mercy Sir. NOTE-ATT
(1. *RP 37(C), 46(2).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and also by the JA, if any~~.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 69, 118, 119(A), KR Can 208, 230, 363-366. Overseas AO 309, 2323. MML p 60, 737-739. As to sentences consigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 364.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 367. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.115912 Pte Lester John DICK, Canadian Infantry Corps, on strength of No 1 Wing, 6 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, placed on active service, is charged with:

FIRST CHARGE
Section 40
Army Act

WHILE ON ACTIVE SERVICE, CONDUCT TOTHE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

at London at about 2250 hrs 17 Nov 45, failed to comply with an order given to him by an NCO of the C Pro C in the line of his duty.

SECOND CHARGE
Section 8 (1)
Army Act

WHILE ON ACTIVE SERVICE, STRIKING HIS SUPERIOR OFFICER BEING IN THE EXECUTION OF HIS DUTY

in that he,

at London at about 2250 hrs 17 Nov 45, struck an NCO of the C Pro C when ordered to come out of a railway coach at Waterloo Station.

(W.N. Hovey) Lt-Col,
T/Comd, 6 Cdn Repat Depot.

In the Field,
20th day of November,
1945.

To be tried by Field General Court Martial

24 Nov 45

(F M Matheson) Col
T/Comd
"A" Gp CRU CA(O)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B115912	Pte		Lester John	DICK	6 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 NOV 45 endorsed by me, (~~a Copy of which is hereto annexed~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D L Redman ED	Hq CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
1 Capt	to be detailed by CO	3 Cdn Repat Dep
1 Lieut	to be detailed by CO	3 Cdn Repat Dep

~~WAITING MEMBER~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

Date 24 Nov 45

(F M Mathewson) Col
T/Comd "A" Gp CRU Ca(O)
(Name in block. RP 105 fn 2.) (Rank.)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (Pads (In lieu of AFA3: AC P & R/1867 (4211).)

R.P.

MEDICAL RECORDS SHEET

I certify that No. B.115.912 Pte. Dick, J. L.

of ..... is in a ..... state of health,

and ..... to undergo trial by Court Martial.

..... Capt
(Medical Officer)

Station.....

Date 27-11-45

MCS 246

TRIAL OF

B.115912 Pte DICK LJ ----- 6 CDN REPAT DEPOT

A-8

ADDRESS BY DEFENDING OFFICER

Before the accused is arraigned I wish to say:

The first charge under Sec 40 AA NDAS, Conduct to the prejudice of good order and Military Discipline in that he, at London at about 2350 hrs 17 Nov 45 failed to comply with an order given to him by an NCO of the C Pro C in the line of his duty. In my opinion the accused should not be charged under Sec 40 as there is provision made in the Army Act under Sec 9(2) for such a charge.

On the second charge Sec 8(1) striking his superior officer as the charge reads which should be in the execution of his office. The charge is therefore improperly drawn and should be dismissed. Is it just to try the accused under the above sections which is a greater offence when provision is made under AA Sec 10(2) or (3) which is a less serious offence.

THE COURT IS CLOSED TO CONSIDER THE OBJECTION

THE COURT RE-OPENED

The President announced that the objections to the charges under [illegible] was disallowed and that the trial would proceed.

PROSECUTION

FIRST WITNESS

L.844840 L/Cpl DRAGNON J, No.6 (Area) Provost Coy, C Pro C, London, sworn, states:-

At about 2340 hrs on the 17th Nov 45 myself and L/Cpl Wardhaugh were on duty at Waterloo station. A railway official came over to us and asked us to remove a Canadian soldier from the train. We proceeded to the train and asked Pte Dick, at that time we never knew his name, to leave the train, he wouldn't do so. We said there was lots of time, there was no hurry. Sufficient force had to be used to remove him from the train. The accused is that Pte Dick referred to. When we had him out of the train we asked him for his pass, he produced his pass quite willingly, he handed it to L/Cpl Wardhaugh at the same time striking my left shoulder with his right hand. It was a hard blow.

CROSS-EXAMINED

Q. How long have you been in the Provost Corps?
A. About a year and a half sir.

Q. Pte Dick in the Summary of Evidence asked you if you thought he had the full use of his faculties. Your statement was that to you he appeared to have the full use of his faculties, now in your experience as a provost can you describe to the court just how you arrived at an opinion where a man, this man in particular in this case was in complete possession of his faculties, mental and physical?
A. He didn't act drunk or stupid, he was never like a drunk man sets unsure of his movements, but was sure of his movements.

Q. How did you actually remove him from the coach?
A. We took him by his arms.

Q. And helped him out of the coach?
A. Yes sir.

FIRST WITNESS (CONTINUED)

Q. As you got out of the coach you set on the platform?
A. Yes sir.

Q. Pte Dick was standing in front of the two of you?
A. In front of me and L/Cpl Wardhaugh was to the left hand side.

Q. He produced his pass?
A. Yes sir.

Q. He took it out with his left hand?
A. Yes sir.

Q. He was doing two things at the same time, producing a pass and striking you at the same time?
A. Yes sir.

[illegible]

[illegible] R.E.(M).

[illegible] No.64440 L/Cpl [illegible], No.1 Provost Coy, R. Pro.C. London, sworn, states:-

On the night of 19th [illegible] I was on duty at Waterloo Station and at approximately seven hrs we were joined by a Southern Railway official to try Pte Dick off the train. We entered the carriage and we at him three times to leave and he refused to do so. We used sufficient force to put him off the train. When we had him on the platform he struck L/Cpl Duncan on the face, he gave him pass back. He struck L/Cpl Duncan on the left shoulder. We then took him to No.1 Depot barracks in London.

CROSS-EXAMINED

Q. How long have you been a Provost?
A. Approximately three months sir.

Q. Do you get many cases of men being under the influence of liquor in and around Waterloo?
A. Yes sir, quite a few.

Q. Do you figure you are a fairly good judge of whether a man has been drinking or not? Can you judge by the actions of other men you have seen?
A. Yes sir.

Q. Does this action of a man being taken out of a carriage by force onto the platform and when you asked him for his pass, he refused to give his pass and struck you, seem to be action of a normal sane man?
A. No, I have never seen it happen before.

[illegible]

Q. Did you see any evidence that the accused had been drinking?
A. He had been drinking, I could smell it.

[illegible]

[illegible]

[illegible]

In both cases the statements from the Provost Corps, there has been no evidence brought out that any order for Pte Dick to get

FIRST WITNESS (CONTINUED)

Q. As you got out of the coach you got on the platform?
A. Yes sir.

Q. Pte Dick was standing in front of the two of you?
A. In front of me and L/Cpl Wardhaugh was to the left hand side.

Q. He produced his pass?
A. Yes sir.

Q. He took it out with his left hand?
A. Yes sir.

Q. He was doing two things at the same time, producing a pass and striking you at the same time?
A. Yes sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO QUESTION THE ACCUSED.

SECOND WITNESS

No.6429 L/Cpl [illegible] C, No.6 (Area) Provost Coy, R. Pro.C. London, sworn, states:-

On the night of 17 Nov 45 I was on duty at Waterloo station and at approximately 2040 hrs we were asked by a Southern Railway official to put Pte Dick off the train. He entered the carriage and asked him three times to leave and he refused to do so, so we used sufficient force to put him off the train. When we had him on the platform we asked him for his pass, he gave his pass to us and struck L/Cpl Wardhaugh on the left shoulder. We then took him to No.6 Detn Barracks in London.

CROSS-EXAMINED

Q. How long have you been a provost?
A. Approximately three months sir.

Q. Do you get many cases of men being under the influence of liquor in and around London?
A. Yes sir, quite a few.

Q. Do you figure you are a fairly good judge of whether a man has been drinking or not? Can you judge by the actions of other men you have seen?
A. Yes sir.

Q. Does this action of a man being taken out of a carriage by force onto the platform and when you asked him for his pass, producing his pass and striking you, does this appear to you to be the action of a normal person?
A. No, I have never seen it happen before.

QUESTION BY THE COURT

Q. Did you see any evidence that the accused has been drinking?
A. He had been drinking, I could smell it.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO QUESTION THE ACCUSED.

THE PROSECUTION IS CLOSED

EVIDENCE BY THE DEFENCE CASE

In both cases the statements from the Provost Corps, there has been no evidence brought out that any order for Pte Dick to get

out of that carriage was ever given. The word used was "asked" In the summary, one man said he requested him to leave, the other provost said that he asked him twice to leave. In my opinion there has been no order given and therefore the man could not fail to comply with an order that was never given.

THE COURT IS CLOSED TO CONSIDER
THE OBJECTION

THE COURT RE-OPENS

THE OBJECTION IS DISALLOWED.

DEFENCE

EVIDENCE WITH THE DEFENCE

The accused, sworn, states:-

Q. In your own words will you explain to the court what position you held in civil life.

A. Prior to joining the army I was employed as an auditor and accountant with S.F. Tuohey & Co. in Toronto. a firm of chartered accountants. I have my American certificate of Chartered Accountant. I was never articled with this firm.

Q. Were you called up in the Army?
A. No sir, I enlisted of my own free will.

Q. When did you enlist?
A. On the 30 Aug 43.

Q. What was your age then?
A. 22 years, sir.

Q. Are you married?
A. Yes sir, one child.

Q. Where does your wife live?
A. In Toronto, sir.

Q. Are you awaiting repatriation now?
A. Yes sir, as far as I know I am still on strength of Miscellaneous draft No. 28.

Q. Are you anxious to get home?
A. Very anxious sir.

Q. Very briefly outline your army career in respect to your battle experience. How did your basic training, and came over to England and went into action?
A. I arrived in England on 7 May 44, in 13 Jun 44 I arrived on the shores of France and after a few days went into action with the Royal Winnipeg Rifles at Carpiquet. I went through numerous encounters with them, such as Caen Falaise Gap and over the Seine on up the coast of France where I was called on a fighting patrol to punch a hole through to the coast between Boulogne and Cape Grisnez. The purpose of the patrol was to test the strength of the enemy in that particular area and get whatever information we could, through the course of the patrol we drew enemy fire from the vicinity of Cape Grisnez, the platoon officer, an NCO and an OR were struck down by shrapnel. I volunteered to stay behind and look after the wounded, there was another chap who also volunteered with me. We were to get covering fire from a hill back of us but for some reason this protection was never given us and in the course of the time the two men died, the Col and the CO, the [illegible] had his leg blown off, it took us 15 to 20 minutes to

FIRST BITTER FOR THE DEFENCE (CONTINUED)

render first aid to stop the flow of blood. In the course of this first aid an enemy counter patrol was sent out and surrounded us. I don't believe they wished to kill us they wanted us for information. They fired over our head and into the ground around us. The officer stated that it would be better to be taken prisoner as he could get medical attention which he needed. The chap that I was with was of German descent and he could speak German quite fluently and he gave the necessary instructions in German, saying that we wished to surrender, that our officer needed first aid and medical attention. They ordered us to come out but they forced us to leave the officer, saying that they would come back for him later that day, as everything was done for him that could be done at that time and until they could ascertain whether there were any more Canadian troops in the area. We were marched back to a big gun site, I don't know how to describe it. We were then taken and held prisoner in Boulogne. On the 6th day our Artillery laid down a heavy barrage and we were forced to take cover in an air raid shelter, which was very long but the width was very narrow, it was a confined area. The air force immediately the barrage ceased, started to drop bombs some of which dropped on the shelter. This kept up until nightfall of that day. When the bombs hit the air raid shelter several of the Germans were rendered unconscious along with my friend from the extreme concussion. Myself at the time experienced more or less a funny sensation but I didn't actually pass out with severe headaches and heavy ringings. The next morning the Glengarrian Regiment of Canada came and the Germans surrendered to me and my friend and we brought them out to the Glengarrians and the citadel of Boulogne had fallen. They wouldn't let us see the officer but the Commandant had given us his word that they had gone out and brought him in and he had died of loss of blood. They claimed they had endeavoured to give him a transfusion. We marched the prisoners of war back to a POW cage and from there made our way back to our regiment. On reaching our regiment we were informed that the Divisional Intelligence requested our presence to give them what information we could about coastal defence between Boulogne and Cape Grisnez. Our medical officer gave us some attention before we were sent up there and he advised Divisional Intelligence that they should wait a few days until we got over the reaction that this heavy bombing had made. but we volunteered to go up and get it cleared up that day. When we returned to our regiment we were cleared out to CCS who said that they couldn't give us any medical aid but they thought a rest would be alright. I still suffered from severe headaches. They sent us down to Deauville, while down there I had the unfortunate experience of passing out in a hotel lounge while reading a book. I had not been drinking, the medical officer of the leave centre was called in to my assistance and he stated that I was in no fit condition to go back to the front line and I should stay there for further rest. We gave us five days additional to our leave and then he called us in and said he would recommend us to be reboarded. I told him I would rather go back to my regiment that I thought over a period of time I would be alright. I was not feeling too badly. I went back to my regiment, went over the Leopold Canal with them and going over the canal the cepck bridge that was over the canal was knocked out by heavy shelling, I was knocked in the canal. On reaching the other side I was thoroughly drenched and we had quite a little difficulty in chasing the enemy out of that particular area so that about four or five days elapsed before I had rest or dry clothes. Consequently I ended up with pleurisy, when my temperature reached 103 the medical officer of our unit evacuated me out. I spent a matter of two or three weeks in the hospital with

FIRST WITNESS FOR THE DEFENCE (CONTINUED)

the necessary medical attention, I went through an Infantry holding unit back to my own regiment. We had several little skirmishes until we came to the Rhine, we went through numerous little villages and towns and Cleve and we came under heavy shelling and mortar during the course of which one landed, I would say approximately 80 feet from me, lifting me up, blew me around and knocked me out, unfortunately the heavy stuff and shrapnel in that shell must have gone up with me, I received a few pieces on my left temple. Then I came to my platoon officer was bandaging up my head I told him that I didn't feel too bad except for a numbing sensation, we went on to clean up several houses. That evening I passed out. I woke up in a CCS and ended up in a British General Hosp in a minor surgical ward and after receiving more or less a rest cure I went through the holding unit again. They wished to keep me in this N.Y.D. for some more time, I was fed up, felt that I could get better on my own. I came back to the holding unit and I didn't feel as well as I ~~thought~~ had in the hospital. I went to the theatre in Belgium and I passed out in the theatre. The Canadian Provost Corps were called and they took me to 15 CCS in Ghent where I was thoroughly examined and given the benefit of all their medical treatments. The recommended me at once after several weeks in hospital for a medical re-board and said I was not fit for the infantry and in view of my experience as an auditor I would be of more use as a clerk in the pay corps. I was sent to a convalescent depot and there I was categoried to I-3.

On the 17th Nov 45 at about 1110 hrs I received a week-end pass and accompanied by Pte McConnell went to Aldershot. We went to several pubs and consumed a considerable amount of liquor and when the pubs closed we went to a civilian house and continued drinking until approximately 1600 hrs when we went to the Heston Lounge public house. I remember having several pints but have no recollection of what happened until I partially came to consciousness apparently by the pain of my arms being held behind my back. The next thing I knew I was in custody and I had no idea or why I was being held or where I assumed that I was being held on a charge of drunkenness. I was paraded before the Major of the Provost Detachment I have no recollection of doing the things with which I am charged. Since I was a prisoner of war in France I suffer temporary mental blackouts for which my category is lowered to I-3 as I said before. My [illegible] is clear.

CROSS-EXAMINATION BY THE COURT

Q. Is that all true?
A. Yes sir.

This is a copy of a neuropsychiatric report of [illegible] by Major Cornett and I ask that it be filed.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO SUPPLY WITH SO (SC) (5).

FURTHER WITNESS FOR THE DEFENCE

No. C-5577 Pte McCONNELL W, HQ RS 6 Depot Bde, sworn, states:-

On the 17th Nov 45 Pte Mick and myself left camp at 1100 hrs. We went to Aldershot and we visited three or four pubs and we were drinking spirits from approximately 1130 hrs to 1600 hrs when the pubs closed. We left the pub and went to a civilian home where we drank beer until the pubs opened at 1800 hrs and drank until 2300 hrs and we left the pub and I tried to get Pte Mick to go home and I couldn't handle him by myself. He was leaning against the building, neither

COURT EVIDENCE FOR THE DEFENCE (CONTINUED)

one of us were talking very straight. He was in poor shape. I left him there and went around town trying to find someone else who was on draft with us to give me a hand back to camp, I couldn't find anyone so between 20 minutes to 30 minutes later I returned to the Weston Lounge, he had disappeared.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RULE 33(2).

ADDRESS BY DEFENDING COUNSEL ATTACHED

THE COURT IS CLOSED TO CONSIDER ITS FINDING

THE COURT RE-OPENS

FINDING OF THE COURT

I REGARD WHAT I SAID ON THE PLEADING AND I AND THE FOLLOWING: THAT MAY OF CANADA DRAFT BOARD BE WHO HAVE BEEN WARNED FOR REPATRIATION ON THE 30th OF NOV AND IT IS HOPED THAT THE SENTENCE OF THE COURT WILL BE SUCH THAT HE WILL NOT MISS THAT DRAFT ON ACCOUNT OF THIS UNFORTUNATE INCIDENT.

THE COURT IS CLOSED TO CONSIDER THE FINDING

TRIAL OF

B.115912 Pte DICK LJ ----- 6 CDN REPAT DEPOT

ADDRESS BY DEFENDING OFFICER A-8

Before the accused is arraigned I wish to say:

The first charge under Sec 40 AA WOAS, Conduct to the prejudice of good order and Military Discipline in that he, at London at about 2350 hrs 17 Nov 45 failed to comply with an order given to him by an NCO of the C Pro C in the line of his duty. In my opinion the accused should not be charged under Sec 40 as there is provision made in the Army act under Sec 9(2) for such a charge.

On the second charge Sec 8(1) striking his superior officer as the charge reads which should be in the execution of his office. The charge is therefore improperly drawn and should be dismissed. Is it just to try the accused under the above sections which is a greater offence when provision is made under AA Sec 10(2) or (3) which is a less serious offence.

THE COURT IS CLOSED TO CONSIDER THE OBJECTION TO THE CHARGE SHEET

THE COURT RE-OPENED

The President announced that the objections to the charges under 8 & 32 was disallowed and that the trial would proceed.

PROSECUTION

FIRST WITNESS

L.64260 L/Cpl DEAGNON J, No.6 (Area) Provost Coy, C Pro C, London, sworn, states:-

At about 2345 hrs on the 17th Nov 45 myself and L/Cpl Wardhaugh were on duty at Waterloo station. A railway official came over to us and asked us to remove a Canadian soldier from the train. We proceeded to the train and asked Pte Dick, at that time we never knew his name, to leave the train, he wouldn't do so. He said there was lots of time, there was no hurry. Sufficient force had to be used to remove him from the train. The accused is that Pte Dick referred to. When we had him out of the train we asked him for his pass, he produced his pass quite willingly, he handed it to L/Cpl Wardhaugh at the same time striking my left shoulder with his right hand. It was a hard blow.

CROSS-EXAMINED

Q. How long have you been in the Provost Corps?
A. About a year and a half sir.

Q. Pte Dick in the Summary of Evidence asked you if you thought he had the full use of his faculties. Your statement was that to you he appeared to have the full use of his faculties, now in your experience as a provost can you describe to the court just how you arrived at an opinion where a man, this man in particular in this case was in complete possession of his faculties, mental and physical?
A. He didn't act drunk or stupid, he was never like a drunk man acts unsure of his movements, but was sure of his movements.

Q. How did you actually remove him from the coach?
A. We took him by his arms.

Q. And helped him out of the coach?
A. Yes sir.

FIRST WITNESS (CONTINUED)

Q. As you got out of the coach you got on the platform?
A. Yes sir.

Q. Pte Dick was standing in front of the two of you?
A. In front of me and L/Cpl Wardhaugh was to the left hand side.

Q. He produced his pass?
A. Yes sir.

Q. He took it out with his left hand?
A. Yes sir.

Q. He was doing two things at the same time, producing a pass and striking you at the same time?
A. Yes sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

SECOND WITNESS

M.56429 L/Cpl WARDHAUGH J, No.6 (Area) Provost Coy, C. Pro.C. London, sworn, states:-

On the night of 17 Nov 45 I was on duty at Waterloo station and at approximately 2345 hrs we were asked by a Southern Railway official to put Pte Dick off the train. We entered the carriage and asked him three times to leave and he refused to do so, so we used sufficient force to put him off the train. When we had him on the platform we asked him for his pass, he gave his pass to me and struck L/Cpl Deagnon on the left shoulder. We then took him to No.6 Detn barracks in London.

CROSS-EXAMINED

Q. How long have you been a provost?
A. Approximately three months sir.

Q. Do you get many cases of men being under the influence of liquor in and around London?
A. Yes sir, quite a few.

Q. Do you figure you are a fairly good judge of whether a man has been drinking or not? Can you judge by the actions of other men you have seen?
A. Yes sir.

Q. Does this action of a man being taken out of a carriage by force onto the platform and when you asked him for his pass, producing his pass and swings, does this appear to you to be the action of a normal person?
A. No, I have never seen it happen before.

QUESTION BY THE COURT

Q. Did you see any evidence that the accused has been drinking?
A. He had been drinking, I could smell it.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

THE PROSECUTION IS CLOSED

SUBMISSION BY THE DEFENDING OFFICER

In both cases the statements from the Provost Corps, there has been no evidence brought out that any order for Pte Dick to get

out of that carriage was ever given. The word used was "asked" In the summary, one man said he requested him to leave, the other provost said that he asked him twice to leave. In my opinion there has been no order given and therefore the man could not fail to comply with an order that was never given.

THE COURT IS CLOSED TO CONSIDER
THE SUBMISSION

THE COURT RE-OPENS

THE SUBMISSION IS DISALLOWED.

DEFENCE

FIRST WITNESS FOR THE DEFENCE

The accused, sworn, states:-

Q. In your own words will you explain to the court what position you held in civil life.

A. Prior to joining the Army I was employed as an Auditor and accountant with E.J. Pugh & Co in Toronto. A firm of chartered accountants. I have my American certificate of Chartered Accountant. I was never articled with this firm.

Q. Were you called up in the Army?
A. No sir, I enlisted of my own free will.

Q. When did you enlist?
A. On the 30 Aug 43.

Q. What was your age then?
A. 32 years, sir.

Q. Are you married?
A. Yes sir, one child.

Q. Where does your wife live?
A. In Toronto, sir.

Q. Are you awaiting repatriation now?
A. Yes sir, as far as I know I am still on strength of Miscellaneous draft No. 28.

Q. Are you anxious to get home?
A. Very anxious sir.

Q. Very briefly outline your army career in respect to your battle experience. You did your basic training, and came over to England and went into action?
A. I arrived in England on 7 May 44, in 13 Jun 44 I arrived on the shores of France and after a few days went into action with the Royal Winnipeg Rifles at Carpiquet. I went through numerous encounters with them, such as Caen Falaise Gap and over the Seine on up the coast of France where I was called on a fighting patrol to punch a hole through to the coast between Bolougne and Cape Grisnez. The purpose of the patrol was to test the strength of the enemy in that particular area and get whatever information we could, through the course of the patrol we drew enemy fire from the vicinity of Cape Grisnez, the platoon officer, an NCO and an OR were struck down by shrapnel. I volunteere to stay behind and look after the wounded, there was another chap who also volunteered with me. We were to get covering fire from a hill back of us but for some reason this protection was never given us and in the course of the time the two men died, the Cpl and the OR, the officer had his leg blown off, it took us 15 to 20 minutes to

FIRST WITNESS FOR THE DEFENCE (CONTINUED)

render first aid to stop the flow of blood. In the course of this first aid an enemy counter patrol was sent out and surrounded us. I don't believe they wished to kill us they wanted us for information. They fired over our head and into the ground around us. The officer stated that it would be better to be taken prisoner as he could get medical attention which he needed. The chap that I was with was of German descent and he could speak German quite fluently and he gave the necessary instructions in German, saying that we wished to surrender, that our officer needed first aid and medical attention. They ordered us to come out but they forced us to leave the officer, saying that they would come back for him later that day, as everything was done for him that could be done at that time and until they could ascertain whether there were any more Canadian troops in the area. We were marched back to a big gun site, I don't know how to describe it. We were then taken and held prisoner in Bolougne. On the 6th day our Artillery laid down a heavy barrage and we were forced to take cover in an air raid shelter, which was very long but the width was very narrow, it was a confined area. The air force immediately the barrage ceased, started to drop bombs some of which dropped on the shelter. This kept up until nightfall of that day. When the bombs hit the air raid shelter several of the Germans were rendered unconcious along with my friend from the extreme concussion. Myself at the time experienced more or less a funny sensation but I didn't actually pass out with severe headaches and heavy ringings. The next morning the Glengarrian Regiment of Canada came and the Germans surrendered to me and my friend and we brought them out to the Glengarrians and the citadel of Bolougne had fallen. They wouldn't let us see the officer but the Commandant had given us his word that they had gone out and brought him in and he had died of loss of blood. They claimed they had endeavoured to give him a transfusion. We marched the prisoners of war back to a POW cage and from there made our way back to our regiment. On reaching our regiment we were informed that the Divisional Intelligence requested our presence to give them what information we could about coastal defence between Bolougne and Cape Grisnez. Our medical officer gave us some attention before we were sent up there and he advised Divisional Intelligence that they should wait a few days until we got over the reaction that this heavy bombing had made, but we volunteered to go up and get it cleared up that day. When we returned to our regiment we were cleared out to CCS who said that they couldn't give us any medical aid but they thought a rest would be alright. I still suffered from severe headaches. They sent us down to Deauville, while down there I had the unfortunate experience of passing out in a hotel lounge while reading a book, I had not been drinking, the medical officer of the leave centre was called in to my assistance and he stated that I was in no fit condition to go back to the front line and I should stay there for further rest. He gave us five days additional to our leave and then he called us in and said he would recommend us to be reboarded. I told him I would rather go back to my regiment that I thought over a period of time I would be alright. I was not feeling too badly. I went back to my regiment, went over the Leopold Canal with them and going over the canal the capok bridge that was over the canal was knocked out by heavy shelling, I was knocked in the canal. On reaching the other side I was thoroughly drenched and we had quite a little difficulty in chasing the enemy out of that particular area so that about four or five days elapsed before I had rest or dry clothes. Consequently I ended up with quinsy, when my temperature reached 102 the medical officer of our unit evacuated me out, I spent a matter of two or three weeks in the hospital with

FIRST WITNESS FOR THE DEFENCE (CONTINUED)

the necessary medical attention, I went through an Infantry holding unit back to my own regiment. We had several little skirmishes until we came to the Rhine, we went through numerous little villages and towns and Cleve and we came under heavy shelling and mortar during the course of which one landed, I would say approximately 20 feet from me, lifting me up, blew me around and knocked me out, unfortunatel the heavy stuff and shrapnel in that shell must have gone up with me, I received a few pieces on my left temple. When I came to my platoon officer was bandaging up my head I told him that I didn't feel too bad except for a numbing sensation, we went on to clean up several houses. That evening I passed out. I woke up in a CCS and ended up in a British General Hosp in a minor surgical ward and after receiving more or less a rest cure I went through the holding unit again. They wished to keep me in this R.C.M. for some more time, I was fed up, felt that I could get better on my own. I came back to the holding unit and I didn't feel as well as I ~~thought~~ had in the hospital. I went to the theatre in Belgium and I passed out in the theatre. The Canadian Provost Corps were called and they took me to 15 CCH in Ghent where I was thoroughly examined and given the benefit of all their medical treatments. The recommended me at once after several weeks in hospital for a medical re-board and said I was not fit for the infantry and in view of my experience as an auditor I would be of more use as a clerk in the pay corps. I was sent to a convalescent depot and there I was categoried to P-3.

On the 17th Nov 45 at about 1110 hrs I received a week-end pass and accompanied by Pte McConnell went to Aldershot. We went to several pubs and consumed a considerable amount of liquor and when the pubs closed we went to a civilian house and continued drinking until approximately 1830 hrs when we went to the weston Lounge public house. I remember having several gins but have no recollection of what happened until I partially came to caused apparently by the pain of my arms being held behind my back. The next thing is waking up in custody and I had no idea of why I was being held or where I assumed that I was being held on a charge of drunkenness. I was paraded before the DAPM of the Provost detn I have no recollection of doing the things with which I am charged. Since I was a prisoner of war in France I suffer temporary mental blackouts for which my category is lowered to P-3 as I said before. My MPM 6 is clear.

QUESTION BY THE COURT

Q. Is that all true?
A. Yes sir.

This is a copy of a neuropsychiatric report of me made by Major Carnot and I ask that it be filed.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP(83 (B).

SECOND WITNESS FOR THE DEFENCE

B.83677 Pte McCONNELL RJ, CD 28 6 Repat Depot, sworn, states:-

On the 17th Nov 45 Pte Dick and myself left camp at 1100 hrs and went to Aldershot and we visited three or four pubs and we were drinking spirits from approximately 1130 hrs to 1400 hrs when the pubs closed. We left the pub and went to a civilian home where we drank beer until the pubs opened at 1900 hrs and drank until 2200 hrs and we left the pub and I tried to get Pte Dick to go home and I couldn't handle him by myself. He was leaning against the building, neither

SECOND WITNESS FOR THE DEFENCE (CONTINUED)

one of us were walking very straight. He was in poor shape. I left him there and went around town trying to find someone else who was on draft with us to give me a hand back to camp, I couldn't find anyone so between 20 minutes to 30 minutes later I returned to the Weston Lounge, he had dissapeared.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

ADDRESS BY DEFENDING OFFICER
ATTACHED

THE COURT IS CLOSED TO CONSIDER IT'S FINDING

THE COURT RE-OPENS

PLEA OF MITIGATION BY DEF OFFR

I REPEAT WHAT I SAID ON THE FINDING AND I ADD THE FOLLOWING: THIS MAN ON CANADA DRAFT SERIAL 28 WHO HAVE BEEN WARNED FOR REPATRIATION ON THE 30th OF NOV AND IT IS HOPED THAT THE SENTENCE OF THE COURT WILL BE SUCH THAT HE WILL NOT MISS THAT DRAFT ON ACCOUNT OF THIS UNFORTUNATE INCIDENT.

THE COURT IS CLOSED TO
CONSIDER ITS FINDING

Aldershot
27 Nov 45

Mr. President,

In summing up this case, may I briefly review the military history of the accused and also all facts put forward by his defence.

Pte. Dick, before joining the army, was employed in accountancy work and held responsible positions with several firms in Canada. He is well educated and of good character.

He joined the army of his own free will and accord in August, 1943. At the time he was 31 years of age, married, had one child. He went into action with the Royal Winnipeg Rifles, 3rd Cdn Div in July 1944. He saw almost continuous action from that time until February 45, a period of 8 months, when he was forced to leave the field due to head injuries sustained. For this injury, his category was lowered to a P3R.

During his months of action, he was taken P.O.W. for 6 days in Sept. 44. As a prisoner he underwent heavy artillery barages and suffered concussion and on the return to his unit reported severe headaches and on one occasion passed out.

He carried on with his unit in spite of this experience and in Feb 45, a mortar shell exploded 10 feet away from him and he received minor fragments on the left side of his head. He was hospitalized and suffered some black outs while in hospital. Category at this point changed to P3r. Suffered black out again in March 45.

From the foregoing we must conclude that the accused has an excellent battle record and despite his first experience of concussion carried on until forced to retire. We must also admit that he definitely suffered from blast injury.

Under the charge of failing to comply with an order, his physical condition aggravated by the excessive drinking in which he indulged put the man in no mental or physical condition to remember or comply with any orders that may have been given. Therefore this man cannot be judged guilty of such an offence.

On the second charge Sec 8 (1) "Striking his Superior Officer being in the Execution of his Office". Is it just to try this man under the above section which is a graver offence when provision is made under Sec 10 (2) or (3) which deals with a less serious offence.

This man by his actions showed that he was resisting arrest, but that in his condition was not mentally or physically responsible for such actions. Therefore is not guilty of this charge let alone the more serious charge.

In conclusion we have shown this man to be of average if not above average intelligence. Are these the actions of such an intelligent man in possession of all his mental and physical faculties? What reason is there for such actions - why would a normal man refuse to leave a train when it had reached its destination? Our contention is that in his condition he was not even aware of the fact that he had reached his destination. This man is very anxious to return to his home. Would he deliberately mar his chances of a speedy return?

By these actions which are so foreign to his makeup, it is the duty of the court to decide whether:

(1) This man was in possession of all his faculties during these actions

or

Was this man suffering from physical disabilities received in action and aggravated by excessive drinking.

Professional opinion points out that he had a definite blast injury and that alcohol would have a severe effect on this injury causing amnesia, loss of memory. Even professional men trained in psychiatry work are not able to judge to what extent a man suffering from such injuries, is responsible for his actions.

We ask the court to bear this fact in mind when judging this man, for fear that we commit a grave injustice.

J. Kerr, Capt.

117

O.F.D.
22 Cdn Gen Hosp

MEDICAL UNIT
DEPARTMENT OF NEUROPSYCHIATRY

NO B 115912 RANK Rfm NAME Dick, L.J. UNIT 6 Repat

DATE 26 Nov 45

REPORT:-

Referred to the M.O. because of possible lapse of memory on 17 Nov 45, after drinking. He is under charge at present - - with striking a Provost and resisting arrest, etc.

This man is 33 years of age, married, in action about 9 months.

In Sept 44, at Bolgme, was under very heavy shelling and bombing and apparently suffered from the effects of blast. Severe headaches and passed out one day while on leave.

In Feb 45, a mortar shell exploded 10 feet away and had some minor fragments on left side of head. Had some definite blasting. Was hospitalized. Had some black-outs while in hospital.

In March 45, while in cinema, black-out, was out for some minutes. Has not been drinking at all.

On 17 Nov 45, was given pass in Aldershot. States that he and friend, from 1130 am till late in afternoon drank mostly gin and some rum. Spent about £8. He has no recollection of getting on the train, or even talking to any Provost. The first recollection of his, is of some one twisting his arms and the pain made him come to. No recollections further till the next morning when awoke in a big cell.

OPINION

This man had a definite blast injury Post Traumatic Syndrome. Board P3R in May 45. Alcohol has a severe effect on any head injury especially. His story that he consumed a large amount, I have no reason to doubt it.

It is my opinion that this man has a definite Amnesia, loss of memory for the period of the afternoon and evening, till the morning of 18 Nov.

.....
Major Carnot.

Certified true copy of original dated 26 Nov 45

Maj Garnot RT
Record Off
6 Can Repat Unit

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B 115912 Private Lester John DICK, CIC, on the strength "1" Wing, No 6 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary is taken on oath:

FIRST WITNESS

For the Prosecution

L 64260 L/Cpl Deagnon J, on strength of No 6 (Area) Provost Coy, C Pro C, London, having been duly sworn states:

I am L/Cpl Deagnon J, No 6 Provost Coy, London. On the evening of 17 Nov 45 at about 2345 hrs, I was on duty at Waterloo Stn in company with L/Cpl Wardhaugh J. One of the RR officials asked L/Cpl Wardhaugh and myself to come and take a Canadian soldier out of the train, as they were unable to do so. We proceeded to the train, we approached the soldier, whom I now recognized and requested him to leave the train. He would not do so, saying there is lot of time. Sufficient force had to be used to remove him off the train. After we had him off the train, we requested to see his pass, which he produced and handed it to L/Cpl Wardhaugh at the same time striking me with his fist on my left shoulder. We immediately put him under arrest and took him to No 6 C Pro C detention, to the NCO in charge, to be detained. We then proceeded to our duty.

Questions by the accused:

Q-1 Do you think I had the full use of my faculties?
A-1 To me, you did appear to have full use of your faculties.
Q-2 Do you believe I had been drinking?
A-2 I'll admit that you might have had a few drinks but did not appear to be drunk.

(L/Cpl Deagnon J)

SECOND WITNESS

For the Prosecution

M 56429 L/Cpl Wardhaugh J on strength of No 6 (Area) Provost Coy, C Pro C, London, having been duly sworn states:

I am L/Cpl Wardhaugh J, No 6 Provost Coy, London. On the evening of the 17 Nov 45 I was on duty at Waterloo Station. At Approx 2345 hrs one of the RR officials asked us to put Pte Dick whom I now recognised, off the train. The train was about to pull out, and Pte Dick would not go out with the Railway Officials. We asked him twice to leave and he refused to do so. We then used sufficient force, to remove him from the carriage. When on the platform, I asked him for his pass. He gave it to me and struck L/Cpl Deagnon on the left shoulder with his fist. We then placed him under close arrest and took him to No 6 detention barracks at Store Street. I then proceeded to my duty.

Questions by the accused.

Q-1 Do you think I was under the influence of alcool
A-1 You had been drinking, but I could not swear you were drunk.
Q-2 What position did you find me in the carriage was I lying down, or sitting up.
A-2 you were sitting up.
Q-3 How could you say I had been drinking?
A-3 I could smell liquor

(L/Cpl Wardhaugh J)

DEFENCE WITNESS

For the Defence

B 83677 Pte Mc Connell R J, on strength of CD 28 No 6 Canadian Repatriation Depot having been duly sworn states:

I am Pte Mc Connell R J on strength of CD 28 No 6 Canadian Repatriation Depot. On the 17 Nov 45, I went down to Aldershot with Pte Dick whom I now recognized at about 1100 hrs. We went into three or four Public Houses and had a considerable amount of liquor. At 1400 hrs when the Pubs closed we went to a civilian house and kept on drinking beer until 1900 hrs. We then returned to the Weston Lounge, and stayed there until 2200 hrs, consuming more liquor. When we left the Pub, I could not get Pte Dick to come back with me, so I went out to find a friend, to help me taking him back to the barracks. I did not find one, and I returned to where I left him, in front of the lounge, and he was not there. I looked around, but could not find him. I then returned to my quarters.

Questions by the accused.

Q-1 In your opinion do you think I was drunk?
A-1 You had too much to drink to have full control of yourself.
Q-2 Why did you needed assistance to take me back to the barracks?
A-2 I was having a hard time with myself and could not be of much assistance to you.

(Pte Mc Connell R J) B 83677

The accused was cautioned as follows: Do you wish to make a statement or to give evidence on oath? you are not obliged to say anything or to give evidence unless you wish to do so but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

The accused makes the following statement:

B 115912 Pte Dick L J,CIC, on strength of CD 28, No 6 Canadian Repatriation Depot having been duly sworn states:

I am Pte Dick L J, CIC, on strength of CD 28, No 6 Canadian Repatriation Depot. On the 17 Nov 45, at about 1110 hrs, I proceeded to receive my week end pass, and on receipt of same, accompanied by Pte Mc Connell R J, went to Aldershot. We consumed considerable amount of liquor in different pubs and when they closed at 1400 hrs we proceeded to a civilian home and continued drinking until approximately 1830 hrs, when we left to return to the Weston Lounge, public house. I remember consuming several drinks of Gin, but from that time on, I have no recollection of what happened until I partially came to, apparently from the pain caused from my arms being held up behind my back. The next thing I remember is walking up in custody and I had no idea of where I was being held. I assumed that I was being held on a charge of drunkenness, until I was paraded before the DAPM of the Provost Detention. I have no recollection of doing or causing any other things with which I am charged. I must tell you that since I was a Prisoner of War in France, I have suffered temporary mental "black outs", for which my medical category was lowered to P 3.

I certify that the foregoing summary of evidence consisting of THREE pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e) and (f) have been complied with.

(J C Tremblay)Lieut
Officer Detailed to take summary

IN THE FIELD
20 Nov 45

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B 115912	Pte	Dick L J	1 Wing, 6 Cdn Repat Depot

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	Nil	Nil times.
For	Nil	Nil times.
For	Nil	Nil times.
For	Nil	Nil times.

Date of first entry in Field Conduct Sheet N/A

Date of last entry in Field Conduct Sheet N/A

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~*3. The accused at the present time is under sentence for~~

~~beginning on the~~ ~~day of~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 10 days in military custody, i.e., Nil days in open arrest, 10 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 33

6. The date of his attestation ~~enlistment or the military service~~ 30 Aug 43

7. The service which the accused is allowed to reckon is 2 years 2 months

8. The accused is in possession of: 1939-45 Star - CVSM & Clasp
France & Germany Star

†State the military operations if any held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	N/A	N/A
In the war substantive rank of	N/A	N/A
In the acting rank of	N/A	N/A

EX B

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through*

(P2967(2)) Wt.30713/3702 50,000 9.43 A.& E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 27th day of November 1945

(R L Johnstone)Capt
OIC, Transient Strength, No 6 CRD
Officer having custody of original

No. B 115912 Name DICK, L.J. Sqn, Battery, or Company — Corps C.I.C. Date of enlistment 30 Aug 43 Badges — Service or Proficiency Pay $1.50 3/17 MFM 6 (AFB 122) 68/P&S/136/1413

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 1 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial with SCC	By whom awarded	Remarks
				Previous sheet destroyed 30 Feb 44					
				NIL					
				Certified true extract from MFM 4.					

(W A Leask) Major
Records Officer
No.6 Cdn Repat Depot.

(PTO)

LIST OF WITNESSES

In the case of B 115912 Pte Lester John DICK

For Prosecution : L 64260 L/Cpl Deagnon J
No 6 (Area) Provost Coy, London

M 56429 L/Cpl Wardhaugh J
No 6 (Area) Provost Coy, London

For defence : B 83677 Pte Mc Connell R J
Misc 28 No 6 Cdn Repat Depot

B 115912 Pte Dick L J
Misc 28 No 6 Cdn Repat Depot

This is to acknowledge that I have received free of charge the following papers in connection with my forthcoming trial by FGCM.

1 Copy of charge sheet
1 copy of summary of evidence
1 list of witnesses

(L J Dick) B 115912

I request the services of Capt Gordon KERR, 3 Wing, No 6 Canadian Repatriation Depot, to defend me at my forthcoming trial by FGCM.

(L J Dick) B 115912

Aldershot, England
20 Nov 45

SK-137

Pte. Dickinson, A.D.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-91548 Pte DICKINSON, A.D. - 1 CASCRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence~~ for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a period of nine (9) months

(Sgd) ..... Judge-Advocate, if any. 7 JUN/45 Date awarded. ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 33, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1) (1. AA 57A. Delete if not used.)

(Sgd) C A Connolly Brig

Date 7 June 45 Commanding B Group CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D-91548 Pte Dickinson, A.D.	9 Jun 45	(W.J. Stewart) Lt-col A/Cond Holding Wing 1 Cdn ASC Rft Unit
P.O. 136 d/11 Jun 45.		

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

OFFICER I/C RECORDS
CDN. A.S.C. REIN. UNIT.

RECORDED AT SHAEF IN AG 100, 5-K-137

AE 19077 17 JUN 1945 R.M.S.

FIELD GENERAL COURT-MARTIAL

CPA86 (In lieu of AFA3) 40/P & B/1600 (6144) 4/388

Convened by Brig A.B. Connelly Comd "B" Gp, CRU dated 6 Jun 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-91548		Andrew Donald	DICKINSON	1 CASCRU

PROCEEDINGS REVIEWED
17 June 45 A J Brady Capt
REVIEWING OFFICER, JAG BRANCH O.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 7 Jun 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.~~(1) Do you object to S/Lt T.S.J. BOUCHERVILLE as shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO, SIR.(2)

(1. RP 110. 2. If no objection, waiting member recires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr~~, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.L. Redman, VD	HQ CRU
Member	Captain	J. BUREAU	1 CGRU
Member	Lieutenant	R.M. BAXTER	1 CASCRU
~~Judge-Advocate~~			
Prosecutor	LT	W.H. HARPER	1CASCRU
Defending Offr	CAPT	G.A. WRY	1CASCRU

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Df p 2.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea ..... (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(D), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any change.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60*(*C*) *; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60*(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP 60*(*C*), *87*(*C*), *91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87*(*C*), *92*(*B*), *and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17*(*E*) *fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO SIR (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement~~ (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) ~~changes~~ his (their) ~~plea(s)~~ on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (2).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B3 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by Complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate effidt.*)

(3). The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will necessarily with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes re Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A A 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans NO SIR (NOTE ATD) (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and other JA, if any~~. (2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provisos, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 120, 182, RP 46-50, 89, 118, 119(A), KR Can 308, 330, Sch Ins, Overseas RD RSW 2303, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D-91548 Private Andrew Donald DICKINSON, RCASC, on strength of 1 Cdn ASC Rft Unit, a soldier of the Canadian Army Overseas, is charged with:-

ARMY ACT
Sec 15 (1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

IN THE FIELD, absented himself without leave from 2359 hours 25 December 1944 until 1650 hours 10 April 1945 when he was apprehended by the Civil Police at Hampstead, N.W.3, London.

TOTAL TIME ABSENT :- 105 days 16 hours 51 minutes.

M.L. Pease

(H.L. Pease) Colonel RCASC
Commanding
1 Cdn ASC Rft Unit

IN THE FIELD
4 JUNE 1945

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

A.B. Connelly

(A.B. Connelly) Brig
Comd "B" Gp
Cdn Rft Units

IN THE FIELD
6 JUN 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(b).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
D-91548	Pte	Andrew Donald	DICKINSON	1 CASCRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 6 Jun 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by CO	1 CGRU
Lieutenant	to be detailed by CO	1 CASCRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Dat 6 Jun 45

A.B. Connelly (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Commanding "B" Op, Cdn Rft Units Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

Medical Officers' Certif.
K.R. (Can) para 557

I certify that I have this morning examined No: D.91548

Ste Dickinson A.P. and in my opinion he is fit to / unfit
(rank) (name)

undergo trial by Court Martial.

Station: No 1 C.A.S. C.R.U.

Date: 7 Jan 45

O Kennedy Capt
(Medical Officer)

CASE OF

D-91528 Private DICKINSON, A.D. 1 CASCRU

PLEA IN MITIGATION

There is quite a long story leading up to the unfortunate act of absence of this man. He joined the Army on 16 Sep 39, volunteering for service overseas. On arriving overseas, in Feb 40, he wanted to become a driver and applied many times for a course and was continuously turned down. Finally he was given a driving test and not having had previous instructions in driving naturally failed and was classified as a non-driver. This went on for some time and finally he did get a driver mechanic 's course. Later on, he also had a motor mechanic's course. In 42, he came back to the RU and took a machinist's course. Having completed that, he went to 41 General Transport Company as a driver. He applied several times for leave and was always turned down; so he took it on himself to have his own leave. When he was on leave he became friendly with a family and when he was away he always used to visit them. Just prior to the time of this absence, he applied for a 48-hr pass at Christmas time but it was turned down. So he took it on himself to take time to go up and visit these people. When he arrived there he had been talking to the girl of the family whom he had seen a good many times and she told him she was in a family way, which was the first that he had heard of it. He was unable to assign pay to her, so he stayed away from camp and went to work to earn some money to look after the girl and the baby. It is very unfortunate that this had to occur but I do believe that in his own mind he was doing the best thing possible under the circumstances. I have seen a letter written by the father of the girl saying that he hoped that this lad will be able to get back soon and do the right thing. The lad himself definitely wants to do that as he is in love with the girl. He realises that he has gone absent and is definitely guilty of same and fully expects to be punished. I do say under the circumstances, taking all into consideration, the sooner this man gets over his punishment and is able to go back to this home and marry the girl the better it will be for all concerned. So, I do hope that the Court will take this into consideration and give the accused a break as much as possible.

SUMMARY OF EVIDENCE

IN THE CASE OF D-91548 Private Andrew Donald DICKINSON, RCASC, on strength of 1 Cdn ASC Rft Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

1st WITNESS (For the Prosecution) Lt A.R. Mumford, RCASC, on strength of 1 Cdn ASC Rft Unit, having been duly sworn states:-

I am Lt A.R. Mumford, RCASC, on strength of 1 Cdn ASC Rft Unit and pursuant to Overseas RO 5352 I produce the following documents relating to the accused, whom I now recognize, which have been read over and shown to the accused and which are attached as Exhibits.

(a) Certified True Copy of AFB 115, Record of the Declaration of a Court of Inquiry, certifying that D-91548 Pte Dickinson, A.D. illegally absented himself without leave from 1 Cdn ASC Rft Unit at 2359 hours 25 December 1944.
Marked Exhibit "A"

(b) Certificate in Accordance with Section 163 (M), Army Act, purporting to be signed by Superintendent R. Newman, Officer in charge of West Hampstead Police Station, certifying that D-91548 Pte Dickinson, A.D. was apprehended at Hampstead, N.W.3 at 4.50 p.m. on the 10th April 1945.
Marked Exhibit "B"

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS

A.R. Mumford
(A.R. Mumford) Lt RCASC

The accused was cautioned as follows, "Do yuo wish to make a statement or give evidence on oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

THE ACCUSED DECLINED TO MAKE A STATEMENT AT THIS TIME

I hereby certify that the foregoing Summary of Evidence consisting of One (1) page was taken down in writing in the Field on this 4th day of June 1945 in the presence and hearing of the accused and that R.P. 4 (c) (d) (e) and (f) have been complied with.

W.H. Harper
(W.H. Harper) Lt RCASC
Officer detailed to
take Summary of Evidence

EXH "A"

IN THE FIELD
4 June 1945

IN THE CASE OF

D-91548 Pte DICKINSON, A.D. RCASC

LIST OF WITNESSES FOR THE PROSECUTION

Lt A.R. Mumford — 1 Cdn ASC Rft Unit

LIST OF WITNESSES FOR THE DEFENCE

N I L

LIST OF EXHIBITS

"A" Certified True Copy of AFB 115, Record of the Declaration of a Court of Inquiry Certifying that D-91548 Pte Dickinson, A.D. illegally absented himself without leave from 1 Cdn ASC Rft Unit at 2359 hrs 25 Dec 44

"B" Certificate in Accordance with Section 163(M) of Army Act, purporting to be signed by Superintendent R. Newman, Officer in charge of West Hampstead Police Station, certifying that D-91548 Pte Dickinson, A.D. was apprehended at Hamsptead NW3 at 4.50 p.m. on the 10 Apr 45.

TO WHOM IT MAY CONCERN

This is to certify that I the accused, D-91548 Pte Dickinson, A.D. have received one (1) copy of Charge Sheet and Summary of Evidence in connection with my forthcoming Trial by Field General Court Martial.

D-91548 Pte Dickinson A.D.

(D.91548 Pte Dickinson, A.D.)

I, the accused, D-91548 Pte Dickinson, A.D., desire the services of a competent officer to defend me at my forthcoming Trial by Field General Court Martial.

Capt Bell

D-91548 Pte Dickinson A.D.

(D.91548 Pte Dickinson, A.D.)

Exhibit A

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

Record of the Declaration of a Court of Inquiry assembled at Blenheim Barracks, Farnborough, Hants on the 16th day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries or Clothing of No. D-91548 Pte. Dickinson, A., 1 Cdn. ASC Rft Unit.

DECLARATION.

The Court declare, that No. D-91548 Pte. Dickinson, A., 1 Cdn. ASC Rft Unit illegally absented himself without leave from Blenheim Barracks, Farnborough, Hants, at 2359 hours on the 25th day of December 1944, that he is still so absent, and that on the 18 Jan 45 he was deficient, and that he is still deficient clothing, equipment and regimental necessities to the value of £4-8-11½ which is 75% of the vacabulary price. as per attached list Appendix "B".

Names of President and Members

(J.J. Morey) Lieut. RCASC
1 Cdn. ASC Rft Unit

(J.F. Crank) Lieut. RCASC
1 Cdn. ASC Rft Unit

Signature of Commanding Officer

CERTIFIED TRUE COPY

Signature of Officer having custody of the Original Record.

(4167) Wt. 57037/1049 60,000 5/44 C.& B.L.P. & P.Co.Ltd. 51-7 Forms/R.113/50

Exhibit B 15/16

Any communication on this subject should quote the date and number on the reverse of this form.
POSTAGE MUST BE PREPAID

METROPOLITAN POLICE.

No. 144A. (Unruled)

"S" DIVISION. 90, West End Lane, N.W.6. West Hampstead. STATION.

21st April, 1945.

REPORT for the information of the Officer Commanding, No.1, Reinforcement Unit, (Provost Corps), C.M.P.Q., 30 Henrietta Street, W.C.2.
R.C.A.S.C., c/o S.I.S.
respecting Pte. D. 91548 Andrew Donald DICKINSON.

*To { S.D. Inspector. / D.D. Inspector.

CERTIFICATE IN ACCORDANCE WITH SECTION 165 (2) ARMY ACT.

I certify that the person whose description is given below was apprehended at Finchley Road, Swiss Cottage, Hampstead, N.W.3., at 4.30 p.m. on the 10th day of April, 1945.

REGIMENTAL PARTICULARS OF SOLDIER referred to above.....
- Number..... D.91548
- Rank..... Private.
- Name..... Andrew Donald DICKINSON.
- Unit..... No.1. R.U., R.C.A.S.C Home Forces.

DESCRIPTION .....
- Age..... 26.
- Height..... 5 feet 7 inches.
- Complexion.... Fresh.
- Hair..... Brown.
- Eyes..... Blue.
- Marks..... Nil.

Signature of officer of Police in charge of Police Station where the above named person was taken on arrest..... [signature]

In charge of West Hampstead Police Station.

[illegible]

* Delete as necessary.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-91548	Pte	Dickinson, A.D.	1 Cdn ASC Rft Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	A.A. Sec 40	5 times.
For	A.A. Sec 15 (1)	4 times.
For	A.A. Sec 11	4 times.
For	A.A. Sec 10 (2)	1 times.

Date of first entry in Field Conduct Sheet 17 Jan 42

Date of last entry in Field Conduct Sheet 18 Apr 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*NXXX

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
Civil Trial	10 Apr 1945 London	Civil Offence - Larceny from Dwelling	2 months imprisonment	Remission earned 20 days

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 2nd day of June 1945

Officer having custody of Regimental Books

M.F.M. 6
(A.F.B. 122)
40/P & S/130 (2637)

No. D91548 Name DICKINSON A.D. Sqn., Battery, or Company Corps R.C.A.S.C. Date of enlistment 16 Sep 39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Battle	16Jan 42	Pte		WOAS (1)Breaking out of barracks AA Sec 10 (2)Neglecting to obey standing orders in that he was improperly dressed outside of Bks AA Sec 11	Lt Burke	3 days C.B. placed under 7 days stoppage of pay	17 Jan 42	Lt-col Vokes	
Field	26Jul 42	Pte		AA Sec 11 Failing to comply with Unit orders i.e. out of billet area without a pass AA Sec 11 Failing to comply with Unit orders i.e. drove WD motor-cycle without crash helmet AA sec 40,WOAS using WD vehicle without proper authority	RSM Walkern NW Sgt Hopkins FH	27 days F.P.	27 July 42	Major WG Lucas	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date (or period) of (of order dispensing with trial	By whom awarded	Remarks
Field	27Aug 42	Pte	11	AA Sec 11 Failing to comply with Unit orders. Out of billets without a pass	Documentary L/Cpl Anderson	28 days F.P.	28 Aug 42	Major WG Lucas	
Field	10Nov 42	Pte	40	Neglect to challenge car approaching his post while on sentry duty AA Sec 40 Improperly dressed	L/Cpl Adcan J. Lt Cook	7 days C.B. 3 extra guards	12 Nov 42	Lt A Innes	
Field	23Dec 42	Pte	40	(1) AA Sec 40 Neglect to the prej etc in that he was involved in an accident & neglected to report same (2) AA Sec 40 Cond to the prej etc in that he did drive a MT vehicle in such a manner as to become involved in an accident.		14 days C.B. 7 days forf PUAI 158(2)			
Field	10Apr 44		15	AA Sec 15(1)AWL from 2230 hrs 10 Apr 44 to 2230 hrs 1 May 44 TTA 20 days 22 hrs 31 mins	Documentary AFB 252	28 days F.P.	12 May 44	Major WH Copeland	Forf 20 days pay

No. D-91548 Name Dickinson, A.D. Regt., Battery, or Company Corps RCASC Date of enlistment 16-9-39 CC Badges Service or Proficiency Pay 3/17 MSM 6 (AFB 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	24 Sep 44	Pte		AA Sec 15 (1) WOAS AWL from 2359 hrs 24 Sep 44 until 1040 hrs 25 Sep 44 Ans 10 hrs 41 mins	Documentary	3 days pay FR&I, 149(2)	25 Sep 44	FM Hearn Lt-col	1 days pay FR&I 149(1)
Field.	19 Oct 44	Pte		WOAS AWL from 0800 hrs 19 Oct 44 until 1005 hrs 19 Oct 45 TTA 2 hrs 5 mins A.A. Sec 15 (1)	Documentary	7 days C.B. 3 days pay FR&I 149(2)	21 Oct 44	Lt-col WH Copeland	
Field	29 Oct 44	Pte		WOAS AWL from 0630 hrs 29 Oct 44 till 2230 hrs 29 Oct 44 TTA 16 hrs A.A. Sec 15 (1)	Cpl Jacobs	3 days pay FR&I 149(2)	31 Oct 44	Lt-col WH Copeland	1 days pay FR&I 149(1)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of or order dispensing with trial	By whom awarded	Remarks
Field	10 Apr 45	Pte		Civil Offence - Larceny from Dwelling	Civil Police	2 months imprisonment	18 Apr 45	Magistrates Court Marylebone London	
				Released from Wormwood Scrubs 1130 hrs 29 May 45 - Remission 20 days.					

CERTIFIED TRUE COPY a.r. Mumford

(A.R. Mumford) Lt & Adm Offr
No 1 Holding Wing HQ
1 Cdn ASC Rft Unit
Canadian Army Overseas
as of 4 June 1945

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10 Apr 45	Pte		Civil Offence - Larceny from Dwelling	Civil Police	2 months imprisonment	18 Apr 45	Magistrates Court Marylebone London	

Released from Wormwood Scrubs 1150 hrs 29 May 45 - Remission 20 days.

CERTIFIED TRUE COPY a.r. Mumford

(A.R. Mumford) Lt & Adm Offr
No 1 Holding Wing HQ
1 Cdn ASC Rft Unit
Canadian Army Overseas
as of 4 June 1945

COUNTER NUMBER 549732

HOUR 1419

OPERATOR'S INITIALS BRW

RELIEVING OPERATOR _____

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

W. 3.

Gen. DICKINSON, A.E.

Correspondence to be PINNED here.

K-42099, Gnr. Dickinson, A.E.
3 C.A.R.U.

Army Form A.3. W. 3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this Nineteenth day of January, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "C" Group, Canadian Reinforcement Units, Canadian Army, Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer;]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~*[I am unable to appoint ~~
~~(1) Three Officers to form the Court;~~
~~(2) A Field Officer as President,]~~
~~for the following reasons, namely: ~~~

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LT/COLONEL	D.L. REDMAN,	Calg.Highrs.

Members.

Rank.	Name.	Regiment.
MAJOR	J.H.R. THOMSON, RCA	3 C.A.R.U.
CAPTAIN	J.G. MOONEY, RCA	2 C.A.R.U.
LIEUT.	J.T. McEVOY, RCA(Waiting Member)	2 C.A.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

Signed [illegible] Brigadier,
Commanding "C" Gp. Cdn. Reinf. Units.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
K-42099 GNR. DICKINSON, Albert Edward, (R.C.A.) 3 C.A.R.U.	FIRST CHARGE A.A. Sec. 15(1)	Guilty	Guilty Sentence To undergo detention for a period of One Hundred (100) days and to be dealt with by stoppages of pay until he has made good the sum of $7-10-9 the expenses of his apprehension 20 Jan 1943	Confirmed

See Charge Sheet Attached.

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) Brigadier, (Signed)
Commanding 2nd Cn Gp Udn Reinf Units.
Convening Officer (c) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 20th day of January 1943 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses
* (3. ~~The interpreter~~)
* (4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 20th day of January 1943

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify~~ that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further order.~~)

Signed this 21st day of January 1943

Confirming Officer.

Promulgated and extracts taken in the case of K-42099 Dr. Dickinson A. E.

(a) (Dated) 25 Jan 43-10-19 (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, K-42099, Gunner Albert Edward DICKINSON, "P" Training Wing, No. 3 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

1st Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

In that he

at Huron Camp, Bramshott, Hants, illegally absented himself without leave from 0630 hours 23 Nov 1942 until surrendering himself to No.3661436 L.C. Crook E.J., at Stockport Road Arcwick, Manchester, at 1000 hrs 6 Jan 1943, incurring costs of apprehension and return in amount of Two pounds, Ten shillings and Nine pence (£2:10:9). Total absence 44 days, 3 hours and 30 minutes.

Huron Camp,
Bramshott Hants.,
16 Jan 43.

(R.M. Bishop) Lt. Col.,
A/Commanding Officer,
No. 3 Cdn. Arty. Rein. Unit.

To be tried by Field General Court Martial

Brigadier,
Commanding "C" Group, Cdn. Reinf. Units.
(Convening Officer)

Bordon, Hants.,
19 Jan 43.

20 Jan 43

This is to certify that I have examined on this date, 20 Jan 43, K 42099 Gunner Dickinson, A.E., and found him fit to undergo trial by Field General Court Martial.

T Dalrymple Capt
Medical Officer No. 3 C.A.R.U'

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT 2 C.A.A.U. SUPERIOR CAMP LUDLSHOTT, HANTS.
ON THE 20th DAY OF JANUARY 1943

The accused K.42099 SGT. DICKINSON A.E. Unit. 3 C.A.A.U.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 & 23.

The accused is brought before the Court.
The Medical Certificate is presented to the Court.
The order convening the Court is read by the President and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President A/C.S.O. D.A. RAYMAN ...Unit. H.Q. C.A.A.U.

Members. MAJOR. H.T.R. THOMSON. Unit. 3 C.A.A.U.

CAPT. T.G. MORRIS ....Unit. 2 C.A.A.U.

The officers under instruction are duly sworn:-

LIEUT. MAJOR. W.T. ANDREWS. 2CAAU
WSHARG LIEUT. R.F. MACKWAN ...Unit. "
2CAAU. LIEUT. G.E. EVANS. "
A/C. MCCALLUMAN ..Unit. "
LT. McKAY

Prosecutor LIEUT. G.T. TOOK .....Unit. 3 C.A.A.U.

Defending Officer LIEUT. S. LASH .....Unit. 3 C.A.A.U.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B)
The Summary of Evidence is read.
The Prosecutor is sworn and produces MFB 355 ~~MFB 356~~ and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(A) makes a statement in mitigation of punishment
~~(B) calls witnesses as to character~~
~~(C) calls witnesses in mitigation of punishment~~
(D) addresses the Court by his Defending Officer

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Accused's Statement attached hereto.

Statement by the Defending Officer.

This man has a clean sheet after long service, and I certainly think that should be taken into consideration when awarding sentence.

(OVER)

Sir.

I mobilized with the B.C. Dragoons on Aug 28 1939 which I had belonged to in peace time for 2½ years. In Dec 1939 I transferred into the 1st Bn Vancouver Coast Brigade in which I stayed until Jan 1941, I then came to England with reinforcements and I went to No 1 C.R.H.U. I qualified as field gunner and was drafted to Colchester in May 1941 with the 1st Bn L.S.A. Regt. and was with the Regt. until I got sick and went to the hospital in Sept 1942 and came here to No 3 C.H.R.U. in Nov 1942.

I had passed all the tests that they had given me in No 3. C.A.R.U. before I went A.W.O.L.

During all this time I have not had any crimes except for the 3 days C.B. and one day stoppage of pay I received two years ago for overstaying a pass a few hours.

I don't really know what made me go A.W.O.L. this time but I was very much fed up with being away from my unit

K4:099 Gnr. C. Dickinson.

SUMMARY OF EVIDENCE IN THE CASE OF
K-42099 Gunner DICKINSON, A.E.,
"A" Battery, "P" Training Wing,
No. 3 Cdn. Arty. Rein. Unit.

The Commanding Officer directs that the evidence be taken on oath.

1st Witness for Prosecution

Capt. J.A. Biggar, R.C.A., Pres. of Court of Inquiry.
Lieut. A. Nobleton, R.C.A., Member of Court of Inquiry.
Lieut. W.C. Sorby, R.C.A., Member of Court of Inquiry.

I, Capt. J.A. Biggar, R.C.A., the officer taking this Summary of Evidence, certify that owing to the loss of time and expense involved, the attendance of these witnesses cannot, in my opinion, be readily procured.

J.A. Biggar Capt

I now produce and read to you, a Certified true copy of the Declaration of a Court of Inquiry, held at Huron Camp, Bramshott, Hants., on the 14th day of December 1942 which declared you to be absent without leave from 0630 hours on the 23rd day of November 1942 and still absent at 0630 hours on the 14th day of December 1942. This Declaration is marked "A" and annexed hereto.

The accused does not require the presence of these witnesses for the purpose of cross-examination.

2nd. Witness for Prosecution

Major Rowley, D.A.P.M., Headquarters, East Lancashire District Provost Coy., Drill Hall, Ardwick Green, Manchester.

I, Capt. J.A. Biggar, R.C.A., the officer taking this Summary of Evidence, certify that owing to the loss of time and expense involved, the attendance of this witness cannot, in my opinion, be readily procured.

J.A. Biggar Capt

I now produce and read to you a "Certificate of Surrender under Section 163 (1) (j) A.A. dated at Headquarters, East Lancashire District Provost Coy., Drill Hall, Ardwick Green, Manchester, on the 6th day of January 1943, purporting to be signed by the said Major Rowley, stating that at 1000 hrs on the 6th day of January 1943, you surrendered yourself to No.3861438 L.C. Crook, E.J., at Stockport Road Ardwick, Manchester. This Certificate is marked "B" and annexed hereto.

The accused does not require the presence of this witness for the purpose of cross-examination.

5-4-43/10

B

CERTIFICATE OF SURRENDER UNDER SECTION 163 (1) (3) A.A.

I, Major J.J.Rowley certify that Number K42099 (rank) Gnr

(name) Dickinson A.E. of Coy. ....Bn. The No.3 C.A.P.U.

Canadian Forces Regiment, surrendered himself to Number 3041430 (rank) ....

(name) Cpl. Corps of Military Police, at 10.00 hours on

the 7th day of January 1943. as a deserter (or absentee without

leave.).

J.J.Rowley Major.

A.P.M. East Lancashire District.

Headquarters,
East Lancs. District Provost Coy.,
Drill Hall, Arlwick Green,
Manchester.

Date. 8th January 1943

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. K42099 Rank Gnr. Name Dickinson, A.E. Unit 3 C.A.R.U.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Manchester

Date	Particulars	Amount		
14 Jan 43	Escorts return fare from LONDON To Manchester	1	8	2
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners faze from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		8	6
	Total £	2	10	9

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-55
40/P & S/483

No. K42099 Name DICKINSON, A.E. Sqn., Battery, or Company

Corps R.C.A. Date of enlistment 18-10-39 G.C. Badges

Service or Proficiency Pay

Character

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No. 1

Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				Certified true copy J.A. Biggar Capt. (J.A. Biggar) Capt., R.C.A. Adjutant, "P" Training Wing, No. 3 C.A.R.D.					

(P.T.O.)

M.F.B. 153
22M—5-41 (372-2)
H.Q. 1772-99-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K 42099	Gunner	BICKINSON, Albert Edward	No. 3 C.A.R.U.

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets or Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Forces Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since completion of six Months service since enlistment or appointment
For A.A.Sec.15(1)	Nil times	One (1) times
For	times	times
For	times	times
	times	times
		times

~~Number of sentences of soldiers or duties stoppages~~

~~These entries are in the regular sheets of the accused.~~

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

~~The accused has not been previously convicted.~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under section 42 of the Air Force Act / Army Act, and dispensations with trial under A.A. 75, except such as are mentioned in the Schedule, are subject to the statements~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence of~~ ~~imprisonment~~ ~~for~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 18 days in military custody, making a total of 18 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~recorded account~~ attestation paper is 22 years, 167 days

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 16 October 1939

7. The service which the accused is allowed to reckon towards discharge is 3 years 94 days

8. The accused is entitled to reckon 3 yrs 94 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to ~~wear~~ military decoration, or ~~has been recommended for~~ military reward ~~for~~

~~is entitled to. State any or have forfeited or stopped.~~

10. ~~If the accused is a warrant officer:~~ ~~The accused holds~~ ~~a current certificate of~~ ~~Character~~ ~~Proficiency~~ ~~and~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force dated ..... unit ..... and in his regiment (or corps) the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reductions to the present date:—

In the rank of ..... Date of promotion.
..... years.
In the rank of .....
..... years.
In the rank of .....
..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused Number ..... Rank ..... Unit ..... Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which Convicted	Sentence or Award of Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of January 1943

(A.K. Parker) Capt.
Records Officer, CARU

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

HURON CAMP
No. 3 C.A.R.U.

16 Jan 43.

Commanding Officer,
No. 3 C.A.R.U.

F.G.C.M.

1. Reference my forthcoming trial by Field General Court Martial. It is respectfully submitted that Lieut. J. Lash, R.C.A., be appointed as my Defending Officer.

K-42099 Dickinson A.E.

K-42099 (Dickinson, A.E.) Gnr.

1067

Pte. Mackey, W. H.

"G"

CHARGE SHEET

The accused A 11286 Private William Hugh DICKEY, The Perth Regiment (Motors), a soldier of the Canadian Army Overseas,

is charged with:

First Charge
Sec 18 (4)
Army Act.

WHEN ON ACTIVE SERVICE STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he

in the Field on 17 Nov 42 stole a pair of shoes the property of A 11547 Private Hanagan, James, The Perth Regiment (Motors) a person subject to Military Law.

Second Charge
(Alternative)
Sec 40
Army Act.

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field on 17 Nov 42 was improperly in possession of a pair of shoes the property of A 11547 Private Hanagan, James, The Perth Regiment (Motors).

Approved pursuant to K R (Can) 540 and Overseas R.O. 2223
26 Nov 42 [illegible] Judge Advocate Major

In the Field
23 Nov 42

(R L Tindall) Major
A/Comd Perth R

To be tried by F.G.C.M.

NOV 27 1942

Brigadier
Commanding 2nd Cdn. Armd. Bde.

W. Burton major

MEDICAL OFFICERS CERTIFICATE

K.R. (Can) Para 572

I certify that I have this morning examined

No: A 11286 Pte DICKEY W.H.

of PERTH Rgt (M)

fit and in my opinion he is
~~unfit~~ to undergo trial by Court-Martial

Date 27/XI/42
0900 hrs

W. Burton Capt.
Medical Officer.

5

Trial of A-11286, Pte.William Hugh DICKEY, Perth Regiment (Motors).

Held in the Field on 27 November 1942.

PRESIDENT:

Major G.A.Burton, 3 Cdn Armd Regt (GGHG).

MEMBERS:

Capt. L.B.Hill, 5 Cdn Armd Regt (8NBH).
Lieut.J.S.Leefe, 68 Lt A A Bty RCA.

JUDGE ADVOCATE:

Major N.C.Fraser, ADJA, HQ 5 Cdn Armd Div.

The order convening the Court, the charge-sheet, and the summary of evidence are laid before the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor:--Lieut.R.W.Mitchell, Perth R (M).

Defending Officer:--Capt.C.H.Swartz, Perth R (M).

The order convening the Court is read in the hearing of the accused.

The accused does not object to the President, or any member of the Court.

The Court, the Judge Advocate, and the following officer under instruction, are sworn:--

Capt.W.M.G.Wilson, 13 Lt Fd Amb RCAMC.

The accused does not object to K-57793, S/Sgt.J.R. Mahood, CMSC, HQ 5 Cdn Armd Div, acting as shorthand writer.

The shorthand writer is sworn.

The accused answers his name and number, and is arraigned on the charges, charge-sheet marked "C" signed by the President, and annexed to the proceedings.

The accused pleads not guilty to both charges.

The accused does not require an adjournment.

P_R_O_S_E_C_U_T_I_O_N

The Prosecutor declines to make an opening address.

The Prosecutor proceeds to call witnesses.

WITNESS FOR PROSECUTION

A-11547, Pte.James Hanagan, Perth R (M), sworn, examined by the Prosecutor:

6

Q. 1. What is your number, rank, name, and unit?
A. 1. A-11547, Pte.Hanagan, James, "C" Coy, Perth R (M).

Q. 2. Where are you billets?
A. 2. 20 Palmeira Sq.

Q. 3. That is this building?
A. 3. Yes.

Q. 4. What do you know with respect to a pair of shoes that the accused is charged with stealing?
A. 4. What do you mean?

Q. 5. Did you have a pair of shoes?
A. 5. Yes.

Q. 6. Where were you on Tuesday, 17th Nov?
A. 6. I was on the training area.

Q. 7. And when did you return from the training area?
A. 7. On the 18th around 4.30 or 5.00 o'clock.

Q. 8. What, if anything, did you find when you returned?
A. 8. When I returned I went in to shave and then went in to see if my shoes were there and they weren't.

Q. 9. Where had you kept your shoes?
A. 9. On the shelf in the clothes closet in my room.

Q. 10. When you found that the shoes weren't there what did you do?
A. 10. Looked around the house, through the rooms, to see if could see anything of them?

Q. 11. Did you locate them?
A. 11. No.

Q. 12. What did you do next?
A. 12. I let it go until next morning, on the 19th I went down to the pawnshop.

Q. 13. Which pawnshop did you go to?
A. 13. Marks, 113 Church Road.

Q. 14. Why did you go there?
A. 14. It is fairly popular, most guys are pawning their stuff there, more of a hunch more or less.

Q. 15. And when you got there what did you find?
A. 15. Found my shoes on one of the shelves there.

Q. 16. Are those the shoes (handing witness a pair of shoes)?
A. 16. Yes.

Q. 17. How do you identify them as your shoes?
A. 17. By the regimental number inside of them.

Q. 18. And what is that?
A. 18. A-11286.

Q. 19. And those are the shoes are they that you saw on the shelf in the pawnshop?
A. 19. Yes.

Shoes tendered the Court and the Defending Officer, no objections, admitted in evidence as Exhibit "H"

Q. 20. What did you do as a result of seeing your shoes there?
A. 20. When I saw that they were mine I took my paybook and compared the number on the paybook with the shoes.

Q. 21. After leaving the pawnshop what did you do?
A. 21. I went over to the Orderly Room and just before I got in the door I met the Sgt-Major.

Q. 22. I want you tell your story from here on of what you did.
A. 22. After that I went to see Dickey.

Q. 23. And what took place between you and Dickey?
A. 23. I told him about the description I got at the pawnshop meeting his description, and after a very short conversation he asked me how much the shoes were worth and I said "ten shillings" and he said "just between you and me if it don't go any further I will get you the ten shillings? When I met Dickey I told him that I got a description from the pawnbroker that men him, then there was a brief pause there and he says "It was me that sold the shoes but I never stole them?

Q. 24. Is that all the conversation that took place at that time?
A. 24. Yes.

Q. 25. Did you get the ten shillings?
A. 25. Not right then, I got it after dinner.

Q. 26. What did you do?
A. 26. I went up and got the shoes back.

Q. 27. Did you give the accused permission to take your shoes?
A. 27. No.

Q. 28. Did you give any person permission to take your shoes?
A. 28. No.

Cross-examination:

Q. 29. When did you last wear the shoes in question?
A. 29. I wore them last Saturday was the last time, that would be 14th Nov.

Q. 30. Saturday evening?
A. 30. Afternoon and evening.

Q. 31. You came in at night on Saturday, what did you do with the shoes?
A. 31. Took them off and put them on the shelf in the closet.

8
Wab.

Q. 32. Did you see them on Sunday?
A. 32. Yes, took them out and shined them.

Q. 33. Did you wear them on Sunday?
A. 33. No.

Q. 34. Did you wear them on Monday?
A. 34. No.

Q. 35. Did you see them on Monday?
A. 35. Yes, when checking my stuff for the scheme next day.

Q. 36. What time would that be?
A. 36. Monday night.

Q. 37. You definitely saw the shoes on Monday night?
A. 37. Yes, they were on top of my small pack.

Q. 38. Is that the last time you saw them?
A. 38. Yes.

Q. 39. Did you see Pte Dickey with the shoes at all?
A. 39. No.

Q. 40. Do you know anybody that did?
A. 40. No.

Q. 41. Explain again why you went to the pawnshop.
A. 41. The most popular place for selling stuff.

Q. 42. Did you have any reason for believing the shoes were there?
A. 42. No, just a hunch is all.

No re-examination:

Examined by the Court:

Q. 43. You stated that when you got back from the scheme you went to see if the shoes were there; why did you go to see if the shoes were there?
A. 43. I was in shaving and heard Dickey mention he had had a package of cigarettes stolen off him and then thought of my shoes and took a look and they weren't there.

By the Judge Advocate:

Q. 44. You said that you got ten shillings after dinner, from whom did you get it?
A. 44. Pte.Dickey.

Q. 45. At what time did you have this first conversation with him?
A. 45. I couldn't swear to the time but it was before dinner.

Q. 46. At the time of the first conversation had any arrangements been made as to when you were to get the ten shillings from him?
A. 46. To get it right away, but the party where he had his money left, wasn't there, so we let it go till after dinner.

Q. 47. You say the party wasn't there, did you go with him?
A. 47. Yes, went down to the restaurant to tea and it was right close to it.

Q. 48. Was the party a civilian that you went to see?
A. 48. I couldn't say.

Q. 49. Where did you go, to a barracks?
A. 49. Just a couple of blocks down the road to a tea shop, I stayed in the tea shop and he went up to get the money.

Q. 50. Did he give you any explanation as to why he was going to get the money from this particular place?
A. 50. Said he was going to get the money to give me the ten shillings.

Q. 51. Was he going to borrow it or was it money of his own, did he tell you?
A. 51. He didn't tell me.

Q. 52. Did you have any further conversation with him while on the way to or from the tea shop about how he came to sell your shoes?
A. 52. I can't swear to that.

Q. 52. You must remember that, it is very important we get all the evidence you are able to give regarding these conversations; after all, Dickey is here charged with a serious offence and the Court is very anxious to have anything that will shed light on it.
A. 52. He had already told me once that he had sold the shoes but he never stole them, someone had given them to him.

Q. 53. I understand from your evidence he said that and then he said if you would keep it to yourself he would get you back the ten shillings, is that correct?
A. 53. Yes.

Q. 54. You say that afterwards you and he went to a tea shop and that he went out to get the money?
A. 54. Yes.

Q. 55. And found the party was apparently not at home?
A. 55. Yes.

Q. 56. During all that time did you have no discussion about the stealing of the shoes or the money?
A. 56. I don't believe we discussed that at all.

Q. 57. You don't recall any other conversation at all relating to either the shoes or the money during that trip down there and back?
A. 57. I would not want to swear to it.

Q. 58. After he went out and came back without the money, what did he say?
A. 58. Said the party was not in, he would get it for me later.

Q. 59. Then what did you do?
A. 59. Went to dinner, and after dinner was getting a little impatient, so took a walk down to the shoemaker's shop, and went up to the shack with Dickey while he washed up, and I went up and stayed while he went down to the place and got the money.

Q. 60. And what happened?
A. 60. I stayed in the Y recreation room waiting for him to come back.

Q. 61. How long was he gone?
A. 61. Less than a half hour.

Q. 62. Then what did he say when he came back?
A. 62. Just stayed there and had a feed and changed a pound note and he gave me the ten shillings is all.

Q. 63. Was it all done in silence?
A. 63. We never discussed the shoes at all.

Q. 64. I asked you what conversation you had at that time?
A. 64. I don't remember any conversation, just ordinary conversation.

Q. 65. Do you remember any conversation you had at that time?
A. 65. Do you mean after dinner?

Q. 66. Yes.
A. 66. Just that I went down to the shoe repair shop and he said he would go up to that place and he would see if they were home to get the money.

Q. 67. And what did you say?
A. 67. Most of the conversation we has on the way out of the workshop on the way up town he asked me if I would like to go to a tea an old lady was putting on up the stret in the afternoon, told me to wash up and come, the only conversation we had.

Q. 68. What did you say to that?
A. 68. I said I didn't like going to those kind of parties.

Q. 69. Is that all the conversation you had?
A. 69. All I can remember.

Q. 70. Are you and Dickey billeted in the same house?
A. 70. We are billeted in the same room.

Q. 71. How many others billeted in that room?
A. 71. There are five.

Q. 72. Five besides the two of you?
A. 72. Five including the two.

Q. 73. Have you known Dickey very long?
A. 73. I have known him nearly ever since I have been in the Army, over three years.

Q. 74. Have you been accustomed to lend things to him or borrow them from him?
A. 74. No, since we moved to this house is the closest I have slept to him, I mean in the same room.

Q. 75. Is it a common practice for people to borrow things to pledge or sell?
A. 75. No.

Q. 76. Did you ever lend articles to Dickey or borrow them that you can remember?
A. 76. I borrowed a package of cigarettes from him is about all I ever borrowed off him.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P.83 (B).

The witness withdraws.

2d WITNESS FOR PROSECUTION — Frederick William Dench, sworn, examined by Prosecutor:

Q. 77. Will you tell the Court your full name and occupation?
A. 77. Frederick William Dench, pawnbroker's assistant, employed by B.Marks, 113 Church Road, Hove.

Q. 78. Can you identify the accused?
A. 78 Yes.

Q. 79. Would you indicate him to the Court?
A. 79. (Witness points to accused).

Q. 80. Do you remember seeing the accused recently?
A. 80. I saw him last Tuesday week.

Q. 81. And where did you see him?
A. 81. In the shop.

Q. 82. Will you tell the Court what occurred on that occasion?
A. 82. He offered me the shoes in question and wanted to sell them.

Q. 83. Can you identify those shoes (handing witness Exhibit "H")?
A. 83. These are the shoes.

Q. 84. How can you identify those shoes?
A. 84. Just recently been half-soled, new tips, and there is a number inside.

Q. 85. What did you do at that time?
A. 85. I purchased them from him for seven shillings.

Q. 86. Did anything else occur with reference to these shoes?
A. 86. Not until Thursday when omebody came in by the name of Hanagan.

Q. 87. Did Hanagan do anything when he was in your shop?
A. 87. He came in the shop and recognized the shoes he came in on business purposes.

Q. 88. How did Hanagan identify himself?
A. 88. Well after I showed him the shoes he showed me his paybook.

Q. 89. And you checked his paybook?
A. 89. I checked the number that was in his paybook.

Q. 90. And is that the same number as is in the shoes?
A. 90. I recognize the number as that.

Q. 91. Did you see Hanagan again?
A. 91. He came in the shop on the afternoon.

Q. 92. And what did he do on that occasion?
A. 92. He purchased the shoes and took them away.

Defending Officer admits that the defence do not question the matter of identification of the accused by the witness.

Cross-examination:

Q. 93. Did you say that Hanagan came in to see you on business?
A. 93. Yes.

Q. 94. That was his reason for being in the shop?
A. 94. Yes.

No re-examination.

By the Judge Advocate:

Q. 95. Will you tell the court as closely as you can recall just what conversation you had with the accused when he came in to dispose of the shoes?
A. 95. He told me he wanted to dispose of the shoes, recently paid seven shillings to have them half-soled, were now too tight for him, winter coming on, was wearing thick socks, and wished to dispose of the shoes.

Q. 96. Did you get his name?
A. 96. No.

Q. 97. And was it an outright sale?
A. 97. An outright sale.

Q. 98. I notice you said this shop where you work is a pawnbroker's?
A. 98. Yes.

Q. 99. Do you both purchase and loan on used articles?
A. 99. Yes.

Q. 100. When goods are purchased like this what practice is followed with respect to them, do you offer them for sale immediately?
A. 100. Put them in stock and up for sale.

Q. 101. Do people ever come back and want to buy them back again?
A. 101. Oh! There are occasions, yes.

Q. 102. When Hanagan came in your shop you said he came in on business?
A. 102. Yes.

Q. 103. Did the business on which he came in to the shop solely have to do with the shoes in question?
A. 103. Yes.

Q. 104. In purchasing second hand articles like this don't you usually make a record of whom you buy them from?
A. 104. No.

Q. 105. It is only in the case of pawned articles that you are required to make a record?
A. 105. Yes.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83 (B).

The witness withdraws.

The Prosecutor has no more witnesses.

The Prosecution is closed.

D_E_F_E_N_C_E

R.P.40(A) and (B) and Note 2 to R.P.40 complied with. The accused applies to give evidence himself as a witness, and to call two witnesses as to character only.

1st WITNESS FOR DEFENCE — A-11266, Pte.William Hugh Dickey, Perth R (M), the accused, sworn, examined by Defending Officer:

Q. 106. Will you tell the Court how you came to have these shoes in your possession?
A. 106. Can I use the shoes for a minute please? (Witness handed Exhibit "H"). Between 4.30 and 5.00 o'clock, Tuesday, Nov 17,1942, I was up town buying some small heels of civilian shoes for to fix some of the boys' shoes which were going on seven days' leave, which is my job in the company. Coming along, smoking a cigarette I meets this fellow from the Perth. He said "Give me a light?" I said "Sure" He says "I am broke, I want to go to a dance, I have a pair of shoes I want to sell" I says to him "What do you want for them?" He says "Seven shillings" Well it is a pretty poor pair of shoes that is not worth seven shillings, and saw they had been fixed up. So I gave him the seven shillings. All I wanted was my own money back so I went down to the pawnshop and says "Here's a pair of boots here, they aint no good to me, just had them fixed, want to sell them" "All right" he says "I'll give you seven shillings" I said "All right" and sold them to him. Went back, never thought anything of it, some of the fellows come along and say "Can you get me a pair of shoes Dickey, I want them for a dance" I have got two or three

pairs fixed up, one pair Sgt Cameron has got them now.

Q. 107. Do I understand that the chap accosted you on the street and in the course of conversation offered you the shoes for sale?

A. 107. Yes.

Q. 108. Subsequent to that did you decide that you would get your money back; was that your idea in selling these shoes?

A. 108. Yes.

Q. 109. Do you know who the chap was that had the shoes?

A. 109. No, I don't know the fellow's name at all.

Q. 110. But did you recognize him as a Perth?

A. 110. Yes, he was wearing a Perth Div Flash.

Q. 111. Are you accustomed to handling shoes?

A. 111. Yes.

Q. 112. What is your occupation with the unit?

A. 112. Company shoe repairer.

Q. 113. Will you explain to the court what happened later on when you were accosted by Hanagan.

A. 113. On the morning of 19 Nov 42 I was down at the regimental shoemaker with L/Cpl Seward. He says to me "Have you seen Hanagan?" I said "No" He said "He is looking for you" I said "All right" I met Hanagan about half way up the street from Church Rd. He says "I was down at the hock shop this morning and found my clips" I said "Oh!" He said "I spotted my shoes down there" I said "Yes" and he said that "the old fellow down there gives me the description of you, a man around 30 or 35 with a weatherbeaten face" I said "Yes, how much is he charging you for the shoes?" He said "ten bob" I said "Look, Jimmy, I may have sold those shoes but between you and me don't let this go any farther, I don't want you in trouble or myself in trouble, I will get you the ten shillings, you come with me" I went over to the house of a young lady I have met since coming here, go with her a lot. On payday I drew from the Paymaster £3-10-0, as I was going on a week-end. I asked her "Tonight would you look after some money for me, please?" She said "All right" I gave her £2-10-0, the rest used for going to a show, theatre, never went to a dance with her yet and we haven't been in a beer parlour more than three times I can safely say since we landed in Brighton. I says to Hanagan "Come with me, I will get you the ten bob" I goes over with Hanagan and he goes down to the little snack bar on Brunswick St., West, and I goes to the door and knocks and nobody there. I goes down and tells him "they are not home, I will come back in the afternoon."

The girl works at Boots and her mother goes up town during the day. And I went back and was working and he came to me and said "Can you get me that?" and I said "Yes, I will go and have a wash and run over" So went upstairs, washed myself and put my tunic on and popped over to Brunswick St. West, No. 58, and got a pound. I ran down to the Y.M. on Church St. here or Church Rd. and changed the pound, got two teas and a couple of cakes and gave Hanagan his ten shillings.

Q. 114. When Hanagan mentioned that he had found his shoes in a pawnshop and believed they had been pawned by you, did you offer to get them back for him?

A. 114. I didn't want to see him out the money for his shoes. I understood he paid a pretty fair price for them afterwards. Didn't want to get anybody in trouble. I slept a few beds from him in Stratford in old 10 Platoon when I was a Cpl. and I have been in the same Coy with him ever since.

Q. 115. Have you ever held any positions of trust in the regiment?

A. 115. How do you mean?

Q. 116. Have you ever been employed in this regiment in what would be called a position of trust?

A. 116. Yes.

Q. 117. When would that be?

A. 117. August 14, 1940, I lost my stripes, I went and batted for Capt.Eadie, in the meantime I was doing waiter in the Officers' Mess which I done for a little while and the officers seemed to think I was doing a good job and I went in the bar and was in there until we moved to Hamilton and was never out.

Q. 118. Have you ever served in the army previous to your enlistment with the Perth Regt?

A. 118. Yes, six years with the Royal Signals, 1923-1929, Maresfield and Wiltshire.

Q. 119. Were you awarded any badges for good conduct with the Imperial Army?

A. 119. Yes, two.

Q. 120. Five years unbroken good service?

A. 120. Yes.

Q. 121. When did you join the Perth Regt?

A. 121. Sep 20, 1939.

Q. 122. Have you ever held rank above that of Pte?

A. 122. Yes, I am not quite sure of the date as L/Cpl., I went on to A/Cpl. and at a later date confirmed corporal.

Q. 122. How long did you maintain your stripes?

A. 122. Till Aug 14, 1940.

Q. 123. Are you in possession of any awards of good conduct in this war?
A. 123. Yes, one.

Q. 124. Would that be two years good service in the regt?
A. 124. Yes.

Cross-examination:

Q. 125. On 17-18 Nov how many men were in the billets occupied by you and Hanagan?
A. 125. One downstairs and three upstairs.

Q. 126. And where was the remainder of the men?
A. 126. I couldn't tell you.

Q. 127. Were they out of billets?
A. 127. I couldn't tell you.

Q. 128. Isn't it true that the Coy was out on schemes those two days?
A. 128. Yes.

Q. 129. And they didn't sleep here?
A. 129. Yes.

Q. 130. Where did you meet this man from the Perths that you speak about?
A. 130. Church Rd, that is Church right here, on the corner.

Q. 131. You say you didn't know him?
A. 131. No.

Q. 132. You haven't seen him since?
A. 132. No.

Q. 133. Would you recognize him if you saw him?
A. 133. I don't know whether I would or not.

Q. 134. Have you made any effort to locate him?
A. 134. Since Tuesday I have been in the guard room.

Q. 135. How many days prior to Tuesday were you free to go about?
A. 135. Saturday, Sunday, and Monday.

Q. 136. What about Friday?
A. 136. Friday afternoon I was on charge.

Q. 137. Do you go about and try and locate this man?
A. 137. I have walked around during the week-end but couldn't go very far as was under open arrest which just permitted the Coy lines.

Q. 138. Did you ask permission to try and locate this man?
A. 138. No.

Q. 139. Why not?
A. 139. Never took thought of that.

Q. 140. Don't you consider that that would be the logical thing to do.

A. 140. I didn't at that time.

Q. 141. How much did he offer to sell these shoes for?
A. 141. Seven shillings.

Q. 142. What would you say would be the value of those shoes?
A. 142. Shoes like that are differe nt and hard to tell the price of a pair of shoes, several shoes like that in windows, can take you to three places where shoes pretty much like that and there is a difference of 7/6 in a pair of shoes from a pound to 7/6.

Q. 143. Do you consider this a good pair of shoes?
A. 143. No.

Q. 144. Didn't you consider it suspicious that he would offer to sell a pair of shoes like that for seven bob?
A. 144. No.

Q. 145. Do you go about buying shoes from everybody you meet?
A. 145. Have bought shoes in pretty poor shape from civilians and fixed them.

Q. 146. Had these been half-soled and tipped before you bought them?
A. 146. Yes.

Q. 147. How much would a half-sole and tip bob cost.
A. 147. One place 7/6, one place on Western Rd charges for a half-sole alone 6/.

Q. 148. Don't you consider these shoes worth much more than seven bob?
A. 148. Yes and no.

Q. 149. Isn't it rather suspicious that someone should try and sell the shoes for seven bob when he could get more for them?
A. 149. I don't know that.

Q. 150. How many pairs of shoes have you bought from people that you don't know?
A. 150. Two pair.

Q. 151. Did you enquire at the time as to the ownership of the shoes?
A. 151. Of these?

Q. 152. Yes.
A. 152. No.

Q. 153. Did you look at the number on the inside of them?
A. 153. I didn't look on the inside of them.

Q. 154. And as a shoemaker placing a value on shoes wouldn't you look at the inside of them?
A. 154. Not necessarily, you catch a shoe loke that you can tell whether in good shape by the feel (grasping shoe with both hands at heel and toe and bending instep).

Q. 155. What about the uppers?
A. 155. You can see an upper.

Q. 156. Don't you look on the inside principally for cracks?
A. 156. Not necessarily.

Q. 157. It does show them doesn't it?
A. 157. In some cases.

Q. 158. Did you tell the pawnbroker that you had half soled them?
A. 158. No, I didn't.

Q. 159. What did you tell him?
A. 159. I told him "Here is a pair of shoes that has been fixed toe and heel, the price 7/6, they are tight, I want to sell them"

Q. 160. How did you know they were tight?
A. 160. Well, any old story goes in a pawnshop.

Q. 161. Why were you so anxious to get Hanagan his money or his shoes?
A. 161. Well, he wanted to go out, and I didn't want to see the man out the money, I had the money.

Q. 162. What trouble were you afraid of getting in?
A. 162. Well, I don't know.

Q. 163. Why were you afraid of further investigation if you had come by the shoes honestly?
A. 163. I had come by the shoes honestly.

Q. 164. Why afraid of investigation?
A. 164. Well, the receiver is worse than the seller they say.

Re-examination:

Q. 165. Did you know that the Coy was on schemes on the dates in question?
A. 165. Yes.

Q. 166. Did you know where the schemes were being held?
A. 166. Yes, because I was out there.

Q. 167. Did the Coy stay out and you come in?
A. 167. Yes, there was a Sgt-Major an Ordnance mechanic and another fellow that had been sick.

Q. 168. When you went out to the demonstration was anyone left behind in the billets at all?
A. 168. That, I can't tell you for sure.

Q. 169. How far is the nearest sentry from the billets you occupy?
A. 169. Just outside the corner of the building,

Q. 170. And this is the building you sleep in?
A. 170. Right here on the third floor up.

Q. 171. Is this building used daily by members of the Perth Regt?
A. 171. Yes.

Q. 172. Have they full access to these rooms here and the rooms above?
A. 172. Yes, and a lecture room on top.

Q. 173. Would you consider then that these buildings and the rooms above are accessible to almost anyone in uniform?
A. 173. Yes, anybody can come in that door and go upstairs.

Q. 174. Any sentries inside the building?
A. 174. No.

Q. 175. The nearest sentry would be at the corner here?
A. 175. Yes.

By the Courtr

Q. 176. When Hanagan told you about seeing these shoes in the pawnbroker's what made you immediately connect this up with the shoes you had taken in and sold yourself?
A. 176. He gave Hanagan a description of me which fitted me, and I told Jimmy "I will get you your moneyfor you, I don't want to see anybody outand don't want to see you without your shoes and I will get you the ten shillings?

Q. 177. How long have you lived in this room upstairs with Hanagan?
A. 177. Since the Coy moved.

Q. 178. When was that?
A. 178. It would be the first of October I think.

Q. 179. In other words you have lived in the same room here with Hanagan almost a month?
A. 179. Yes.

Q. 180. How close do you sleep to him?
A. 180. A small room, my bed right by the fire and Hanagan over in the corner.

Q. 181. Where do you keep your kit?
A. 181. A door into the clothes closet, mine is all in the little opening there.

Q. 182. Do other men keep their kit in the cupboard with Hanagan's kit?
A. 182. Yes.

Q. 183. Do you keep yours there?
A. 183. Just my overcoat and good suit.

Q. 184. And you never saw these shoes on Hanagan's kit, when you have gone in to hang up your kit before?
A. 184. No, I have seen him wearing shoes before.

Q. 185.

Q. 185. When this other chap came up and sold you these shoes didn't they strike any chord of recognition in you when you saw them?
A. 185. No, because I never examined them closely, I don't bother around anybody's kit, I have no call to be around their kits to see what their stuff looks like.

Q. 186. Being a shoemaker would it be true to say you know shoes well?
A. 186. No, I am not an expert on shoemaking.

Q. 187. But it is your job and you are interested in shoes?
A. 187. Yes.

Q. 188. You probably know one kind of shoe from another?
A. 188. Some shoes made right now would be quite hard to tell the difference by looking at them. I mean to say different company shoes.

Q. 189. In the month that you have lived with Hanagan then, the only time you saw shoes like these was when he was wearing them?
A. 189. Yes.

Q. 190. Never saw them in the cupboard?
A. 190. No, so much kit piled on that shelf, these men in the room, so much kit slung on the shelf, hardly any room to see the shelf.

By the Judge Advocate:

Q. 191. Did you ever repair any shoes for Hanagan?
A. 191. His regimental boots.

Q. 192. Do you repair any shoes other than regimental boots?
A. 192. If a man's sole is gone, if he wants a pair of dance shoes sewed I haven't got the facilities and I advise him to take them out, but to fix a pair of soles nailed, yes.

Q. 193. Did Hanagan ever come to get these repairs?
A. 193. He told me once that he wanted me to get his dance shoes and wanted them sewed, and I told him I hadn't got the facilities.

Q. 194. At the time you met this man on Church St. from whom you say you bought the shoes were you carrying anything?
A. 194. Yes, in my tunic I had some heel leathers.

Q. 195. You weren't carrying anything?
A. 195. No, going along smoking a cigarette.

Q. 196. Which way were you walking?
A. 196. Coming from Brighton, going over to put this stuff in my shop.

Q. 197. When this man spoke to you you said he asked you for a light?
A. 197. Yes, he had a cigarette in his hand and this little parcel of shoes under his arm partly wrapped up and he said "Give me a light?" and I said "Sure"

Q. 198. Did you recognize him as anyone you had seen before?
A. 198. Never took much interest, knew by his flash that he was a Perth.

Q. 199. Did he call you by name?
A. 199. No.

Q. 200. Did he give any indication that he knew you?
A. 200. Yes, he said how is the shoemaker.

Q. 201. After you got the shoes did you turn around to take them back to sell them?
A. 201. No, I was going over to the shoe shop, just took them over under my arm and left them there because I was going out.

Q. 202. How long before you sold them?
A. 202. Next morning around 11.00 o'clock, maybe between 10.00 and 11.00.

Q. 203. When you found out that the shoes you had sold belonged to someone who roomed in the same room didn't you make any effort then to find out who had sold them to you?
A. 203. I was around the Coy and I kept my eye open to see if I could spot him.

Q. 204. Have you ever half soled any dance shoes?
A. 204. No, I don't take on light stuff like that, I haven't got the facilities.

Q. 205. You say that on one occasion before you bought shoes from some stranger?
A. 205. Yes.

Q. 206. How often have you bought any shoes from people who were strangers since you have been in that job?
A. 206. Only two pair.

Q. 206. How much did the pawnbroker give you for these shoes?
A. 206. Seven shillings.

Q. 207. Do you think that was an adequate price?
A. 207. I knew it was cheap, all I wanted was my own money back.

Q. 208. Did you make no effort at all to get your own money back when you had to refund to Hanagan?
A. 208. No, I was placed on charge, was down in the orderly room.

Q. 209. How long after you gave Hanagan the money were you placed on charge?
A. 209. Friday afternoon I was on a charge, was up at the office at 2.00 o'clock on a charge.

Q. 210. Did you report to anyone in authority, one of your officers or senior NCO's, or your CO before or after you had been placed in arrest that you had purchased them from a soldier in the Perths?

A. 210. When I was before the Colonel I went to explain my case and he remanded me for a summary of evidence.

Q. 211. At the time you sold these shoes did you make any attempt to get a better price for them?
A. 211. I asked him if that was all the shoes were worth and he said "No, they aint worth any more, I can buy those at the same price" so I took 7/ for them.

By the Court:

Q. 212. Did you think it a good idea to buy shoes at 7/ and sell them at that price?
A. 212. If I handle any shoes like that I think so unless I get a pair that has got to be soled, if I buy the soles and heels to put on them I would want more.

Q. 213. Why did you buy the shoes in the first place?
A. 213. The fellow came along and said he was broke and wanted to go to a dance.

Q. 214. You didn't buy them with the idea of making a couple of shillings?
A. 214. No, very, very seldom I lend money and generally have some in my pocket becauuse not a heavy spender.

Q. 215. Do you lend money to people you don't know?
A. 215. No.

Q. 216. But this fellow, you decided to help him out anyway?
A. 216. Yes.

By the Judge Advocate:

Q. 217. Did you not consider it odd that this man if he wanted money to go to a dance would seek to dispose of a pair of dancing shoes ?
A. 217. No, because a lot of them dance in heavy boots.

In the opinion of the Court and the Judge Advocate it i is not necessary to comply with R.P.83 (B).

The witness resumes his place as the accused.

2d WITNESS FOR DEFENCE — A-11122, CQMS J.W.Sheardown, Perth R (M), sworn, examined by Defending Officer:

Q. 218. Please identify yourself to the Court.
A. 218. A-11122, CQMS, Sheardown, J.W., Perth R (M).

Q. 219. How long have you known the accused?
A. 219. Over three years.

Q. 220. What position does he hold in your Coy?
A. 220. At the time of his arrest he held the position of shoemaker.

Q. 221. Is that position considered a position of trust.
A. 221. Yes.

Q. 222. Have you ever had any reason in these over three years to doubt his honesty?
A. 222. No.

No cross-examination:

By the Judge Advocate:

Q. 223. What would you say the general reputation of the accused was insofar as his honesty is concerned?
A. 223. Very good.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83 (B).

The witness withdraws.

3d WITNESS FOR DEFENCE — Capt.S.R.Granger, Perth R (M), sworn, examined by Defending Officer:

Q. 224. Will you identify yourself to the Court?
A. 224. Capt.S.R.Granger, Perth R (M).

Q. 225. In what capacity do you serve?
A. 225. Command, "C" Coy.

Q. 226. How long have you known the accused?
A. 226. Between two and three years.

Q. 227. What position does he hold in the Coy?
A. 227. Coy shoemaker.

Q. 228. In a Coy is that a position of trust?
A. 228. Yes.

Q. 229. Have you ever in this period of over two years had any reason to doubt his honesty?
A. 229. No.

No cross-examination:

By Judge Advocate:

Q. 230. What was the accused's general reputation?
A. 230. His reputation as a soldier, or just his general reputation?
Q. 231. Well, as a soldier, but particularly as to his honesty.
A. 231. There have been rumours but nothing that had any foundation at all, rumours that gave rise to a slight doubt but nothing definite, he was never brought before me or Major Andrew even on suspicion.

Q. 232. Had he occupied other positions of trust?
A. 232. Yes, he had worked in the Officers' Mess when we used money rather than chits and he had been barman and nothing ever missed.

Q. 233. In the positions he held where he was handling money, and such as a batman did he retain those positions without any question being raised?
A. 233. Yes.

Q. 234. With what officer was his last position as batman?
A. 234. Mr.O'Hagen.

Q. 235. And who previous to that?
A. 235. Major Andrew and Capt.Eadie.

Q. 236. Was he batman for Capt.Eadie up until the time Capt.Eadie went sick?
A. 236. No, Capt. Eadie had changed Coy.

Q. 237. But he was up until the time he changed Coy?
A. 237. Yes.

Q. 238. You said something about rumours without foundation, would you say that his reputation as to honesty had been good?
A. 238. Yes, I would say so.

Q. 239. That is as to honesty, how would you rate his general reputation, the way his honesty is regarded in the Coy?
A. 239. For his position as batman I would say average, it is my opinion that they are exposed to more temptation than others.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P.83 (B).

The witness withdraws.

4th WITNESS FOR Defende

Defending Officer requests the permission of the Court to make a sworn statement regarding the accused. Permission being granted, he is sworn and states:-

I wish to make a statement that while the accused was employed as barman in the Officers' Mess I was Treasurer at that time. All the records were kept by the accused and were absolutely perfect. It was the practice to make inventories at irregular intervals and never at any time during the period he served behind the bar was there any shortage. It was a cash mess at that time and business ran from $550. a month up and all that cash was handled by the accused, and always correct. The accused worked for Capt.Eadie and worked for me and no indications that he was not honest.

No cross-examination.

By the Judge Advocate:

Q. 240. For how long a period was he employed in the bar while you were there?
A. 240. About three months.

Q. 241. And on this cash business you would have means of checking t at inventory?
A. 241. Yes, from inventory to inventory, and on the bottom of the statement usually a statement of what the profits should be and it always checked.

Q. 242. And you found it checked?
A. 242. Yes, wouldn't have retained him otherwise, have had trouble in our mess on other occasions, it was spotted and necessary steps taken.

Q. 243. But during this period in which he handled the cash you found it checked and no reason to question his honesty whatsoever?
A. 243. No.

Q. 244. Then he did his full duty with satisfaction and he would be handling the bar cash during that period?
A. 244. Yes, handled deposits and everything else, and the cash purchasing.

Q. 245. What would you say as to his reputation as to honesty?
A. 245. I have never heard anything to the contrary and I would hire him back myself.

Q. 246. How long ago was it that he ceased to work in the bar?
A. 246. Sixteen months.

Q. 247. Are you in the same Coy with him?
A. 247. No, have never been in the same Coy.

Q. 248. But, you are at the same station?
A. 248. Yes.

Q. 249. And in the last sixteen months has he been employed as batman or around the mess?
A. 249. Yes.

Q. 250. Are you living in that mess?
A. 250. Yes.

Q. 251. So you think you would know if his reputation was not good?
A. 251. I think I would. Batmen had kitchen fatigues, and quarters, and Capt.Granger's statement is the first intimation I have had of that kind, and every time a package of cigarettes missing had the same story.

Q. 252. But you think that if anything was missing all the batmen that had access would be under suspicion?
A. 253. Yes, on at least two occasions all batmen searched and found they didn't do it.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P.83 (B).

The witness resumes his place as the Defending Officer.

Prosecutor's Closing Address:--In connection with a charge of theft I submit that the rule of evidence is that the prosecution must make out a case and once that case is made out it is then up to the accused to give a satisfactory explanation as to how he came into possession of the stolen article. I sub-

mit that that is a rule of law and that in this case the accused has not given a satisfactory explanation as to how he came into possession. I submit that there are too many inconsistencies in the accused's evidence: In the first place, his meeting with the man from whom he says he purchased the shoes is to my mind suspicious, that a person would say "I am going to a dance and I want to sell my dancing shoes" which is the effect of the conversation which took place at that time. That in the ordinary man would create a doubt and a wonder as to why he was selling his shoes that he would normally dance in, and then selling them to get money to go to a dance.

The second thing is, the accused is a shoemaker and as such knows something of shoes, and I submit that out of the goodness of his heart he isn't going to pay 7/ for that pair of shoes and then walk six or seven blocks to sell those shoes at the same price merely to let some person he doesn't know and can't identify have the money. When accosted by Hanagan he made a statement to the effect "If I fix it up will you forget it" which is not a statement an innocent man would have made. An innocent man would have tried to get at the root of the matter and sould have notified some person who either by means of a parade or otherwise could get at this man obviously in the regiment and apparently no effort made to look for him. There was from Thursday until Tuesday in which the accused could have used efforts to locate the person and on Tue day was the day he was placed in close arrest. With this in mind I submit that no reasonable explanation has been offered as to how he came into possession of the shoes.

Defending Officer's Closing Address:--The Prosecutor says that he cannot understand a man selling his dance shoes to get money to go to a dance. There are rather a lot of things these soldiers do, particularly over here, for which there is no explanation, and I can't see anything unreasonable in selling anything he can get his hands on to go dancing or to have a date which is probably what he meant to say.

This building is in public use day and night, the men off duty in duty companies have access to this building all through the day. On the day in question the accused was in the country, out on demonstration of fire power and during that time we have no reason to believe that anybody from this Coy was in this building, during that time every man available had to be on that parade. A considerable stream of men from other regiments can come in at almost any time, and the next floor up is the floor on which the accused sleeps, and they have access to all floors.

The Prosecutor mentions inconsistencies of evidence, but if you don't particularly have your mind on something you might have anybody come up and say what did you do so and so a day and a pretty difficult job to say what you did. Reasonable inconsistencies I would rather see myself than one of those ironclad alibis, which would not be made up unless one foresaw something like this, but I submit that the accused dod not see, foresee, anything like this therefore can't completely recall his actions on these days.

Summing up by Judge Advocate:- I needn't remind you of the importance of the decision you have to make in a case of this character. The accused has a long record of service in the Army, apparently very credible service, and he is brought before the Court on two charges, one of which is a direct charge of dishonesty in the form of stealing.

My duty as Judge Advocate is to give the Court such guidance and advice as it requires on questions of law and of procedure. The duty of the Court is to find the facts and apply to law to those facts. Any questions of fact and any questions of the credibility of witnesses or the weight to be attached to any evidence is a question entirely for the Court. Therefore, any opinion I may express or observations I may make which may incidentally refer to the facts I don't wish to be taken as an expression of opinion because it is not only the right but it is the duty of the Court to decide all questions of fact and credibility and weight of evidence for itself.

Now, turning to the charges. The accused is charged with two offences; the first is a charge of stealing under Sec. 18(4) AA, and the second an alternative of conduct to the prejudice under Sec. 40, AA. As the charges are in the alternative the Court may, if it considers the evidence so warrants, find the accused not guilty of both charges, or guilty of ei her charge and not guilty of the other one; it cannot find the accused guilty of both charges.

Stealing as used in the Army Act is defined in the first part of para 50, Chap VII, M.M.L., page 118 (which reads). Now, that is the definition which you have to apply to the word "stealing" as used in the present charge. There are two elements in that to which I would like to direct particular attention: The first is that to warrant a guilty finding on a charge of stealing the Court must be satisfied beyond reasonable that it was in fact the accused who took and carried away the articles in question. The second is that there is no stealing unless there is the intent as defined in that section. Therefore, before the accused may properly be found guilty on the first charge the court must be satisfied beyond any reasonable doubt that the evidence proves that the accused did the acts alleged in the first charge, including the definition of stealing which has just been read to you. It is particularly important to note that in a case like this that to constitute stealing it must have been the accused who took the shoes in question. No matter how they came into his hands the Court ca not properly find him guilty unless it is satisfied beyond reasonable doubt that he in fact took these shoes himself.

Now, with reference to the second charge. It is of a much less technical nature, it is laid under Sec. 40 AA. That section I think is familiar to most of you. I would recommend that you read the section and the notes to it carefully. I think there is really only one observation I would like to make with respect to it, and that is that in a case of the present kind

28

I think that it appears to be common ground that the accused was in fact in possession at one time o of certain shoes which belonged to Pte.Hanagan, but I don't think for a moment that it is intended that an accused be convicted of a charge under Sec 40, AA, for improper possession because he was merely in possession of articles for which he had not the permission of the owner or legal right. There must in addition be something wrongful in his possession, in the manner in which he has gained possession or retained possession, and having regard to the facts of the present case I feel I should direct the Court definitely that with respect to the second charge they should find the accused not guilty of it, unless they are satisfied that the accused came into possess ion og them by some intentional wrongdoing, or retained possession by some intentional wrongdoing. If there was good faith on his part I feel a guilty finding should not be made against him.

In view of the nature of the evidence I would like to direct the attention of the court to para 4, Chap VI, AA, that is on page 70 of MML (reads first part of paragraph). Indirect evidence is very commonly known as circumstantial evidence, and I would like also to read para 42, Chap VI (which reads). Now, having in mind particularly the first charge, by the very nature of stealing the prosecution commonly has to rely in circumstantial evidence to establish its case, and the present case is no exception to that rule. The fact that a person is found in possession of articles rece ntly stolen is some evidence of stealing, not necessarily sufficient evidence, but it is of that circumstantial character because the court may see fit to draw some inference from it.

I would like to touch for a moment on the fact and make some observations in the hope they may be helpful, and again wish to say that any observations I may make are in no way binding on the Court but may help to clarify the issues. In the present case there is evidence for the prosecution that the shoes which have been filed as an exhibit were stolen, or, at any rate, missing from where the owner had left them. There is evidence which seems to be common ground to both orosecution and defence that not very long afterwards those shoes were disposed of by the accused to a pawnshop or second-hand dealer in Brighton. These facts, if the Court accept that evidence, do not constitute stealing, it is merely evidence from which the Court, if it thinks proper, may draw the inference that it was stolen, that is a matter for them, whether it is sufficient for that purpose. As against that the accused has given evidence under oath, has submitted himself to cross-examination, and has told a story of securing these shoes from some individual soldier in the Perth Regt. He has admitted very frankly that he did in fact sell them, and when first approac ed by the original owner of these shoes he seems to have made no attempt to deny the sale of the shoes, he admitted it. He supplied funds for the original owner to purchase the shoes back, and one bit of evidence which I think is substantially in his favour is that at that time he in-

formed the owner of the shoes that while he had sold them he had not stolen them. I mention that because at that time he had no protracted period in which to think of what to say. That tends to support the story he has told the Court.

In addition the accused has brought witnesses before the Court as t his good character. He has had a long period of service in the Army, both in the Imperial and Canadian Army, he has earned a number of good conduct stripes, and has occupied a number of positions of trust. It is true that one witness made mention of certain rumours, but the same witness later said he would classify his reputation as to honesty good if my recollection is correct. Evidence of good character is dealt with at some length in Chap VI, MML. I would like to read one short passage from para 19 which states the purpose for which evidence of good character can be used at this stage (reads first nine lines).

In any such trial as this the onus is on the prosecution to establish its case beyond reasonable doubt, and that onus remains on the prosecution throughout the trial. The accused does not have to prove himself innocent, he doesn't have to prove anything. If the prosecution fails to prove his guilty, or if after careful consideration the Court has any reasonable doubt as to the facts or as to what to believe, the accused is entitled to the benefit of that doubt and the Court must accordingly make a finding of not guilty. It is applicable in any trial of this c aracter, and I might say it is particularly applicable where, as here, you have a soldier of long service and of good record charged with an offence involving dishonesty which makes it particularly necessary that every care be taken.

There is one thing I think possibly should go in the record as a direction with respect to the story told by the accused in defence. I would like to remind the Court that in dealing with that and having regard to the onus on the prosecution the defence does not have to satisfy them as to the truth of the story told to it. Even if they disbelieve the story told by the accused if they are not satisfied as to the prosecution's case the Court must acquit the accused, there is no burden on him to satisfy them as to that story. If they are in doubt as to what happened then he gets the benefit.

The Court is closed for the consideration of the finding.

DING

The Court find that the accused, A-11286, Pte.William Hugh Dickey, Perth R (M), is not guilty of both charges. The Court being re-opened, the accused is again brought before it, and the findings on the first and second charges read in open court. R.P.45 (C) and R.P.117 (B) are complied with.

30

CERTIFIED A TRUE RECORD OF THIS TRIAL, this 27th day of November, 1942.

Major
President

Major
Judge Advocate

1067 1/-

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this Twenty-sixth day of November, 19 42

Whereas it appears to me, the undersigned, an officer in Command of 2 Cdn Armd Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

~~*XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

~~*XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

* Omit if not applicable.

for the following reasons, namely :—

Proceedings Reviewed
Capt
Reviewing Officer (JAG/MHQ)
11 Dec 42

President.

Rank.	Name.	Regiment.
Major	G A BURTON	3 Armd Regt (GGHG)

Members.

Rank.	Name.	Regiment.
Capt	L B HILL	5 Armd Regt (SKSH)
Lieut	J S LEEFE	88 Lt AA Bty, RCA
Capt	W M G WILSON Waiting Member	13 Lt Fd Amb

JUDGE ADVOCATE
MAJOR N.C.FRASER,
ADJA, 5 Cdn Armd Div.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature]
Brigadier
Commanding 2nd Cdn. Armd. Bde.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A11286 Pte William Hugh DICKEY Perth Regt (M)	First Charge Sec 18 (4) AA	Not Guilty	Not Guilty	Not Guilty
	Second Charge (Alternative) Sec 40 AA	Not Guilty	Not Guilty Pris. 12 Mos GH Burston Major DEC 5 1942	Not Guilty GH Chadwick Brigadier Commanding 2nd Corps Armd. Bde.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :— No.

(Signed) GH Chadwick Brigadier
Commanding 2nd Corps Armd. Bde.
Confirming Officer (c)

(Signed) GH Burston Major
President

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27th day of Nov 42, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) ~~was~~ Lt Hartland Whitehead
*(4. The officer under instruction)

* Omit if not applicable.

were duly sworn 5. The Judge Advocate was

Signed this 27th day of Nov 1942

Neil W Fraser Major
GH Burston Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 3 M.M.L. 1929

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19 .

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

80 M 1500/1111 Thos. [illegible] W. & Co., Ltd. Gp. 746/2

55-105

Pte. Dickinson, MJ

RECEIVED 17 SEP 1945 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ as 2180 5-8-105

FIELD GENERAL COURT-MARTIAL

CPA/85 (In lieu of AFA/85) 4/38B

Convening Authority Lt Col. M.E.B. Pearson T/Comd 1 C I B dated 31 Jul 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B- 160589	PTE.	Michael James	Dickinson	HPth Highland

PROCEEDINGS REVIEWED 19 Sep 45

JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 3 Aug 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 36132.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and J.C.O. each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 0700 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial (1) Yes. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with~~ Yes. ~~summarily by the CO~~ (2)

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~as interpreter?~~ Ans Yes. ~~The interpreter is sworn.~~(1) Do you object to BLBO 37 Sgt AB Harvey Major Reporter as shorthand writer? Ans No. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(5). If objection, see procedure AA 31, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj.	C. M. Kinsey	Hart's PER
Member	Capt	B. A. Morrison	IRCR
Member	Lt	J. C. Bain	RMR
Judge-Advocate	Capt	T. C. Obelter	HQ (1 Cdn) Sy Gp.
Prosecutor	Lieut	K. R. Greenfield	4 Bde HQ
Defending Offr	Capt	Geoge Sheet	4 Bde AGC

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Auth. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (b) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment makes(s) (no) (~~a~~ plea. No (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(F), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea to Part I of the Schedule. No

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

Recorded F 160

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-160589 Pte Dickinson, M.S. 4 8 145 R.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 18(1)	NOT Guilty	NOT Guilty	
2nd 40	NOT Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 463 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~Not~~ present under sentence for ..... beginning on (date) .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for six (6) months.

(Sgd) J. Corbett, Capt — 3 Aug 45 — (Sgd) [illegible]

Judge-Advocate, if any. Date awarded. President. (RP 45, 80.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding "A"

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 371(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

X ~~I direct that the accused be kept in military detention during His Majesty's pleasure~~ CONFIRMED

(1. AA 57A. Delete if not used.)

Date 13 Aug 45 (Sgd) [illegible] Lt Col

Commanding [illegible]

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr
B 160 589 Pte Dickinson M.S.	15 Aug 45	[illegible] Lt Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st & 2nd charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 1st & 2nd charge(s), and allowed on the No 2.C~~harges~~), and that, accordingly, the trial will proceed on the former, but the accused is (are) found ~~Not Guilty~~ on ~~the latter charges~~.(4)
(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Do neither. Do you intend to call witnesses on your behalf? Ans Yes. Are they witnesses as to character only? Ans Yes.
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 2nd charge, being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(2) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans Call a character witness.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex 2 respectively.(3)
(1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes.
(1. RP 37(C), 46(D). 2. Address if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A). ZR Con 308, 330, 563-566. Overseas AO 309, 2223, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60*(*C*) ; *powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60*(*A*) (*b*) ; *duty and privileges of accused and Defending Offr see RP 60*(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87*(*C*), 92(*B*), *and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17*(*E*) *fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans _____(5)

(*1. RP 37(E). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on _____ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on _____ charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex _____, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(E). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (c).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial discharges antecedents by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

CFAO5 (In lieu of AFAS) 610/PAM/1697 (2068)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Can Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 103(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B160589	Private		Michael James	DICKINSON	48 Highlanders of Canada

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (date) 31 Jul 45 endorsed by me, ~~or by an offr of my staff for me~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Maj	C G KINSEY		Hast & PEI

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	B A MORRISON		R C R
Lt	J C BAIN		R M R

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lt	R G MIDDLETON		R C R

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	T C OUETTE		H, 1 Can Inf Div

On Active Service in the Fd

in HOLLAND (Country.)

(G E B Renison), (Signed personally. RP 105 fn 2.) Lt-Col (Rank.)

Date 31 Jul 45 T/ Commanding 1 Can Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

48TH HIGHLANDERS OF CANADA

CHARGE SHEET

1st charge
AA Sec 18(4)

The accused, B-160589 Pte. Michael James DICKINSON, 48th Highlanders of Canada, a soldier of the Canadian Army Overseas is charged with:

When on Active Service, stealing property belonging to a person subject to military law

in that he

in the Field, Holland, on approximately the 6th July, 1945, stole two cameras the property of B-112929 Pte. MACKAY, N., 48th Highlanders of Canada, a person subject to military law.

Alternative Charge
AA Sec 40

When on Active Service, conduct to the prejudice of good order and military discipline

in that he

in the Field, Holland, on approximately the 6th July, 1945, was improperly in possession of two cameras, the property of B-112929 Pte. MACKAY, N., 48th Highlanders of Canada.

J.R.O. Counsell Lt. Col.

(J.R.O. COUNSELL)Lt.-Col.,
Commanding Officer,
48 Highrs.

In the Field, Holland,
17th July, 1945.

To be tried by FGCM

In the FIELD
31 Jul 45

(C R Dennison) Lt Col
A/Comd 1 Can Inf Bde

C&K

The Court strongly recommends that a psychiatric examination of this soldier be made and that the report of such examination be made available to the confirming officer before sentence is confirmed and that such report be taken into consideration by the confirming officer in confirmation.

Capt Kinsey Maj

I don't see why

HQ 1 CAN INF DIV (REAR)

FIRST WITNESS for the Prosecution — R.112929 Pte MacKay, N A Coy 48 Highlanders of Canada, duly sworn is examined by the Prosecutor

Q Can you tell me, Pte MacKay, what happened on the 6 July.
A On the 6 July I came up from Germany. I went to go through my kit bag for some clothes and shoes. The top of the bag had been tied up differently. I found my cameras gone. I asked some of the boys if they had seen them. No one saw them . The C S M talked about them and asked me if I could identify them and he took me into the Company office. There were two cameras on the top of the desk and Pte Dickinson was there. I identified one of the cameras, because of the tear in the back of it. I could not identify the other one because it was new. There were no marks on it by which I could identify it. I got the box that the camera was kept in and put the new camera inside and it fitted. The C S M asked me the name of it and I told him it was a new Coronet. I left the office then, sir.

Q You say you could not identify the new camera?
A It had no markings.

Q Can you identify this camera as yours, exhibit "A"? Was this in the orderly room?
A Yes.

Q Do you recognize this camera as being your camera and is that the camera you saw that night on the C S M's desk? Exhibit "B".
A I cannot identify it. It had no markings.

Q How do you identify exhibit "A"?
A By the tear in the back.

Q Is this the cardboard box you spoke of (show witness carbdboard box marked exhibit "C".
A Yes.

Q It was in your pack?
A Yes.

Q That is the cardboard box of which you spoke about to the CSM?
A Yes, sir. The Sergeant Major told me to bring it in.

CROSS EXAMINED BY THE DEFENDING OFFICER

Q When did you go to Germany?
A On the fourth day of July, about the second, I'm not sure.

Q This happened the day you came back?
A That was when I noticed it gone.

Q This camera exhibit "B". That is the one you are not sure about?
A No, sir, I'm not sure.

Q You think it is yours because it was the camera in the orderly room and that it fit the cardboard box which you took from your kit bag. The camera happend to fit the box. You didn't see anybody take it did you?
A No.

Q You didn't see anybody with it in their posession?
A I didn't sir.

Q You certainly did not know if Dickinson had anything to do with it because you didn't see him?
A No, sir.

QUESTIONED BY THE JUDGE ADVOCATE

Q Pte MacKay, how did you know your kit bag had been tampered with?
A It was tied up, sir, and closed at the top. It was not tied the way I left it.

Q Will you tell the Court how you identify exhibit "A" as yours?
A The folder in the back is torn or ripped. There is a cut in the back.

Q Any other way?
A No, sir.

Q Is it the same make as yours?
A Yes, sir.

Q Is it the same size?
A Yes.

Q Same appearance as yours?
A Yes

Q Why do you say exhibit "B" resembles the second camera you missed?
A It was the same kind as I had sir.

Q The same make?
A The same, sir.

Q Same appearance?
A It was brand new and no markings on it whereby I could identify it.

Q What make was the second camera?
A Coronet.

Q What make is exhibit "B"?
A Coronet.

Q Are these the same two cameras the Sgt Major produced to you?
A Yes, they look the same.

Q Were these two cameras you missed in your pack before you left for Germany?
A Yes, the night before I left.

Q Where was your kit bag placed?
A Outside, sir, against the wall beneath the tarpaulin.

Q Was the pack placed in part of the company pile?
A Company pile, sir.

Q You said that the carboard box, exhibit "C", was for the second camera you lost, is that correct?
A I cannot say, sir, only I took the cardboard box into the Sgt-Maj and it fit the camera.

Q That is the box that fit your second camera, did it not?
A Yes.

Q Is there the name of the make of the camera on exhibit "C"?
A Yes, sir.

Q What is the name?
A Coronet, sir.

QUESTIONED BY THE COURT

Q Pte MacKay, was your bag secured or locked?
A No, sir, just tied.

Q The only way you knew your bag had been tampered with was because your camera was missing from it
A Yes.

NO RE EXAMINATION BY THE PROSECUTOR

IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83 (B)

WITNESS WITHDRAWS

SECOND WITNESS FOR THE PROSECUTION — B79612 Pte Wood, J, A Coy 48th Highlanders of Canada, duly sworn is examined by the Prosecutor

Q Pte Wood, do you know Pte MacKay of "A" Coy?
A Yes, sir.

Q Can you tell me what happened in connection with Pte MacKay on the 6 July?
A I was on leave at the time. When I came back MacKay told me that his two cameras had been taken. I went up to the orderly room to identify the two cameras on the orderly room desk, or one camera. That was all there was to it.

Q Is this the camera which was on the orderly room desk, exhibit "A"?
A Yes, sir.

Q How do you identify this camera? You identified the camera?
A Yes, sir.

Q As being Pte MacKay's?
A Yes.

Q How did you know it was the camera?
A On the back of the camera is broken glass, the glass is broken and because of the split in the back.

Q Was this the camera, exhibit "B"?
A That is the new camera.

Q Was it on the Sgt Maj's desk? Did it look like this one?
A I didn't see it.

Q You saw only one camera?
A Yes, sir.

NO CROSS-EXAMINATION BY THE DEPENDING OFFICER

QUESTIONED BY THE JUDGE ADVOCATE

Q You identified exhibit "A" as being Pte MacKay's camera. Did you see Pte MacKay with the camera before?
A Yes.

Q Did you see him with exhibit "A"?
A Yes, sir.

Q Do you know whether or not Pte MacKay had more than one camera?
A Yes.

Q He had more than one camera, is that what you mean?
A Yes.

IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83 (B)

WITNESS WITHDRAWS

THIRD WITNESS for the Prosecution B.46320 C S M Mitchell, A., "A" Coy 48 Highrlanders of Canada, duly sworn is examined by the Prosecutor

Def Offr - I would like to make or less object in advance. As you can see from the summary of evidence, most of his evidence is heresay. As you can see from the summary of evidence it is entirely heresay and he knows nothing from his practical knowledge. I want to make sure he does not say anything here.

JA - You are objecting to the conversation he overheard?

Def Offr - Yes. I am objecting to the statement at the bottom of the statement and objecting to the admission on the fourth line from the top. Fifth line he said he "admitted". I object to that until the prosecution prove beyond all doubt that the statement was voluntary. They must do that before they can do anything. He didn't admit stealing anything. He merely admitted he had two cameras.

JA(to Pros) What have you to say about what Captain Street says?

Pros I think I can keep heresay evidence out.

EXAMINED BY THE PROSECUTOR

Q Sgt Major have you seen this camera before, exhibit "A"?
A Yes

Q Have you seen this camera before, exhibit "B"?
A I am not positive of that sir.

Q About the 6 July, did you have Dickinson before his Company Commander
A On the 7 July sir.

Q Was it concerning this camera?

Def Offr- Just a minute. He's leading the witness any way he pleases.

Q Where did you see this camera?
A I asked Pte Dickinson if he had two cameras to sell and I sent him over to the quarters. When he came back it was then I saw the cameras.

Q He brought this camera, exhibit "A"?
A Yes, sir.

Q Did he say this was his camera, exhibit "A"?
A He did sir.

CROSS EXAMINED BY THE DEFENDING OFFICER

Q Sgt Major Mitchell, before you spoke to Dickinson about these cameras you did not caution him did you?
A No, sir, I did not.

Q As a matter of fact as a result of something you overheard you started investigations and the result of certain investigations on your part you decided to charge Dickinson and get him up for Orderly Room about this, didn't you?
A No, sir.

Q You had him up
A Yes

Q You must have decided to get him up?
A I could not decide until the cameras were identified.

Q You decided before the cameras were identified to get him up?
A Certainly not.

Q You didn't?
A I heard Pte McKay report the loss. Only then did I call him in I could not possibly have brought him up until I knew the cameras belonged to MacKay.

Q You decided to get him up in the Orderly Room?
A After we knew the cameras had been identified, yes.

JA - Captain Street, the cameras were identified by MacKay prior to Orderly room and subsequent to the time they were put in possession of the Sgt-Major.

Def Offr I understand Sgt Maj you said this to Dickinson "You are taking the hard way about this. Why don't you admit you took them and say your sorry and we'll forget about the whole thing."
A No, sir.

Q You didn't say that?
A I could not say that. My job in the Company is disciplinarian and it was nothing on my part to do anything.

Q Did you say anything like that?
A I don't remember saying anything to that effect.

QUESTIONED BY THE JUDGE ADVOCATE

Q Sgt Major you stated that Pte Dickinson told you he had two cameras for sale, is that correct?
A He didn't tell me he had two cameras, not the first time. I heard.

Q I don't want to know what you heard in the hall.
A I asked him if he had any cameras to sell and if he could bring them over to the company office.

Q Did he bring two cameras to the company office?
A Yes, sir.

Q Do you recognize exhibit "A" as being one of the cameras he brought?
A Yes, sir.

Q How do you recognize it?
A On one side a little mark and on the back part is torn.

Q Did he say that was his camera?
A He did then, sir.

Q Do you recognize exhibit "B" as being a camera brought in by Pte Dickinson?
A There were no identification marks on it.

Q Will you take it up and look at it. Is is the same make?
A Exactly the same make, a Coronet.

Q Would you say it resembled the camera that Pte Dickinson brought into you?
A Yes, sir.

Def Offr I object to everything that he has said and everything Dickinson told him. The point is this, that for some reason or other he decided to investigate and as a result of what he heard or did he decided to get Dickinson up for Orderly Room. Once he did decide to investigate everything was improper in that connection. He asked if Dickinson had a camera to sell. He had no business asking Dickinson without cautioning him properly. As a matter of fact, there is the suggestion that there was an inducement. I object to that very strongly. Dickinson was not cautioned at any time during the proceedings. He should have been cautioned before spoken to.

Q Sgt Major this time, or prior to your conversation with Dickinson did you caution him in any way?
A I didn't caution him, sir.

Q Did you decide at that time to put him on charge?
A No, sir.

Q Had there been a complaint that two cameras has been missing?
A Yes, sir. By Pte MacKay, sir.

(to Pros) Mr Prosecuting Officer what have you to say in reply to the defending officer's objection?
Pros - I am not familiar with the law with regards to cautioning? As long as everything is true. I want justice. If the man is not guilty I don't want to see him accused.

Def Offr - Do you mind if I read these two short paragraphs, page 90 MML para 73 (reads) Therefore the statement by Dickinson that he had cameras in his possession obviously comes under the meaning of a confession quite clearly. Next para 74 (reads) Now, there is a confession in evidence here and it has not bee proved that it was put in free and voluntary. That must be done or it cannot be received so the accused must be dismissed. I wanted them to prove it before the thing got in.

THE DEFENDING OFFICER CALLS NO WITNESSES AS TO THE ADMISSIBILITY OF THE WITNESSES EVIDENCE

JA The statement referred to is a statement made by the accused that he is the owner of the goods in question and that they are his goods. There is nothing stated by the accused that he has committed any offence nor does he make any suggestion that he has committed any offence. (reads MML para 23 page 91) I don't believe that the statement of the accused falls within that category as there is nothing he said which tends to show any guilt on his part. I think perhaps it might have been a proper practice for the Sgt Major to have cautioned the accused but I would refer to the bottom of page 91 (reads) (1) (2). At this stage of the proceedings the Sgt Major had not decided to charge anybody. He was merely illiciting information. In my opinion the statement of the accused was voluntary. This statement falls within art (1) of the Judges Rules. That is a question for the Court to decide. Accordingly the Court will be closed.

Def Offr - If I might say something before the Court closes: If what you say is true, that whatever this man has said does not tend to show he is guilty, then I am quite satisfied to let it go. I am quite satisfied to rest right there. That's just about the end of the prosecution's case. If it doesn't tend to show guilt. That is the only evidence. But I thought it did show he was guilty. He is charged with improper possession. As a result of the conversation and the examination by the Sgt Major without being cautioned it came out he was in possession of at least one of these cameras which is the subject of the charge. If it appears that these two cameras which are alleged to have belonged to MacKay and alleged to be in possession of Dickinson, if, in fact, that was true, then that would tend to show him guilty. That is the subject in meat of the possession. There is nothing tending to implicate him in any crime at all. The statement is inadmissible. He merely stated he had two cameras in his possession. Suppose MacKay could not identify the cameras. It is up to the Court.

THE COURT IS CLOSED FOR CONSIDERATION WHETHER THE EVIDENCE WILL BE ADMITTED OR NOT

THE COURT BE OPENS

THE OBJECTION OF THE ADMISSIBILITY OF THE EVIDENCE OF SGT MAJOR MITCHELL IS REJECTED JA to Def Offr Your objection will be noted.

B.46320 C S M Mitchell, A is recalled (third witness)

QUESTIONED BY THE JA

Q Subsequent to your conversation with Pte Dickinson, what did you do with the cameras, hand them back to the accused?
A No, sir.

Q You kept them?
A Yes, sir.

Q Did anybody come forward and identify the cameras?
A Well, I looked the cameras over. I recognized the one that I have described, exhibit "A". I recognized the camera and called Pte MacKay in.

Q You called Pte MacKay in?
A Yes.

Q Did he identify the camera as his? Exhibit "A"?
A Yes.

QUESTIONED BY THE DEF OFFR THROUGH THE JA

Q Sgt Major I suggest that you did not ask Dickinson if he had cameras to sell?
A I had asked him if he had two to sell.

Q That wasn't the reason. The reason I suggest is because you heard the two cameras were missing.

A I wouldn't say so. I had been trying to buy a German camera.

Q Actually you were investigating. At that time you knew MacKay had lost two cameras?
A I knew Pte MacKay had lost his camera.

Q How long previously?
A Probably around three hours, possibly.

Q Knowing that you were trying to, I suggest the reason you asked was to find out if these were Pte MacKay's cameras - partially the reason.
A I have been trying to buy a camera myself. It did not enter my mind that anyone would steal cameras from the company and try to sell them in the same company.

IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83 (3)

WITNESS WITHDRAWS

Def Offr

I want to make a motion now to have the case of the prosecution dismissed because I submit there is absolutely nothing in the evidence adduced by the prosecution in either case, that the accused Pte Dickinson stole these cameras and also that there is nothing to show he was in improper possession of them. I object for the reasons already stated, that Sgt Major Mitchell's evidence should not be allowed in. That constituted a confession and a confession that wasn't free and voluntary. I submit it should not be allowed in and that Pte Dickinson was not cautioned when he should have been. You have already ruled on that. Even if it was admitted I still say there is nothing in that evidence to support this charge. There is absolutely nothing to show he stole the camera. The word Stealing has not been mentioned.

That charge should be struck out. The charge of improper possession. There is nothing to show improper possession. He might have, forinstance he might have borrowed it or might have it to trade or sell for MacKay or somebody else may have given it to him without telling him it was someone else's. If he was in possession they must prove improper possession, therefore, I submit that the second charge should be dismissed also.

PROSECUTING OFFICER MAKES NO REPLY

JA -

If you think that on the evidence so far given, and you were to hear no more, you would find the accused not guilty, you should allow the submission. On the other hand if you think there is some evidence, more than a scintilla, that is to say, a shred, which supports the charge and which you are not at this stage prepared to disbelieve, you should reject the submission. The question of reasonable doubt does not enter now. At the close of the case for the prosecution, the Court does not and should not concern itself with the questions of reasonable doubt. By reasonable doubt is meant not a flimsy or whimsical doubt but a substantial doubt such as business people would entertain in the discharge of their daily affairs.

THE COURT IS CLOSED TO CONSIDER THE SUBMISSION

THE SUBMISSION OF THE DEFENDING OFFICER IS DIS ALLOWED ON BOTH CHARGES AND ACCORDINGLY TRIAL PROCEEDS

THE PROSECUTION IS CLOSED

FIRST WITNESS for the Defence (as to character) C.5805 Sgt Ray, A H & P E Regiment duly sworn is examined by the Defending officer:

Q Do you recognize anyone in the Court room, Sgt Ray?
A Yes, sir.

Q Whom do you recognize
A Pte Dickinson sir

Q How long have you known Pte Dickinson
A Approximately one year sir

Q When did you first meet him
A In my company in Canada sir

Q How long was he in your company
A Approximately 6 months. I was platoon commander for three months and A/C S M for three months

Q Also know him overseas
A No, I left him for the 48th

Q You were with the 48th for awhile
A Yes sir

Q Will you tell the Court exactly what your opinion of Pte Dickinson was. What sort of soldier he was and what his behaviour was in your opinion.
A I was platoon Sgt over Pte Dickinson. For approximately three months I was his CSM. Pte Dickinson was a good soldier, well disciplines soldier. We never had any trouble with him. We used to work a lot with demolitions and explosives and Pte Dickinson was my man for such purposes.

Q Is this work with demolitions, dangerous
A At times, yes sir

Q You state Dickinson did well
A Yes he did

Q Had he liked it?
A Apparently seemed to

Q Do you know anything about his family background
A J ust what he told me about his mother being very poor, sickly
He seemsto have a lot of family trouble.

Q Has he lived with his father and mother
A I can't tell that sir I imagine so

Q Did you know that his mother and father were separated
A No I didn't sir

Q From what you know of him, Sgt Ray, do you think he is a man who would steal anything
A Not that I have ever known sir

Q Would you trust him yourself
A I would sir yes

PROSECUTOR DECLINES TO CROSS EXAMINE THIS WITNESS

IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH RP 83 (B)

WITNESS WITHDRAWS

PROSECUTOR MAKES A CLOSING ADDRESS

Pros Offr:

The case seems to be in this way to me. This camera, exhibit "A" was claimed by the accused to be his property. It was also claimed by Pte MacKay to be his property and was identified by Pte MacKay as being his propery. The Defence has suggested that the goods would not be in imporper possession of the accused since it may have been given to him to sell. It is obvious that Pte MacKay, if he had given the goods out to sell he would not be alarmed to have it missing from his kit bag. It is obvious that if it had been borrowed by the accused Pte MacKay would have found out in such a small company area because he looked for it. That to me seems to be the crux of the whole case and I think I can rest the case on that.

DEFENDING OFFICER MAKES A CLOSING ADDRESS

Def Offr:

7 Mr President and gentlemen, I don't feel that in view of the evidence that the prosecution has adduced so far that there is any evidence on these charges at all. I think for the reasons I have already mentioned that the charge should be dismissed and I don't feel that we should be obliged to call on any defence whatsoever. The charge of theft is serious. The onus is on the prosecution to prove that , to prove that theft of the cameras occurred and prove that the theft was made by the accused and in that particular charge there has been absolutely no evidence at all. The word stealing has not been mentioned in Court and there is certainly nothing in the evidence to connect the accused Pte Dickinson with the stealing even if it had occurred. There is nothing to indicate it had occurred. At the outside I would like to make it clear. I understand that the JAG will be bound by anything the defending officer says. I want to make it clear that anything I say his not intended to be admission of guilt on the part of Pte Dickinson and I don't want him to be committed in case I say anything. Anything I say is only being said for the sake of argument and I want to make sure Dickinson is not bound by it.

So much for the charge of theft. It hasn't been mentioned and hasn't been proved. Improper possession I submit the prosecution has absolutely failed to prove there was improper possession of anything by anybody and what little evidence they have that the camera was in possession of Dickinson I say there is no evidence to say that he was in improper possession or that the cameras in possession of Pte Dickinson were these two cameras. Certainly if he was in possession, there is nothing to show improper possession. That is the meat of the whole case as I see it. The onus is on the prosecution to show affirmatively and beyond reasonable doubt he was in improper posession and there is nothing to indicate his possession was improper. Any evidence there is that he was in possession, if he was in possession, his possession was proper because he might have several reasons. MacKay might have lent it to him or someone else lent them to him. MacKay thought when he could not find the cameras, that somebody might have borrowed them. Someone

could have borrowed them and lent them to Dickinson, or someone else may have stolen them and given them to Dickinson. In any event the onus is on them that he was in improper possession and I don't consider that we should be obliged to prove anything. Also any charge that they have established especially a serious charge like theft must certainly be proved beyond a reasonable doubt. The DJA will inform you that if there is any doubt whatsoever, the accused must be given the benefit of it. If, when you consider the evidence you find there is any doubt, you must give the accused the benefit of that doubt and I submit there is a great deal of doubt in this case. Any evidence they have, I consider was improperly admitted because for the reasons I already mentioned. The accused was not cautioned and most of the evidence is heresay. As for MacKay and his part of the case, it seems to me he was extremely careless especially with the cameras which were in very great demand by everybody. He made no attempt to lock them up. He put them in his bag and put it outside the hut. I have never known at any time, a man putting his kit outside. When he went away I don't know why he didn't have the kit locked up. That is one time the Quartermaster would have to take the responsibility. I cannot understand why he didn't do that. If his cameras had disappeared while he was away it seems to me that is what you should expect. Also that it certainly doesn't seem likely it is ludicrous to think that Pte Dickinson would go and take the cameras and then try to sell them to the Sgt Major of the same company. Absolutely ridiculous. It could not possibly have happened that way. If he stole the cameras surely he would have tried to sell them to another regiment, not the 48th Highlanders. Most soldiers wanted to buy cameras and certainly he would have sold them in another regiment. Certainly not in the same company and to the company Sgt Major of the same company.

I submit that the prosecution has failed undoubtedly to make out either charges and I don't feel obliged to produce any defence to either of them.

THE JA SUMS UP

JA:

Gentlemen, my function as Judge Advocate at this point of the trial is to sum up and address you on matters of law in connection with this case. Before touching your general powers, duties and functions, however, I should like to remind you that every man charged before any court-martial is deemed to be innocent until proven guilty. Because a man stands before you today charged with an offence does not in any way indicate that he has been pre-judged nor should he suffer any prejudice from you because he is charged with a serious crime. It is your function and yours alone, to determine in a fair minded fashion from the evidence adduced before you whether he is guilty or not guilty.

The general rule is that, apart from any provision to the contrary, the burden of proof of guilt lies upon the prosecution, and it is not for the defence to prove innocence. Where the prosecution gives prima facie evidence from which the guilt of the accused might be presumed and which, therefore, calls for an explanation by the accused and no answer or explanation is given, a presumption is raised upon which the Court may be justified in returning a verdict of guilty. But if an explanation is given by or on behalf of the accused which raises in the mind of the Court a reasonable doubt as to his guilt, he is entitled to be acquitted, because if upon the whole of the evidence in the case the Court are left in a real state of doubt, the prosecution has failed to satisfy the onus of proof which lies upon them.

It has been indicated that if a reasonable doubt is raised in the Court's mind, or the Court are left in a real state of doubt, the accused is entitled to be acquitted. On this question of doubt I quote Stone's Justices' Manual, 1941, p.257, "to warrant an acquittal the doubt must not be light or capricious, such as timidity or passion prompts, or corruption readily adopts. It must be such a doubt as upon a calm view of the whole evidence a reasonal understanding will suggest to an honest heart, the conscientious hesitation of minds that are not influenced by party, preoccupied by prejudice, or subdued by fear."

And now if I may proceed, the functions powers, and duties of the Court.

The functions of the Court are two, firstly the determination of the facts of the case from the evidence heard before or submitted to it and secondly determining whether upon those facts and the law as I shall define it, the accused is guilty or not guilty of the offence with which he is charged. The court are the sole judges of both fact and law. In my capacity as Judge Advocate, I will attempt to assist you in your functions but I would point out that you are not obliged to take my advice on the law or what the law is. If I should appear to express any opinion on the facts of the case you will disregard such opinion--it is you and you alone who must decide both fact and law.

In performing your first function, that is, the determination of the facts of this case, I would remind you that you have sworn to well and truly try the accused "according to the evidence". The evidence has been adduced before you through the witnesses you have heard and your first task is to determine what the true facts of the case are. You do not have to accept the story of any witness merely because the witness has been brought in and sworn to tell the truth. You will accept a witness's evidence to the extent that it has impressed you as being credible. The credibility of a witness depends on his knowledge of the facts he testified, his disinterestedness, his integrity, his veracity, and his being bound to speak the truth by such an oath as he deems obligatory. Proportioned to these is the degree of credit his testimony deserves from the Court.

You have had all the witnesses examined in your presence, and have, along with counsel, had the opportunity of questioning them and testing their credibility. From the manner in which they gave

their evidence, answered questions and impressed you as to their credibility, you will determine the facts of this case.

It follows that you may believe a witness's evidence in it's entirety or disbelieve it in it's entirety, or accept it in part and reject it in part. However, if you do reject part of a witness's evidence, you should only accept the remainder with caution.

The accused has been charged with two offences; the first under AA sec 18(4) and the second under AA Sec 40 which charge is an alternative to the first. The Court cannot find the accused guilty of both charges, they can find the accused not guilty of both charges, or guilty of the first and not guilty of the second or not guilty of the first charge and guilty of the second charge.

The definition of stealing is "A person steals, who without consent of the owner fraudulently and without a claim of right made in good faith, takes and carries away anything capable of being stolen with intent, at the time of such taking, permanently to deprive the owner thereof."

The question whether the defendent took the goods knowingly or by mistake - whether he took them bona fide under a claim or right or otherwise - and whether she took them with an intent to return them to the owner or fraudulently with an intent to deprive the owner of them altogether, and to appropriate or convert them to his own use - are questions entirely for the consideration of the Court to be determined by them in view of the particular facts of the case. The intent must be permenently to deprive the owner of his property. To constitute stealing there must be a taking of the goods, either actual or constructive and also an asportation of carrying away. A bare removal from the place in which the thief found the goods though he does not make off with them is a sufficient asportation. It must be proved that the articles stolen are the absolute or special property of the person named in the charge.

With reference to the doctrine of recent possession I read (reads page 124 MML para 6)

In respect to the second charge, the alternative charge, the prosecution must prove that the accused's possession of the articles, that the said possession was improper, that the owner of the articles was Pte MacKay and that the improper possession if any, is conduct to the prejudice of both good order and military discipline.

The facts of the case are relatively simple and in the opinion of the Court and myself there is no need to sum up the facts

The Court must decide the guilt or innocence of the accused and if the Court is in doubt it must be resolved in the accused's favour.

Q Mr President do you or the Court desire any further instructions as to the law? Ans - No thank you.

Q Mr Defending Officer? Ans - No sir

Q The Prosecution? Ans - No thank you

THE COURT IS CLOSED TO CONSIDER THEIR VERDICT

THE COURT RE OPENS

SECOND WITNESS for the Defence as to Character — Captain J E Pollak, Medical Officer, 48th Highlanders of Canada duly sworn is examined by the Defending Officer

Q You are a qualified Medical Officer arn't you?
A I am

Q Qualified medical practitioner
A Yes

Q You are the medical officer of the 48th Highlanders of Canada?
A Yes

Q How long have you been Medical Officer
A Since Dec 12 1944

Q Of what University are you a graduate?
A Queens University, Kingston, Ontario

Q Before you joined the Army did you ever have any experience in the medical practice of mental deseases, mental disorders
A I worked in a mental hospital for three months and did and did work in psychopathy.

Q Is it fair to say doctor from this work that you have more than the average doctor's knowledge of psychiatry and mental deseases?
A I would say that.

Q Do you recognize anyone in this Court room?
A I recognize Pte Dickinson, the accused.

Q How long have you known him?
A I have know him since april 1945

Q I understand once sometime within the last two or three months there was a psychiatric report. He was examined by the psychiatrist and the psychiatric report sent back
A Yes

Q Do you know of that
A Yes

Q I understand that in that report it states he has "psychiatric trends".

Q Will you tell the Court what is meant by that
A Psychiatric individuals have not the normal ability to descriminate exactly between the wrong and the right. They have the tendency to commit petty crimes such as petty thefts, stealing, setting fires torturing animals and misbehaving in generaly.

Q Now, is it a characteristic of such people that they also like to play with explosives?
A It is not a characteristic but it could have been one of their trends.

Q Do they like to destroy things?
A That is correct.

Q In connection with the psychiatric report, doctor, in your experience with psychiatry and your experience with Pte Dickinson will you tell the Court what your opinion of him is?

A My opinion of Pte Dickinson is that he is a psychiatric individual

Q Then that means, if he is a psychiatric individual he would have a tendency to commit petty crimes ?
A That is correct.

Q When such people commit petty crimes is it because they want to do it or because it is more or less an urge that they do it as a result of a compulsion?
A It is a mental disorder of a milder degree which, however, is hard to correct and takes expert doctors to handle them.

Q Is it fair to say of such people that because there is a psychiatric trend they cannot distinguish from right and wrong and also that they have sort of a compulsion to commit crimes and that they don't realize the consequences of them but not that they particularly want to commit them for personal reasons.

Q They do realize the consequences but still don't seem to be able to stay away from committing these petty crimes. It is some sort of compulsion.

Q But they don,t make a proper distinction between right and wrong do they?
A That, I would say, varies with the individuals. Severe forms don t seem to make a distinction between the right and the wrong at all. The milder types do, as I said before, still don't seem to be able to control themselves.

Q In the case of a psychiatric individual who is the milder type, is it fair to say that type may not appreciate the difference between right and wrong and at the time he commits a petty crime, and then afterwards if he once has it pointed out to him that he has done wrong will not be able to explain why he did it, a logical explanation. Is that possible.
A Yes.

Q Is it fair to say that he might not appreciate it at the time or at the time appreciate that it is wrong but afterwards would they appreciate it is wrong afterwards. When somebody points it out to them, do they appreciate it?
A As I said before the milder types realize after having committed petty crimes that they have done wrong.

QUESTIONED BY THE JUDGE ADVOCATE

Q Do you say that the accused is suffering from this particular ailment you mentioned, psychiatric trends?
A Yes, I do.

Q Has he a definite ailment?
A Yes a definite ailment

Q Is not the psychiatric report available?
A No, it is not. It went with the Court-Martial, with the documents of his last Court-Martial in April but a copy could be procured but that would take some time.

QUESTIONED BY THE PRESIDENT

Q Would it not have been proper to evacuate this man after his last Court-Martial?
A Yes, in my personal opinion it would have been. The Psychiatrist declared him responsible for what he did and I had to go by his opinion. My personal opinion is that he is not fully responsible and that he is suffering from psychiatric trends. I suggest that another psychiatric examination be made.

Def Offr - If a man is examined by a psychiatrist again what would they do

J A(Cont)

WS You might explain to the Court just what is done

A If a man is diagnosed by a psychiatrist and found to be a psychopath he can be discharged from the Army and the civilian authorities will take him over and most likely he will be sent to the centre such as Orillia forinstance in Ontario.

Pres The Army does not provide treatment?

A No, the Army is not interested in men like that. There is t like to add, another way of dealing with them, with the very milder cases. They are being put in special employment companies that is the very milder types.

THE DEFENDING OFFICER MAKES A PLEA IN MITIGATION

Def Offr:

As far as the accused' s conduct sheet is concerned generally, the only charge of any consequence there is one under section 40 and that happened on VE Day when all the boys were celebrating, he and some other boys. He took a detonator and placed it in a can of petrol and ignited it. The other charge I see is one of being improperly dressed. He has never been court-martialled before. He was tried by the Commanding Officer and given 28 days Field Punishment. He has never had a court-martial before. I think it is very comendable. As far as his psychiatric condition is concerned I think that is very important indeed because at the time it seems that he was sent to the psychiatrist and as a result of that investigation the doctor got to know about it and you heard what the doctor said. The doctor pointed out that it is a characteristic of such people , they like to destroy things and more or less goes hand in hand that they like playing with explosives.

The only character witness available Sgt Ray, and Dickinson was in his company doing demolition work. I presume he liked the work. The Sergeant said he liked the work. I presume that is one of the characteristics of such individuals because he liked doing work of such a nature. He was very fond of it and they had no trouble with him.

Dickinson is 19 years old. He joined the Army April 1, 1944 and could not come overseas until he was 19. He was then 18. He joined under age and quite voluntarily long before he was bound overseas. He came overseas in June as soon as he became of age and joined the 48th Highlanders of Canada in Holland in March. That is briefly his army record. Nothing wrong with it, an ordinary record. His services are voluntary and I think his volunteering very comendable. He is married and his wife is 18 years old and lives in Ontario and they have no children. His domestic history is far from satisfactory. His mother and father are separated and have been so for the past 16 years in other words since he was a babe of 2 years his mother and father separated and he lived with his mother in Market, Ontario. That is certainly not a favourable family situation. His mother is now in St Michaels Hospital with gall stone trouble and it is expected she might not recover. At least she is not expected to recover I should say. He has two older brothers and one older sister.

In connection with his psychiatric condition and what the doctor told you I think that it is certainly borne out in the fact that if he did take this camera, it would certainly be ludicrous indeed if the man should take it and then try to dispose of it in the same company from which he took it. I still don't think so. It is the last thing a person going to steal a camera would do. So that is he did do it and I don't admit it but deny, then he certainly must be a psychiatric case and since that is so he deserves some sort of treatment. I suggest that he go to a psychistrist again for a thorough examination and if what the doctor says is borne out then in all fairnes to the accused he should be sent to some sort of centre where he can be treated for this condition. In fact I commend that to you as a proper disposal of his case if you find him guilty.

THE COURT IS CLOSED.

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
B-160589	Pte.	DICKINSON, M.J.	48th Highrs of Canada

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheets mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 671, K.R., 1940.

* The numbers inserted should correspond with the number of entries in the conduct sheets produced before giving in the total referred to in each entry, and in the unrecognised spelling of military or distinguished conduct.

Instruction.—If the charge is in contravention of the orders or regulations mentioned, the particulars must be stated separately and dated.

* Within last 12 months.

		*Since Enlistment.
For AA Sec 40	2 times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

[redacted] N/S

or

[redacted] N/S

2. The accused has not been previously convicted, or [redacted]

3. The accused is not under sentence at the present time, or [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 12 18 days in military custody, making a total of 12 18 days, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service [redacted] 19 yrs 7 months

6. The date of his commission / attestation specified in his record of service [redacted] 1 Apr 1944

7. [redacted]

8. [redacted]

9. [redacted]

10. [redacted]

11. [redacted]

12. [redacted]

[illegible] W 11402/144 175,000 5/41 A.H.E.W.Ltd. Gp.698

"Y"

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B160589 Rank Pte. Name DICKINSON, H.J. of 48 Highrs Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~10th~~ 3rd day of June, 1945

D.S.W.A.C. Officer

15. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion

To the rank of ..... years

To the rank of ..... years

To the rank of ..... years

(Signature) ..... (Rank) .....

If any member of the above paragraphs cannot be stated from the regimental books the paragraph must be struck out, and the reason stated why the information may be collected from such members as are available.

Where a soldier has held a rank for a period of less than one year, the exact period must be stated.

No. B.160589 Name DICKINSON M.J. Sqn. Battery, or Company

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Corps GIC TEMPORARY

Period not reckoning towards freedom from extra fine

Date of enlistment 1 Apr 44

Sheet No

Badges

Signature OC Company, etc

Service or Proficiency Pay 3/17 MFM &

Character

Place	Date of offence	Rank	Cause of forfeiture	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7 May 45	PTE		A.A. Sec 40 In that he did ignite a small pail containing petrol and detonators beside Pte Beaman A.W. a dangerous act liable to do grievious bodily harm.	Pte Beaman Sgt McDonough	28 days F.P.	29 May 45	J.R.O. COUNSELL Lt-Commanding Officer Co 48 Highrs.	
Field	30 Jun 45			A.A. SEC 40 Improperly dressed.	L/Cpl Rodgers	7 days C.B.	2 Jul 45	Capt N.J. Harris	

Certified true and exact copy

D.R. Watson Lt-& Adjt,
Officer i/c Records 48 Highrs of Can.

Summary of Evidence in the case of No. B-160589 Pte. DICKINSON, M.J., "A" Coy, 48th Highlanders of Canada, Canadian Army Overseas.

By direction of the Commanding Officer, Lt.-Col. J.R.O. COUNSELL, DSO, the evidence is taken on oath.

1st witness for the prosecution

B-112929 Pte. MACKAY, N., "A" Coy, 48th Highlanders of Canada, having been duly sworn states:

On the afternoon, 6th July, 1945, the day I returned from a tour in Germany, I went to get a pair of fatigue shoes from my kit bag, which was left under canvas beside our billets. I then discovered that my kit bag had been tampered with because the kit bag was tied up differently than when I left it and also I noticed the empty cardboard case which had contained my camera, exhibit "B", when I left to go on the tour. I then examined my kit more carefully and discovered that two cameras exhibits "A" and "B" were missing. Thinking that some of the men might have borrowed them, I enquired around but found no one who had borrowed them. C.S.M. Mitchell, overhearing my enquiries, asked me if I could identify the cameras if I saw them again.

That night I was called in to the Coy Orderly Room. There I found Pte. Dickinson, and the two cameras exhibits "A" and "B" were on the Orderly Room desk. I was able to identify one of the cameras, exhibit "A" because it had a rip in the back of it. The other camera, exhibit "B", I could not identify to others as being mine because it was brand new and had no peculiar marks by which it could be identified. I told the Sgt. Major that the cardboard case for the new camera was still in my kit bag. The Sgt. Major told me to bring it in. This I did. The case fitted the camera, exhibit "B", and bore the same trade name as the camera.

N. Mackay

(B-112929 Pte. MACKAY, N.)
"A" Coy 48 Highrs of Canada.

Cross examination by the officer taking summary.

Q. Were the two cameras, exhibits "A" and "B" in your kit bag before you went on the tour to Germany?

A. Yes.

Q. Did you place the kit bag under the canvas outside the billets yourself?

A. Yes.

Q. When you made enquiries concerning the whereabouts of your cameras did anyone volunteer any information?

A. Yes. Pte. Dossey said that he had seen cameras fitting my description of mine in his room.

Q. Did you then go to look at these cameras?

A. No. It was then that the Sgt. Major asked me if I could identify the cameras if I saw them again.

The accused declines to cross examine the witness.

2nd witness for the prosecution

B-79612 Pte. WOOD, J., "A" Coy, 48th Highlanders of Canada, having been duly sworn states:

On the morning of 7th July, 1945, Sgt. Major Mitchell called me in to the Orderly Room during Coy Comds Orders and asked me if I could identify a camera, exhibit "A", as being the property of Pte. MACKAY. This I did. It was a folding camera and had a rip in the back and the glass window in the back was broken. I had seen this camera several times before in Pte. Mackay's possession when were in the Hague.

J. Wood

(B-79612 Pte. WOOD, J.),
"A" Coy, 48 Highrs of Canada.

Cross examination by officer taking summary.

Q. Did you know whether or not Pte. Mackay had more than one camera?

A. Yes. I knew he had a folding camera and a box camera.

Q. When did you first hear of the disappearance of the cameras?

A. About 0030 hrs 7th July, 1945, when I visited Mackay in his room for a few minutes and he told me about it.

The accused declines to cross examine the witness.

3rd witness for the prosecution

B-46320 C.S.M. MITCHELL, A., "A" Coy, 48th Highrs of Canada, having been duly sworn states:

On the 6th July, 1945, Pte. Mackay reported the theft of two cameras from his kit bag. I was then in my quarters writing a letter and overheard a conversation from outdoors concerning a man who had cameras for sale. I investigated and called in Pte. Dickinson who admitted that he had two cameras. He produced the two cameras exhibits "A" and "B" which Pte. Mackay shortly afterwards identified as his. Pte. Dickinson claimed that he had had these two cameras before going to an F.P. Camp. I called in the R.P. L/Cpl. Brothers and asked for a report on Pte. Dickinson's kit. I learned that Pte. Dickinson had not turned in any cameras before proceeding to the F.P. Camp. I also called in Pte. Wood who was able to identify the cameras as being the property of Pte. Mackay.

A. Mitchell

(B-45320 C.S.M. MITCHELL, A.),
"A" Coy, 48 Highrs of Canada.

Cross examination by officer taking summary.

Q. What led you to investigate Pte. Dickinson after overhearing the conversation?

A. Pte. Dickinson's name was mentioned.

The accused declines to cross examine the witness.

4th witness for the prosecution

B-43156 L/Cpl. RANSOME, R.G., Regimental Police, 48th Highlanders of Canada, having been duly sworn states:

When L/Cpl. Brothers was giving Pte. Dickinson his kit inspection prior to going to FP Camp, I was present as a witness. There were no cameras in his kit at all.

R A Ransome

(B-43156 L/Cpl. RANSOME, R.G.)

The accused declines to cross examine the witness.

The accused having been warned as follows: "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given as evidence.

The accused declines to make a statement or give evidence.

I certify that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

Taken down before me in the presence and hearing of the accused, in the Field, this 17th day of July, 1945.

K R Greenfield

(K.R. GREENFIELD) Lt.,
48th Highlanders of Canada.

30th July, 1945.

I hereby certify that I desire the services of Lt. J.D. GRANT as defending officer in my pending court martial.

M.J. Dickinson

(B-160589 Pte. DICKINSON, M.J.)

In the case of B-160589 Pte. DICKINSON, M.J. "A" Coy
48th Highlanders of Canada:-

LIST OF EXHIBITS

Exhibit 'A':- One Spezial-Aplanai Camera (folding type)
Markings - 1:8.F-135 mm.

Exhibit 'B' - One Coronet Box Camera.

Exhibit 'C' - One Coronet Box Camera carton.

7 JULY 45

PROVOST SECTION
48th HIGHLANDERS OF CANADA

I F:60350 L/CPL BROTHERS W.A. R.P. 48th HIGHLANDERS OF CANADA, checked B.[illegible] PTE DICKINSON M.J. Kit before proceeding to P.P. CAMP on May 30th 1945 and did not find any cameras in his possession.

Signed Lcpl Brothers W.A. R.P.
L/CPL BROTHERS W.A. R.P.

7 July 45

Prisoner Section
48th Highrs of Canada

I F. 60350 L/Cpl Brothers W. A. R. of 48th Highrs of Canada, checked B 160589 Pte Dickinson M. J. kit before proceeding to F. P. Camp on May 28th 1945 and did not find any Cameras in his possession.

Signed
L/Cpl Brothers W. A. R.

MEDICAL OFFICER'S CERTIFICATE

3rd August 1945

I certify that No. B-160589 Pte. DICKINSON, M.J.

48th Highlanders of Canada is fit to undergo trial by Court-Martial.

Signature of Medical Officer.....

C&K

In the case of B-160589 Pte. DICKINSON, M.J. "A" Coy,
48th Highlanders of Canada:-

LIST OF WITNESSES

FOR THE PROSECUTION

B-112929	Pte.	MACKAY,	N.	"A" Coy 48 Highrs
B-79612	Pte.	WOOD,	J.	"A" Coy 48 Highrs
B-46320	CSM	MITCHELL,	A.	"A" Coy 48 Highrs
B-43156	L/Cpl.	RANSOME,	R.G.	Regimental Police 48 Highrs

FOR THE DEFENCE

NIL

"CERTIFIED TRUE COPY"

7 July, 1945.

Provost Section
48th Highlanders of Canada

I, F-60350 L/Cpl. BROTHERS, W.A., R.P., 48th Highlanders of Canada, checked B-160589 Pte. Dickinson, M.J., kit before proceeding to F.P. Camp on May 30th 1945 and did not find any cameras in his possession.

Signed (L/Cpl. Brothers, W.A.) R.P.
L/CPL BROTHERS W.A. R.P.

HV 33
PIE DICKINSON W.

CHARGE SHEET

The Accused G21085 Pte Willard Dickinson, a soldier of the Carleton & York Regt, Canadian Army Overseas, Central Mediterranean Force, on active service, is charged with:-

First Charge
Sec 12 (1)(a)
Army Act

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, in Italy, after having been warned that the Coy with which he was then serving was to proceed to a forward area, with intent to avoid so proceeding, absented himself without leave from approximately 1645 hrs 16 Dec 44, until he surrendered himself to G17317 CQMS Buck, H.J. at Rear Bn HQ at approximately 1200 hrs 17 Dec 44,

Total time absent 19 hrs 15 min.

In the Field,
Date. 24 Jan 45

(E.A. Kennedy) Major,
T/Comd Carlt & York R.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Fd
29 Jan 45

(F. [illegible]) Brigadier,
Commanding 1 Can Inf Bde.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/FA/1697 (2003)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G2108	Pte	Willard	DICKINSON	CYR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 29 Jan 45 endorsed by me, (~~of which the~~ ~~A/Rank (if any)~~ ~~is~~) be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable that such offence should be tried by a Field General Court-Martial~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~I am hereby appointed to convene the Court (A/)~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~I have appointed~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	P Trudeau	R22R

MEMBERS.

Capt	R E Campbell	WNSR
Lt (Rank.)	J R LaPorte (Named or detailed. RP 106.)	CYR (Unit.)

WAITING MEMBER.

Capt (Rank.)	G Payette (Named or detailed, if any. RP 106.)	R22R (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 29 Jan 45

E Burnett (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Commanding 3 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Exhibit 'A'

MEDICAL OFFICERS CERTIFICATE
MR (C/M) 357

I certify that I have this morning examined

No. G-2106 Pte. Dickinson, W.

of the Carleton & York Regiment and in my opinion he is

fit ~~unfit~~ to undergo Trial by Court Martial

Station In the field

Date 31st Jan 1915

[signature] Capt.,
Medical Officer
R.M.O. Carlt & York R.

Duncan, 21st 1943

Cont. of G 2105 Pte Maitland Dickinson C.Y.R.C.C.

Particulars

1st Witness

G 11303 Sgt Savage C. F. C.Y. Regt

sworn, duly examinated

I G 1303 Sgt Savage C. F. C.Y. Regt

Coy of the "A" Coy C.Y. Regt on the morn

ing of the 14th December 1943 I was

on parade with the remainder of the

men of my platoon at 8.45 hrs for

the purpose of inspection by the

Platoon Officer Lieut Hickey. I

was inspected by him at approx

imately 9.00 hrs on the same

morning. I then fell in with

the remainder of the platoon

and marched off to the Drill

Hall Duncan where we were

dismissed.

R. P. 53 (B) complied with

Cross-examination by Defence

Question by the Court

I was not cross-examined by the

Defence.

2nd Witness

C 114212 Cpl Hickey C.F. of the C.Y.R.

"A" Coy C.Y. Regt sworn, duly examinated

I am now leader No 7 Pl. "A" Coy. on

the 14 Dec 1943 at approximately 1430 hrs

I as Platoon Officer inspected the Pl. that was

forming up on the front of the Drill Hall

Duncan and I noticed that the men

were given the order to fall in and

I as Platoon Officer then inspected

the Platoon which

R. P. 53 (B) complied with

Cross-examination by the Defence

Question by the Court

I was not cross-examined by the Defence

JS

-2-

Capt W F McGrath having been duly sworn states

I am Capt W. F. McGrath adjutant of C.A. Regt R produce certified copy of summons and section 103 (33) A A which show that Pte Dickinson went to C.C.M.S. Canal Area on 4.11.40 at approximately 1100 hrs. 17th inst. the forenoon roll call being previous to 33. that normal parade.

RP 33 (B) complied with

Cross-question by the Defence — C.C.M.S. Canal is in Canada.

Defence

Evidence — G 7105 PTE RICHARD DICKINSON C.A. REGT having duly sworn states

C 'A' — On this day 17th inst in the morning I was on [illegible] when reinforcements coming in. I saw Dick on the [illegible] when I saw my ~~to~~ to him & ~~some~~ reinforcements coming in, they were all ~~goods~~ friends together.

"On the morning of the 17th inst some reinforcements came in & Dickinson was there with me. He told them I started to tell them about the ~~fight~~ how to the ~~reinforcements~~ and I did not want to ~~see~~ what they were saying so I started to walk away from them. I do not remember if not my ~~to~~ Dickinson came or not ~~on~~ the morning of the 17th. I immediately went up the ~~hill~~ to get my equipment and ~~went~~ back to

C.Q.M.S. Bond and men to HB at approximately 0830 hrs. On the afternoon of the same day C.Q.M.S. Bond what was the amount of [illegible] for use in my car, and I said that a day's leave with the rations for [illegible] morning. On the other hand I dug one grave. The next day I could not get back to the Battalion because I was ill. I looked after some [illegible] under close arrest.

R.P. 33 (8) complied with — S.S.

O.A. The morning of the 14th Dec there was not a number of men drinking

I do not find any after

R.P. 33 (8)

I do not wish falling on with my [illegible] on the 16 Dec

Reinforcements arrived at about 0930 hrs

I started to [illegible] about this

R P 33 (b) complied with

The prosecutor declines to make a closing address 31

F.J.

Closing address for the defence
in the case of
G-2105 Pte Dickinson W.

A point I want to refer to the
Court, is that Pte Dickinson re-
ported himself, only 14 hours after
his absence.

Due to circumstances, C. & M.S. Inch
N.S. to whom Pte Dickinson report-
ed, and asked, to be taken up to
his pl. is not available at the
moment, for C. & M.S. Inch N.S.
is in Canada.

C. & M.S Inch would have been
a witness to prove, that Pte
Dickinson wanted to go back
to his pl. and as a matter
of fact, had no intention of
deserting

J.B. Brainard
Defending Officer

J.B.

Pg 4

5

The court is re opened and JJ

_____ on his former oath JJ

R P 83(c) complied with JJ

_____ being recalled JJ
on his former oath

morning

R P 83 (c) complied with JJ

The Court is again closed for finding

JJ

E-1

– Defence –

Evidence of character in place of mitigation.

C 18030 Sgt George L. F. 2nd Regt.

Pl. right to 7 Pl 4 Coy during duel mentioned. I have the pl. right of 7 Platoon. Since the accused has been a member of my platoon in the Line I have had opportunities for about 12 to be a good man. He carries out all orders willingly and to me will be loyal by all counted of the Bn. His conduct never caused any trouble of any kind and always has been an efficient soldier.

R. P. 83(B) complied with.

J. J

Exhibit "E"

E-3

Files for investigation of evidence
in the case of

G. 2108 Pte Dickinson W.

Mr President & Members of the Court.

When a pl or coy are on rest it
is a good time to relax and some
times have drink. In fact the
bad days you just had in the front
line. And especially when you loose
your best friend, like in the case of
Pte Dickinson, he had lost his best
friend in the previous do.
And when a man is not accustomed
to liquor, and under the influence of
all the others, and drinks like all the
others, he can passed out very quick.
Pte Dickinson is 27 years old. He
came to England in June 14
He left behind his son of three years
old with his sister, to whom he sends
part of his pay.
He came to Italy in July 44
and has been with the C.G.R.
since.
You can see that this man has
a good record of service, he always
did his best, to help in this war.

~~EXHIBIT~~ 4

Exhibit 6

Certificate under Sec 163 (1)(i) Army Act

I Certify that No.G2103....Rank.Pte.Name.Dickinson,W. of the Carleton & York Regiment surrendered himself to G17317 CQMS Buck,N.J. of the Carleton & York Regiment, at Rear Bn HQ Carlt & York R. on the .17th day of.Dec.1944, at approximately.1200.hrs as an absentee without leave.

In the Field,
Date.21.Jan 45

(B.A. Kennedy) Major,
T/Comd Carlt & York R.

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
G 2108	Pte	Dickinson W.	Carleton and York Lvl 1

1. The following is a fair and true summary of the entries in the ~~regimental and squadron, battery or company~~ conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this statement may be compiled from the field conduct sheet.

† The conduct sheet(s) mentioned should be produced in court with this Statement but not inserted in the proceedings.

* The numbers inserted should agree with the total number of entries in the specified parts (not amounts forfeited or days' pay stopped) in the most unfavourable sheet, and in any case should not be less than the number of awards of field punishment.

Instructions.—If the charge is not dismissed, note the result for information must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For Sec 15(1) AA	1 time	1 time
For	times	times.
For	times	times.
For	times	times.
For	times	times.
	times	times.

Number of instances of gallantry or distinguished conduct, NIL

WTM ~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, ~~or~~

WTM ~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

WTM 3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence as follows:~~

beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and ~~43~~ 44 days in military custody, making a total of ~~43~~ 44 WTM days, of which NIL WTM days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service WTM is 26 yrs

6. The date of his ~~attestation~~ WTM specified in his ~~attestation paper~~ record of service WTM is 22 Sep 43

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr 4 mos

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr 4 mos service.

9. The accused is entitled to reckon 1 yr 4 mos service for the purpose of determining his service, etc.

WTM 10. The accused is in possession of, or entitled to, no military decoration or military award (~~or is in possession of or entitled to~~ (*state any military decoration or reward*)).

11. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer was held the regimental rank of

12. ~~(In the case of an officer.)~~ The accused holds in the army the rank of dated in his regiment (or corps or department) the rank of dated

(Signature)

for Instt C

J.J.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ____ Rank ____ Name ____ of ____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating those convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or nature of other disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 31 day of Jan 15

W Mc Grath capt
Officer i/c Records
Coult and York Regt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

	Date of Promotion.
In the rank of ____	____ years.
In the rank of ____	____ years.
In the rank of ____	____ years.

(Instructions—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph amended accordingly.)

7 — Exhibit "E"

E-3

This for investigation of evidence
in the case of
G. 2108 Pte Dickinson W.

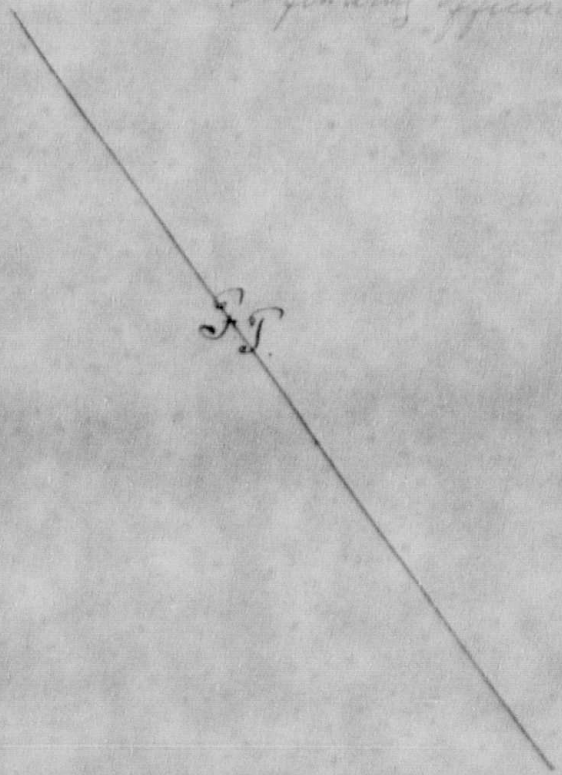
To the President & Members of the Court.

When a pl or coy are on rest it
is a good time to relax and some
men have drink, to forget about the
sad days you just had in the front
line. And especially when you lose
your best friend, like in the case of
Pte Dickinson, he had lost his best
friend in the previous do.
And when a man is not accustomed
to liquor, and under the influence of
all the others, and drinks like all the
others, he can passed out very quick
Pte Dickinson is 27 years old. He
came to England in June 44
He left behind his son of two years
old with his sister, to whom he sends
part of his pay.
He came to Italy in July 44
and has been with the C.D.R.
since
You can see that this man has
a good record of service, he always
did his best, to help in this war.

F.J.

His conduct has always been good in the past, and he is willing to keep up his good record, and continue his good work, in the future.

H. Lewis Lunt
Disbursing Officer



No C2/08 Name Dickinson W. Sqn. Battery or Company HCoy Corps CMR. Date of enlistment 22 Apr 43 OC Badges

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character | Exhibit D

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order Depositing with trial	By whom awarded	Remarks
Utopia Centre N.B.12	17 Apr 44	Pte		Was AWL from 0600 hrs 17 Apr 44 until 2355 hrs 18 Apr 44 about 17 hrs 55 mins	Cpl Fabian Cpl Hebert	3 days C.B.	18 Apr 44	Major N. McLeod Logan	Charge proved (Charge Sheet 148 (5) (a) R.R. & O.

Ordered two copies to Mrs Dickinson 'Yours to Hearts Content' Enclosed 29 Jun 44

EJ

(PTO)

Summary of evidence in the case of G2108 Pte Dickinson, W. a soldier of the Canadian Army Overseas, on strength of the Carleton & York Regt.

The Commandin directs that the evidence be taken under oath.

1st Witness For Prosecution G18030 Sgt Savage,M.F. , having been duly sworn states :-

I am G18030 Sgt Savage,M.F. platoon Sgt of No 7 platoon "A" Coy Carlt & York Regt, On the afternoon of the 16 Dec 44, I warned my platoon to be ready to move off up the line at 1645 hrs, I fell in my platoon at 1645 hrs, and checked with the section leaders and found the accused was absent at the time of moveing.

M.F. Savage

The Accused declines to cross examine this witness.

Second Witness For Prosecution C115512 Cpl Hickey,J.M. having been duly sworn states:-

I am C115512 Cpl Hickey,J.M. of No 7 platoon "A" Coy Carlt & York R. On the 16 Dec 44, at approximately 1430 hrs, Sgt Savage, gave the platoon the order that we were moveing off at 1645 hrs, I called my section together later to remind them of the move, and when we fell in at 1645 hrs, I then called the roll and found G2108 Pte Dickinson, W. to be absent, The accused was present when Sgt Savage warned the platoon of the move a few hours previous to the roll call.

J.M. Hickey

The accused declines to cross examine this witness.

Certificate under Sec 163 (1)(j) Army Act has been read to the accused marked exhibit "A" and attached to the summary.

Question to the Accused
Do you wish to make a statement or to give evidence upon oath ? You are not obliged to say anything or to give evidence, unless you wish to do so, but any evidence you give or whatever you say will be taken down in writing, and may be given in evidence.

Answer by the Accused
No.

I certify that the foregoing summary of evidence was taken down by me in the presence of the accused and that Rules of Procedure 4 (c)(d)(e)(f) and (f) have been complied with.

in the field,
Date 21 Jan 45

Officer taking Summary

List of Witnesses
In the case of ~~[illegible]~~ Pte G2108 Pte Dickinson,W. a soldier of the Canadian Army Overseas,on strength of the Carleton & York R.

For the Prosecution

G18030	Sgt Savage,M.F.	Carlt & York R.
C115512	Cpl Hickey,J.M.	Carlt & York R.

For the Defence NIL

List of Exhibits in the case of G2108 Pte Dickinson,W. a soldier of the Canadian Army Overseas, on strength of the Carlt & York R. Certificate under 163 (1)(j) Army Act

Certificate by the Accused

I certify that I have received free of charge, a copy of the Charge Sheet, Summary of Evidence, List of Witnesses, and list of exhibits, pertaining to my trial by Court Martial.

In the Field,
Date 21 Jan 45

W Dickinson

55

RECORDED AT CMHQ IN AB 160 — 41.33

CPA96 (in lieu of AFA31 40/RP & B/1698 40/01)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Brig. J.V.E. BERNATCHEZ, D.S.O. Comd 2 C.I.B. dated 24 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
		Willard.	DICKINSON	

G 2.1106 Pte 2 C Offices 28 Feb 45 Cmd

REVISING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ITALY on (*date*(s)) 31 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnm ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1005 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~the Interpreter~~ as interpreter? Ans ~~No~~.

~~The Interpreter is sworn~~(1) Do you object to ~~the shorthand writer~~ as shorthand writer? Ans ~~No~~.

~~The shorthand writer is sworn~~.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, ~~waiting member retires~~. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	Fernand	TRUDEAU	R 22eR.
Member	CAPT.	R.E.	CAMPBELL.	~~C.Y.R.~~ W.N.S.R.
Member	LIEUT.	J.R.	LAPORTE	C.Y.R.
~~Judge Advocate~~				
Prosecutor	CAPT.	W.T.	McGRATH.	C.Y.R.
Defending Offr	LIEUT.	G.	RIVA	C.Y.R.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
Q. If Pros a lawyer and Def Offr not, accused is enabled to an adjournment when RP 89 (B) and fn. 2 were not followed. See DI p 23.

A8. The accused Lt. Willard DICKINSON before arraignment makes(s) (no) ~~in~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(4), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to Ref cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part 1 of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~continued and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C-118 A6/16

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 2108 Pte Willard DICKINSON C.Y.R.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA. 12(1)A.	Not Guilty.	Guilty.	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 44 days, of which ... days were spent in hospital.(2)
(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for Six (6) months ~~detention~~

(Sgd) ..... Judge Advocate, if any. 31 Jan 45 Date awarded. (Sgd) Fernand Judicy Major President. (AA 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally: AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) (1. AA 57A. Delete if not used.)

(Sgd) Edmund Hedley Burgoyne

Date 2 Feb 45 Commanding 3 Cdn Inf Div Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G2108 Pte Dickinson, W.	5 Feb 45.	[signature] Lieut, A/Adjt, 1 R

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO (2)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~his~~ (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

~~D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is cleared, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s) and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~ (4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans Yes. Evidence on oath. Do you intend to call witnesses on your behalf?
Ans No. Are they witnesses as to character only? Ans ——— (5)
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the FIRST charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans Yes. Witness as to character.
(1. Evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true ~~copy~~ copy of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "C" and Ex "F" respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes in mitigation. Exhibit E (2)
(1. RP 27(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 328, 330, 563-566. Overseas 902 309, 2123, MML p 80, 757-758. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 109; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 2. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 2, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1) *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP* 37(*D*).)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*).

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1) Ex.....

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

5 b - 136.

Th. Dickinson. W. Th.

RECORDED AT CMHQ ... 5C-136

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA31)
40/P & D/1698 (6144)
4/388

RECEIVED 17 APR 1945 C.M.H.Q.

Convened by Order of F.M.R.A.F. Inds 4 Comd 9 C.I.B. dated 9 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 7676	Pte	Walter Milton	Dickinson	R.C.I.C.

PROCEEDINGS REVIEWED
19 Apr 45
K.Y. Dick Capt.
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Date 5 APR 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (dist) ... on (date(s)) 10 Mar 45.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 363(c). Delete, if not applicable.

A5. ~~President to accused:~~ Do you object to ... as interpreter ? Ans ...

The Interpreter is sworn.(1) Do you object to ... as shorthand writer ? Ans ...
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major E.A. Braidwood, 18th Bty R.C.A.
Member	Capt. J.D. Latimer, 22nd Amb. R.C.A.M.C.
Member	Lieut. J.E. Powell, 13th Hy Bty R.C.A.
Judge-Advocate	Capt. W.J. Milligan. 2nd Can. Inf. Div.
Prosecutor	Capt. C.H. Craig. R.C.I.C.
Defending Offr	Capt. W.C. Anderson, R.C.I.C.

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ... before arraignment make(s) (no) (~~no~~) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

(HQ-100 Vol (31-77)

SEC 12(1)
ARMY ACT

CHARGE SHEET

The accused No. B.41676 Private Walter Milton DICKINSON, The Highland Light Infantry of Canada, a soldier of the Canadian Army Overseas, is charged with:-

WHEN ON ACTIVE SERVICE,

DESERTING HIS MAJESTY'S SERVICE

in that he

in the Field at 2230 hrs on 26 Feb 45, when his Company was about to attack UDEM, Germany, absented himself without leave with intent to avoid such operation, until apprehended by Military Authority at 2230 hrs on 27 Feb 45 in Nijmegen, Holland. (Absent one day).

In the Field
2 Mar 45

R W Strickland Lt Col
(P.W. Strickland [redacted]) Lt.-Col.,
C.O. The H.L.I. of Canada

To be tried by Field General Court Martial:

In the Field
9 Mar 45

Forbes
(D F Forbes) Lt-Col
A/Comd 9 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 41676	Pte	------	Walter Milton	DICKINSON	HLI of C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 9 Mar 45 endorsed by me, ~~[illegible]~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~[illegible]~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~

5. ~~I also appoint as Judge-Advocate Thereat the Officer hereinafter named.~~ ~~[illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Maj	E W HENSELWOOD		18 Fd Coy RCE

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
	Capt or Lt to be detailed by		13 Fd Regt RCA
	Capt or Lt to be detailed by		14 Fd Regt RCA

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
	Capt or Lt to be detailed by		ADMS 3 Cdn Inf Div

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	R.P.Milligan		HQ 3 Cdn Inf Div

On Active Service in the Fd

in Germany (Country.)

(D F Forbes) (Signed personally. RP 105 fn 2.)

Lt-Col (Rank.)

Date 9 Mar 45

A/Commanding 9 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 3) 40-P-A-R/1867 (5148)

(See overleaf for notes and notes for use on trial.)

E W Henselwood Capt RCE

MEDICAL CERTIFICATE

I certify that I have this day examined B.41676 Private Dickinson, W.M. and find the above mentioned soldier to be fit/~~unfit~~ to stand trial by Field General Court Martial.

10-3-45
DATE

D McLaughlin Capt
MEDICAL OFFICER i/c

Paul Kyng Pte

Exhibit.

A1- No officer from 14 to Regt RCA being available to serve as a member the waiting member takes his place as a member of the Court
WA.

D2- Lieut. J. H. Dempsey, 14 R. A. of C. sworn states:
I am Lieut J. H. Dempsey, Pl. Comdr. 14 Pl. "C" Coy, 14 R. A. I identify accd & his number of that A. Cn 20 Feb 75 at approx 1300 hrs running and tripped by Coy. Comdr about [illegible] operation. I briefed my Pl. The accused was in attendance. I told them we were going to attack the enemy the next day. On 26 Feb 75 at approx. 1330 hrs my Pl moved to temporary assembly area and at approx 1600 hrs, 14 Pl moved to assembly area at outskirts of Kappeln, Germany. The accused was present on arrival. At 2015 hrs I attended Coy Comdrs. "O" Gp giving the attack orders and orders to move to F.U.P. on other side of Kappeln. I held my Pl. "O" Gp and issued orders to acc. Comdr at approx 2055 hrs. The next day as a result of a report I checked Pl. and accused was absent. This was approx 0700 hrs. 27 Feb 75.
The Crop Examinations RP 83 (81) complied with.

H 37888 Cpl. Legue, W.C. R.A.F. C. having been seriously wounded in the head is not available.

Certificate of apprehension Ex. "A" presented to Court by Prosecutor.

The Prosecution is closed.

Prosecutor does not address the Court on the finding.

Def. officer does not address the Court on findings.

The Def. officer does not make plea in mitigation.
The Accd. hands in a written, signed Plea in mitigation.

SUMMING UP BY JUDGE ADVOCATE in the case of B.14676 Pte. Walter Milton DICKINSON

The accused is charged with desertion. Desertion may be defined as absence without leave plus the intention to either (a) quit the service altogether or (b) avoid a particular service. A particular service may be an operation, an attack on the enemy, a movement, or any particular job his unit is put in any particular place to do. In this case, you have evidence that the accused was warned for a particular service. However, there is no evidence that the accused was absent from a particular task. You have only evidence the accused went absent the next morning at 0900 hours and that he was arrested at Nijmegen at 2230 hours 27 Feb 45. It is for you to decide whether the accused absented himself with the intent to avoid a particular service. However, if you decide that he did not absent himself with intent to avoid a particular service, then you may bring in a verdict of not guilty of desertion but guilty of A.W.L.

As in all cases I must advise you that the accused is innocent until proven guilty and that he is entitled to the benefit of any doubt you may have.

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

Plea in Mitigation by accused.

Officers of the Court

Sirs:

I am twenty-four years of age, single and have had five years High School education. I have had continuous battle service with the Highland Light Infantry of Canada since 10 July 1945.

My father has been seriously ill for some three months and I have been very worried about his condition and the state of affairs at home. My case has been investigated by military authorities and proceedings are in operation for my return to Canada on compassionate grounds.

O. L. S. McIntosh

4/71 CFA 176

PLEASE WRITE ON BOTH SIDES

SCHEDULE "B"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR 42

I certify that No. B.41474 Rank Pte. Name ROBINSON R.M.

Unit M.P.S. 21 C. was arrested at NIJMEGEN (Place)

at 22.30 (hour) on 27 Feb 45 (date) and that at the time of his arrest he was wearing (militiary uniform) ~~or civilian clothes~~*.

Signature of ~~Provost Marshal, Assistant Provost Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer warrant officer or~~ non-commissioned officer in charge of the detachment of the Canadian Provost Corps Canadian Army, into whose custody the above named person was taken on arrest.

R. Mason Sgt.

* Strike out part inapplicable.

Ex. V
Capt Simpson

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B.41676	Private	Walter Milton DICKINSON	The H.L.I. of Canada

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct special mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 671, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, precautions being given to the most serious offence in each entry, and to not recommend special acts of gallantry or distinguished conduct.

	* Within last 12 months.		* Since Enlistment.	
For	NIL.	times	NIL.	times.
For		times		times.
For		times		times.
For		times		times.
For		times		times.
For		times		times.

INSTRUCTION.—If the sheet is for drunkenness the entries for drunkenness must be stated separately and dated.

[redacted]

2. The accused has not been previously convicted, or

[redacted]

3. The accused is not under sentence at the present time, or [redacted] 24

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 11 days in military custody, making a total of 11 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 24

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 10 Jun 42

[redacted]

9. [redacted]

10. The accused is [redacted] is in possession of or entitled to (*state any military decoration or reward*) The C.V.S.M. & Clasp

[redacted]

[redacted]

[redacted]

(*****) Wt. 30/5/42/1 75,000 12/40 A.A.F.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B41576 Rank Pte. Name Dickinson, W.M. of HLI of C Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be entered.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL.		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd day of March 45

A Hale, Capt

(Officer having custody of Regimental Books)

(Alterations, erasures or additions must be attested by the officer having custody of the regimental books.)

(Insertions.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collated from such sources as are available and the paragraph amended accordingly.)

MFM 6
(A.F.B. 122)

No B41676 Name Dickinson, W.M. Sqn, Battery, or Company B Coy Corps C.I.C. Date of enlistment 10 Jun 42 Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Furlough 23 Dec 42 Embarkation Leave 13 Mar 43					
				Awarded First Conduct Stripe wef 10 Jun 44. Auth: Pt II Order #78 d/14 Dec 44					

CERTIFIED TRUE COPY H. Harley Capt. O/C A/Adjt.
(H. Harley) Capt.
2 Mar 45
Officer having custody of original

(PTO)

Summary of Evidence
in the case of B41676 Pte Walter Wilfred Jackson
The Highland Light Infantry of Canada

By direction of the Commanding Officer the evidence is taken on oath

First Witness Capt A.A.G. Chilton Adjt The Highland Light Infantry of Canada sworn states:

Produce Certificate of Apprehension relating to the accused. Admitted as Exhibit A

The accused declines to cross examine the witness

A.A.G. Chilton Capt.
The Highland Light Infantry
of Canada

Second Witness Lieut J.H. Dempsey The Highland Light Infantry of Canada sworn states:

I am Lt J.H. Dempsey H. Condr of No 14 Platoon C Coy Highland Light Inf of Canada. I know B41676 Pte Jackson W.W. as a member. On the 25 Feb 45 at approx 1600 hrs having been warned by the Coy Condr, I warned my platoon and Pte Jackson was in attendance. On 26 Feb 45 at approx 1230 hrs my platoon moved to a temporary assembly area and at approx 1600 hrs moved up to the assembly area on the outskirts of Kapellen Germany. Pte Jackson was with the platoon on both moves and was present on arrival. At 1245 hrs I attended the Coy

Coy Cmdr "C" Sqn and was given orders to proceed to the forming up place on the other side of Keppeln. I held my platoon "C" Sqn at approx 2055 hrs and issued orders to the Sec Cmdrs upon completion of our attack on Xdem A37858 Cpl Legue W.C. reported that the Sickness was missing.

The accused declines to cross examine the witness

Jas. Dempsey Lt.
The Highland Light Infantry of Canada.

Third Witness A37858 Cpl W. C. Legue The Highland Light Infantry of Canada Sworn states: I am Section Comdr of 4th Sec 14 Platoon C Coy and the Sickness is a member of my section On the afternoon of the 25th Feb. Lt Dempsey briefed the platoon on the forthcoming operation and the Sickness was present. I checked my Section at 2115 hrs 26 Feb and the Sickness was present. At the time we were in an assembly area near Keppeln Germany. We moved forward to the forming up place and on checking my section at 2230 hrs I discovered the Sickness was absent.

The accused declines to cross examine the witness

Cpl W. C. Legue Cmdr
The Highland Light Infantry of

The accused declines to call any witnesses
The accused was cautioned as follows.
Q Do you wish to make a statement or give

any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you may give will be taken down in writing and may be given in evidence.

"A" I have been in the RAF/RCAF since 8 July 44 and I have been in all the battles in France Belgium and Holland. My nerves have been getting worse from the shelling. While in the assembly area near Keppeln Germany, we were shelled by the Germans before going in to the attack, after which I just couldn't stand any more and so did not go in to the attack on Hohen Germany.

Pte W M Dickinson

I certify that the foregoing Summary of Evidence was taken before me in the presence of the accused and that R.P. 4 (c)(d)(e) & (f) were complied with

Entrefield
28 Dec 45

F/L Scobie Capt

SUMMARY OF EVIDENCE in the case of

No. B.41676 Private Walter Milton DICKINSON, The Highland Light Infantry of Canada:-

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness: Capt. R.A. Echlin, Adjutant, The Highland Light Infantry of Canada, sworn states:-

"I produce Certificate of Apprehension relating to the accused (admitted as Exhibit "A")."

The accused declines to cross-examine the witness.

.....
The Highland Light Infantry of Canada

Second Witness: Lieut. J.H. Dempsey, The Highland Light Infantry of Canada, sworn states:-

"I am Lieut. J.H. Dempsey, Pl Comd of No 14 Platoon "C" Company, The Highland Light Infantry of Canada of which B.41676 Pte. Dickinson, W.M. is a member. On the 25 Feb 45 ap approximately 1500 hrs having been briefed by the Coy Comd, I briefed my platoon and Pte. Dickinson was in attendance. On 26 Feb 45 at approximately 1330 hrs my platoon moved to a temporary assembly area and at approximately 1600 hrs moved up to the assembly area on the outskirts of Keppelin Germany. Pte. Dickinson was with the platoon on both moves and was present on arrival. At 2045 hrs I attended the Coy Comds "O" Gp and was given orders to proceed to the forming up place on the other side of Keepelin. I held my platoon "O" Gp at approximately 2055 hrs and issued orders to the Sec Comds. Upon completion of our attack on Udem A.47858 Cpl. Legue, W.C. reported that Pte. Dickinson was missing.

The accused declines to cross-examine the witness.

.....
The Highland Light Infantry of Canada

Third Witness: A.37858 Cpl. Legue, W.C., The Highland Light Infantry of Canada, sworn states:-

"I am Section Comd of a Sec 14 Platoon "C" Company, The Highland Light Infantry of Canada, and Pte. Dickinson is a member of my section. On the afternoon of the 25 Feb 45 Lieut. Dempsey briefed the platoon on the forthcoming operation and Pte. Dickinson was present. I checked my section at 2115 hrs 26 Feb 45 and Pte. Dickinson was present. At the time we were in an assembly area near Keepelin Germany. We moved forward to the forming up place and on checking my section at 2230 hrs I discovered Pte. Dickinson was absent.

The accused declines to cross-examine the witness.

.....
The Highland Light Infantry of Canada

The accused declines to call any witnesses.

The accused was cautioned as follows:-

Q. Do you wish to make a statement or give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you may give will be taken down in writing and may be given in evidence.

A. "I have been in the HLI of C since 8 July 44 and I have been in all the battles in France, Belgium and Holland. My nerves have been getting worse from the shelling. While in the assembly area near Keppelin, Germany, we were shelled by the Germans before going into the attack, after which I just couldn't stand any more and so did not go into the attack on Udem, Germany."

.....
The Highland Light Infantry of Canada

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused and that RP 4 (c) (d) (e) and (f) were complied with.

.....
The Highland Light Infantry of Canada

LIST OF WITNESSES

For the Prosecution:

(1) Capt. R.A. Echlin, Adjutant, The Highland Light Infantry of Canada.

(2) Lieut. J.H. Dempsey, The Highland Light Infantry of Canada.

(3) A.37858 Cpl. Legue, W.C., The Highland Light Infantry of Canada.

For the Defence: NIL.

LIST OF EXHIBITS

Exhibit "A" Certificate of Apprehension.

APPLICATION FOR DEFENDING OFFICER

Precedent:

To Officer Commanding,
The Highland Light Infantry of Canada

With reference to my pending trial
by Field General Court Martial.

(a) I desire that an officer be assigned to act as
Defending Officer, Capt. D.C. Anderson, if available.

L.M. Hodgson B 41674
The Highland Light Infantry of Canada

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir.(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. ~~The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not~~ establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened, and the President announces that the submission is ~~allowed~~ disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on ~~the latter~~ charge(s).(3)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answers and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 113.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Nil Statement Desired. Do you intend to call witnesses on your behalf? Ans. Nil. Are they witnesses as to character only? Ans. Nil.
(1. RP 115. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(a).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No Sir.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 1 and Ex 2 respectively.(3)
(1. MFB 355 or AFB 296. 2. MJM 6. 3. RP 46, KR Can 556. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Good record.
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or add anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: 6-41676 Pte Walter Milton DICKINSON 7 Bde

Charge. (insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not Guilty	of desertion but guilty of absence without leave from 0900 hrs 27 Feb 45 till 2230 hrs 27 Feb 45.
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 403 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~He~~ present under sentence for ..... beginning on (date) .....
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which Nil days were spent in hospital.(2)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo detention for one (1) year.

(Sgd) A. Buncombe Lt 10 Mar 45 (Sgd) E Dunlop Maj
Judge-Advocate, if any. Date awarded. President. (RP 45, 50)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)
(1. AA 57A. Delete if not used.)

(Sgd) (J T Forbes) Lt-Col

Date 14 Mar 45 a/ Commanding 9 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
6-41676 Pte Walter Milton DICKINSON 7 Bde	16 Mar 45	H Harley Capt HQ 3 Cdn Inf Div

sentence duly promulgated

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

UU-125
PG. Dicke, W. H.

NO. 1 ADVANCED BASE WORKSHOP, R.C.O.C.

AGV President

THE ACCUSED IS REMANDED TO BE TRIED BY F.G.C.M. 26 October 43.

CHARGE SHEET

The accused B63883 Pte. Dicks, William Henry, a member of No. 1 Advanced Base Workshop, R.C.O.C., WOAS is charged with:

CHARGE: Army Act 18(4)

(1) Sec. 18 (4) A.A.-WOAS- Stealing property belonging to persons subject to military law, in that he, at Haymill Camp, Burnham, Bucks., on 23 Oct 43, stole 8 woolen blankets belonging to:-

C2903	Pte. Irvine, L.J.	(1 Blanket).
G53189	Pte. Jones, D.L.	(1 Blanket).
L65184	Pte. Keller, C.	(1 Blanket).
A58396	Pte. Trepanier, C.T.	(1 Blanket).
D96428	Pte. Zangwill, J.	(4 Blankets).

Alternative Charge

Army Act 40.

(2) Sec. 40 A.A.-WOAS- Conduct to the prejudice of good order & military discipline, in that he, at Slough, Bucks., on 23 Oct 43, was in improper possession of property belonging to persons subject to military law, namely, 8 woolen blankets belonging to:-

C2903	Pte. Irvine, L.J.	(1 Blanket).
G53189	Pte. Jones, D.L.	(1 Blanket).
L65184	Pte. Keller, C.	(1 Blanket).
A58396	Pte. Trepanier, C.T.	(1 Blanket).
D96428	Pte. Zangwill, J.	(4 Blankets.

(W.L. Thompson), Lieut.-Col.,
Officer Commanding,
No. 1 Advanced Base Workshop,
R.C.O.C., C.A.C.

2 Nov 43 (E.K. McDougall) Captain
Legal Officer
JAG Branch
Canadian Military Headquarters

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
3 Nov 43

(P.J. Montague) Major-General
Senior Officer
Canadian Military Headquarters

Exhibit "A"

A.B. Prendeville — Squadron / Battery / Company / Detachment

1 Adv. Base Wks Reg — Unit or Battalion

4 Nov — 1943

MORNING SICK REPORT

Regt'l No.	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner or defaulter	Married or single	DISEASE	Medical Officer's Remarks and Initials

I hereby certify that at 0730 hours 4 November 1943 I have examined 6388?, Pte Dicks, W.H., and he is fit to undergo trial by Court Martial (Field General)

Prendeville Capt. — Medical Officer

J.S. WINDER CAPT. R.C.A.M.C.

Orderly N.C.O.

(OVER)

M.F.S. 595
M1V4A/(14813070)

A.G. President

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/PAM/1097 (2665)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B-63883	Pte		William Henry	Dicks	No 1 Advanced Base Workshop, RCOC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet(s) attached and on this date endorsed by me, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial;

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	A.E. Dobereiner		CMSC, CMHQ

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	E.P. Innes		RCOC, CMHQ
Capt	W.G. Brown		RCOC, CMHQ

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	R.P. Collyer		RCASC, CMHQ

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	B.W. Howard		RCA, CMHQ

On Active Service in the Fd

in England
(Country.)

(Signed personally. RP 105 fn 2.) P/M

Date 3 Nov 43

Commanding (P.J. Montague) Major-General
Senior Officer
Canadian Military Headquarters
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

P/M

A.B. Volcanic
"main"
Rundown

Evidence in the Trial of B 63363, Pte. DICKS Henry

A.B. Prosecuting Counsel not a lawyer. R.P. 89 (1) was not complied with. Finding may not be valid. Summary of Evidence in terms of R.P. 78(2)

President - Do you wish to make any statement?

Answer - I made a statement for the Summary of Evidence which just about covers everything about stealing the blankets. I was in need of money. I think the statement in the Summary covers everything.

President - Have you any questions?

Prosecuting Counsel. No questions.

President - Do you wish to give evidence yourself or call in witnesses as to your character?

Answer - Yes Sir.

President - Do you wish to address the Court on the statement and conduct sheet in mitigation of punishment?

Answer - Yes Sir.

Counsel for the Defence

Mr. President and Members of the Court. I would like to submit a plea of mitigation on behalf of Pte. Dick for the following reasons. Firstly that he has, more or less, made a clean breast of the matter and while it has caused a lot of inconvenience none of the innocent people that might have suffered have suffered through the fact that the blankets were recovered. Pte. Dick in his character statement states he is 23 years old. Old enough, we admit, to know better but still not what is considered mature. Therefore, I think I and am of the opinion that this incident that happened was more or less done on the impulse of the moment and backed by a pressing demand for money which he did not have. Pte. Dick works on a switchboard and has done so for a year. We have no complaints at all about his work. He carries out his work in a remarkable way and we need people like him in the army. He is never away from the job even for 10 minutes and a job like that demands a certain amount of even temperment, and to hold down a job like this such temperment would not lend itself to incidents of this kind. In my opinion the act was not premeditated. I think it was merely foolish and the fact that Pte. Dick ran down the road in the evening does not show very good gestapo. If the plan had been premeditated it would have been carried out more sensibly.

Witness for the Defence

C 336793, Pte. Palmer, K.M. member of #1 Advance Base Workshop, R.C.O.C.

Question - How long have you known Pte. Dick?

Answer - About three years.

Question - Did you know him before the war?

Answer - No Sir.

Question - Are you friends?

Answer - Since I have known Pte. Dick we have been together and he is a square guy.

A.B. Voluremier
Major
Brandon

Witness for the Defence (Cont'd)

Question - You are still close friends?

Answer - Yes Sir.

Question - What have you to say about his character?

Answer - Ever since I have known Pte. Dick I have found him to be a square guy.

Question - Would you say he is well liked.

Answer - Yes Sir.

Prosecuting Counsel

Question - You have been a friend of Pte. Dick's for some time?

Answer - Yes Sir.

President - Have you any statement to make?

Answer - Well, Sir, the statement that I have already made in the Summary of Evidence and what has been said to-day is all.

Statement as to character of accused by P 2811 Cpl. Byrne, C.J. #1 Advance Base Workshop, R.C.O.C. tendered and not objected to by Prosecutor. Entered and marked exhibit "E". Plea for leniency by Defence Counsel tendered in writing, and not objected to by Prosecutor. Entered and Marked Exhibit "F".

A/Dolicenne
Mon -
Brunau

Address by Prosecutor in the Trial of Evidence of

L 74757, Pte. HAMILTON, Chester Bruce.

B 63363, Pte. Dicks Henry.

So far as character of evidence is concerned it is chiefly brought forward by friends of the accused. Not perhaps to be given too great consideration, but as a matter of fact I do not take exception because I think the men themselves from previous records show that their characters are comparatively good, but the point I would like to make is that this is a very serious offence. Two men have pleaded guilty to stealing articles from men they work with. These men are subject to army discipline. Soldiers must leave their blankets on their beds. They are not provided with the necessary facilities to lock them up and consequently are at the mercy of anyone who requiring a little money decides to steal them. It has been suggested that there is no financial loss in this case inasmuch as the blankets were recovered, but there is nothing to lead us to believe that such would have been the case had it not been for the alertness of Const. Thorne in recovering the blankets. If the blankets had not been recovered by the Const. the men on whose charge they were would have been forced to pay for them. Now something obviously has to be done to stop this. Part of it is due to the fact that these men thought that they could sell the blankets. The job is to try and stop the civilians who are willing to buy them but that cannot be done in all cases. We have no lead as to whom the accused were going to sell their blankets and if we cannot stop civilians from purchasing from soldiers we certainly must stop men from stealing. Therefore, I feel that although their character and conduct sheets are not bad in any way, in view of the seriousness of the offence, and the fact that other ranks in the army are so placed that they must rely on the honesty of their brothers in arms, a grave view should be taken of the offence. It is perhaps a more serious offence than stealing from a civilian who has an opportunity of keeping his goods and chattels under lock and key.

NO. 1 ADVANCED BASE WORKSHOP, R.C.O.C.

Exhibit "J"
A.G.V.
President

CASE OF B.63883 Pte. Dicks, W.H.

I hereby submit a plea of leniency for the following reasons:

1. That while the incident has caused a deal of inconvience, the blankets have been recovered, and no innocent persons have suffered financial loss.

2. The accused is a soldier of good character, and has never before been connected with a crime of this nature while serving with this unit.

3. While serving with this unit, the accused has carried out his duties as switchboard operator in a concientious and efficient manner. He is thoroughly reliable in his work.

4. As the accused is rather young (23) I am of the opinion that the act was committed on the impulse of the moment, and that it was not premeditated.

H. Simpson

(T.E. Simpson), Lieut.,
Defending Officer.

Exhibit "E"

November 8th.1943
England.

To Whom It May Concern.

I am a Corporal on the Instructional Wing of the unit that Pte Dicks and myself come from. In any dealings that I have had with this man I have always found him to be quite willing in his duties and I at no time have found any reason for complaint. In the year that I have known him, to the best of my knowledge he has done his best to be a credit to the Canadian Army and also to himself.

C Byrne Cpl

P 28113 Cpl. C.J Byrne,
1 Advance Base Work Shops,
R.C.O.C.
Canadian Army Overseas.

Signed in My presence. Nov.8th 1943.

A.G. Wimperis CSM.

Exhibit "B" A&D Russell

Page. 1.

Summary of Evidence in the case of B63883, Private, William Henry DICKS, on strength of No. 1 Advanced Base Workshop, RCOC., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the summary of evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION. No. L65184, Pte. Keller, C., on strength of No. 1 Advanced Base Workshop, RCOC., a soldier of the Canadian Army Overseas, having been duly sworn states:

On Sunday morning, 24 October 43, I noticed one of my blankets missing at about 1200 hours. I reported the loss of this blanket to L74919 Pte. Foster, W.J., at the Guard Room. I can identify the blanket now shown to me and marked Exhibit "A", as similar in every respect to my missing blanket. My Hut number is F-3, and the blanket was missing from my bed in this Hut. I know the blanket was on my bed on Saturday, 23 October 43, at 1800 hours. I identify the blanket as mine because I took the red string off the one end of the blanket, as it had frayed, and the blanket market Exhibit "A" has the red string off of one end.

C. Keller
L65184 Pte. Keller, C.

The accused declines to cross examine this witness.

Signed in my presence, 26 October 43.

D. Threadgold
Capt. D.M. Treadgold.

SECOND WITNESS FOR THE PROSECUTION. No. G83189, Pte. Jones, D.L. , on strength of No. 1 Advanced Base Workshop, RCOC., a soldier of the Canadian Army Overseas, having been duly sworn states:

On Saturday, 23 October 43, at approximately 1800 hours, I left camp. My Hut number is F-3, and before I left camp I made up my bed in that hut, and put my hanger under the top blanket. When I came in at about 2345 hours that night, the hanger was lying on top of the blankets, so I counted my blankets and I was one short. I had five blankets on charge to me, and at 2345 hours there were only four blankets there. When I made up the bed at 1800 hours there were five blankets there. I identify the blanket now shown to me and marked Exhibit "B", similar in every respect to my missing blanket.

D L Jones
G83189 Pte. Jones, D.L.

The accused declines to cross examine this witness.

Signed in my presence, 26 October 43.

D. Threadgold
Capt. D.M. Treadgold.

THIRD WITNESS FOR THE PROSECUTION. No. 2903 Pte. Irvine, L.J., on strength of No. 1 Advanced Base Workshop, RCOC., a soldier of the Canadian Army Overseas, having been duly sworn states:

I have five blankets on charge to me. I live in Hut number F-3, and on Friday, 22 October 43, at about 0800 hrs., I made my bed, and at that time there were five blankets on my bed. The next time I slept in my my bed was Sunday night, 24 October 43, and in the morning when I made my bed, I had only four blankets. I reported the loss to A58135 A/Cpl. Baldrey, F.G., of the Quartermaster Stores. I cannot definitely identify my blanket among those shown to me. I did not count my blankets when I returned to camp on Sunday night.

L J Irvine C 2903

C2903 Pte. Irvine, L.J.

The accused declines to cross examine this witness.

Signed in my presence, 26 October 43.

D M Treadgold

Capt. D.M. Treadgold.

FOURTH WITNESS FOR THE PROSECUTION. No. A58396 Pte. Trepanier, C.J., on strength of No. 1 Advanced Base Workshop, RCOC., a soldier of the Canadian Army Overseas, having been duly sworn states:

I have five blankets on charge to me and I live in Hut number F-3. When I made up my bed on Saturday, 23 October 43, at about 1300 hours, I had five blankets on my bed. I counted them at that time. I left camp and came back at about 0100 hours, 24 October 43, and went to bed. I did not count my blankets then. In the morning of 24 Oct 43, at about 0930 hours, when I made my bed, there were only four blankets there. I thought someone might have borrowed it, but reported the loss at the Guard Room on Monday, 25 October 43. I cannot definitely identify my blanket among those now shown to me.

C.J. Trepanier

A58396 Pte. Trepanier, C.J.

The accused declines to cross examine this witness.

Signed in my presence, 26 October 43.

D M Treadgold

Capt. D.M. Treadgold.

FIFTH WITNESS FOR THE PROSECUTION. No. D96428, Pte. Zangwill, J., on strength of No. 1 Advanced Base Workshop, RCOC., a soldier of the Canadian Army Overseas, having been duly sworn states:

I live in Hut number F-3, and I have one blanket of my own, and four on charge to me. On Saturday, 23 October 1943, at about 0730 hours, I made up my bed and there were five blankets on my bed at that time. When I came back off week-end pass at about 2359 hrs., Sunday, 24 October 43, there was only one blanket on my bed. It was a gray blanket. I can identify the four blankets now shown to me and marked Exhibit "C", as similar in every respect to my missing blankets.

Pte J. Zangwill D96428

D96428 Pte. Zangwill, J.

The accused declines to cross examine this witness.

Signed in my presence, 26 October 43.

Capt. D.M. Treadgold.

SIXTH WITNESS FOR THE PROSECUTION. Constable Leslie Thorne, P.C. 87, of the Bucks Constabulary stationed at Slough, Bucks., having been duly sworn states:

At 2000 hrs., Saturday, 23 October 43, I was cycling along Farnham Road, Slough, when I saw two soldiers, each carrying blankets. I stopped and went towards them; they each threw the blankets which they were carrying onto the ground and ran in different directions. I chased the accused, L74573, Pte. Hamilton, C.R., for about 450 yards, when he stopped and I caught him. He said, "What are you chasing me for?". I said, "For throwing some blankets away". I conveyed him back to the place where he had thrown the blankets away, and counted eight blankets. I said to him, "I am going to arrest you for being concerned with another soldier in stealing these blankets produced, the property of some person unknown". I cautioned him, "You are not obliged to say anything unless you wish to do so, but what ever you say will be taken down in writing and may be given in evidence". He said, "You have got the wrong guy", "I saw two men walking with blankets; I don't blame you for chasing me; I don't know why I ran away". I conveyed him to Slough Police Station, where he was detained. When I asked him for his AB 64 Part 1 or 11, he said, "I have not got one". He showed me his identity disc, which he was wearing around his neck, and said, "That is my name and number". These showed him to be L74573 Pte. Hamilton, C.R. Inquiries were continued and at 1145 hrs., Monday, 25 October 43, I was with Inspector Tomlin on Slough Trading Estate, where I saw identified Pte. Dicks, W.E., Royal Canadian Ordnance Corps., and I with Pte. Hamilton, C.R. in the Farnham Road, Slough, at 2000 hours, on Saturday, 23 October 43.

Leslie Thorne 87

Leslie Thorne, P.C. 87.

The accused declines to cross examine this witness.

Signed in my presence, 26 October 43.

Capt. D.M. Treadgold.

SEVENTH WITNESS FOR THE PROSECUTION. William Tomlin, Police Inspector, Bucks Constabulary, Stationed at Slough, Bucks., having been duly sworn states:

At 1145 hrs, Monday, 25 October 43, I saw Pte. Dicks, W.H. B63883, in the presence of Capt. W.J. Davies. I said to him, "I am making inquiries respecting some blankets which were in the possession of two soldiers in Farnham Road last Saturday evening". He said, "I had a hand in the blankets", I cautioned him and said, "You are not obliged to say anything, but whatever you do say will be taken down in writing, and may be used as evidence." He then elected to make a statement to me which I took down in my official pocket book as follows: "Pte. Hamilton, C.B., and I took the blankets from the Huts in "F" Block, on Saturday evening, after we had been to Anne's. We took four each and walked to Farnham Rd., where a policeman stopped us. I went one way then and Hamilton went the other. We were going to visit a pub to get rid of them. There was no definite spot where we were going to take them. This is the first time I have done it. The story I told the detective officer on Sunday was one made up in a hurry, and not correct." Signed. "Pte. W.H. Dicks". He signed this in my official pocket book.
At 1245 hrs the same day I served a copy of this statement to Pte. Hamilton, C.B., at Slough Police Station. I cautioned Pte. Hamilton, C.B., by saying, "You are not obliged to say anything, but whatever you do say will be taken down in writing and may be used as evidence". After reading the statement, Pte. Hamilton, C.B. said, " There is not much I can say about it. There is no need to say any more. I gave the constable a good run".
I later handed the two prisoners over to Capt. W.J. Davies, of Royal Canadian Ordnance Corps., Haymill Camp, Burnham, Bucks. I also handed the blankets to Capt. W.J. Davies, at the same time. The blankets now shown to me and marked Exhibits "A", "B", "C" and "D" are identical with the ones I handed over to Capt. W.J. Davies.
I now produce a copy of the Statement, as made by B63883 Pte. Dicks, W.H., and this being a copy of the statement that I served on L74575 Pte. Hamilton, C.B. This statement was signed in two places (the caution and the statement) by B63883 Pte. Dicks, W.H., in my presence. (Exhibit "E").

William Tomlin, Inspector.

The accused declines to cross examine this witness.

Signed in my presence, 26 October 43.

Capt. D.M. Treadgold.

EIGTH WITNESS FOR THE PRESECUTION. No. B94162 A/S/Sgt. Fraser, A.L., on strength of No. 1 Advanced Base Workshop, RCOC., a soldier of the Canadian Army Overseas, having been duly sworn states:

On examination of eight blankets, now shown to me and marked Exhibits "A", "B", "C" and "D", I find that they are similar to blankets on Unit charge, and issued to personnel on this Unit. These blankets are known as Blankets G.S., I am ~~am~~ acting, in the capacity of Quartermaster-Sergeant of No. 1 Advanced Base Workshop, RCOC., and as such, have knowledge of blankets so held on charge by this Unit. The value of one such blanket is laid down by Appendix, Canadian Army Overseas Routine Order #6349, as thirteen shillings.

A. L. Fraser

B94162 A/S/Sgt. Fraser, A.L.

The accused declines to cross examine this witness.

Signed in my presence, 26 October 43.

Capt. D.M. Treadgold.

The accused is cautioned as follows: Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

THE ACCUSED ELECTS TO MAKE A STATEMENT.

The accused No. B63883 Pte. Dicks, W.H. , on strength of No. 1 Advanced Base Workshop, RCOC., a soldier of the Canadian Army Overseas, states:-

On this incident that happened on Saturday night, I am not a thief or a crook. It is the first time I have tried to make money that way. There was a reason for me doing that. I needed some money, I wired home for money which hasn't come, and I don't think will come. The money was needed for a personal reason, I must keep to myself for a while. I did not want it for my own benefit really. I was a year on the switchboard and I think I was doing a pretty good job. This incident arose and I had to do something about it. I know I went about it the hard way and all I can say is, I'm sorry I went about it the hard way. The way things are shaping up I've been taught a lesson I'll never forget. That's about all I can say right now.

W H Dicks

B63883 Pte. Dicks, W.H.

The accused does not wish to call any witness.

Signed in my presence, 26 October 45.

Capt. D.M. Treadgold.

I certify that the foregoing Summary of Evidence, consisting of six pages, was taken down by me, in the presence and in the hearing of the accused and that Rules of Procedure 4 C.D.E.F. and G. have been complied with.

Capt. D.M. Treadgold
No. 1 Advanced Base Workshop,
R.C.O.C., C.A.C.

No. B63883 Name DICKS, W.H. Sqn., Battery, or Company — Corps R.C.O.C. Date of enlistment 2 Sep 41 G.C. Badge —

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1. Signature O.C. Company, etc. —

Service or Proficiency Pay — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Cases dealing with Unit)	By whom awarded	Remarks
New sheet in accordance with C.R.O. 2084, upon completion of 6 months service.									
Barriefield	6 Jun 42	Pte.		Sec.15(1)A.A. -AWL from 0600 hrs 6 Jun 42 until 2035 hrs 20 Jun 42. Total time absent 14 days 14 hrs. & 35 mins.	Cpl. Steward & Documentary	21 days Detention & Cost of apprehension $14.80	2 Jul 42	Major H.A. Elgar	Forfeits 18 days pay, FRAI 149(1)(a)
Barriefield	12 Sep 42	Pte		Sec.15(1)A.A. -AWL from 0100 hrs 12 Sep 42 until 0800 hrs 14 Sep 42. Total time absent 2 days 7 hrs.	Sgt. French C.J.	7 days C.B.	16 Sep 42	Capt. D.F. Adams	Forfeits 2 days pay, FRAI 149(1)(a). Total forfeiture 2 days pay.
U.K.	19 Apr 43	Pte		Sec.40 A.A. -NCOAS - Conduct to the prejudice of good order and military discipline, i.e., he did have unauthorized articles in his respirator haversack in place of his respirator.	S/Sgt. Nabstar, J.D.	Forfeits 2 days pay FRAI 149(2)	19 Apr 43	(W.L. Thompson), Lieut.-Col.	

Exhibit "D"
A.C.V. Pendred

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be)
B63883	Pte.	DICKS, W.H.	No. 1 Advanced Base Workshop, RCOC.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:—

Note.—If a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not appended to the proceedings.

† See para. 617, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, particulars being given in the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

Instruction.—If the charter is to be drawn from the statistics for unexplained leave to be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Sec. 15 (1) AA. - A.W.L. (12 Sep 42)	times	times.
For Sec. 40 AA -Conduct to the prejudice of good order & Milt. Discipline i.e., unauthorized articles in respirator	times	times.
For instead of his respirator. (19 Apr 43)	times	times.
For Sec. 15 (1) AA. - A.W.L. (16 Aug 43)	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted. [redacted]

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.

3. [redacted] The accused at the present time is under sentence for

Sec. 15 (4) AA- Stealing,
Sec. 40 AA- Conduct to the prejudice of good order & Milt. Discipline i.e., Improper possession of property belonging to persons subject to Milt. Law,

commencing on the 23rd day of October 43.
1200 hrs 25 Oct, 1hrs & 40 mins.
1640 hrs 25 Oct,

4. The accused has been in confinement, awaiting trial on the present charges, for Two days in military custody, making a total of Two days in civil custody, and Nil. days in military custody, making a total of Two days in civil custody, and Nil. days were spent in hospital.

A.C.V. Pendred

5. The present age of the accused according to his [redacted] attestation paper is 23

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 2 September 1941

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is [redacted]

8. The accused is entitled to deferred pay or gratuity in respect of [redacted] service.

9. The accused is entitled to reckon [redacted] service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or is in possession of or entitled to (state any military decoration or reward)*). NO.

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of [redacted]

12. (*In the case of an officer.*) The accused holds in the army the rank of [redacted] dated [redacted] and in his regiment (*or corps or department*) the rank of [redacted] dated [redacted]

(*) [illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B63683 Rank Private. Name DICKS, H.H. of No. 1 Advanced Base Workshop, RCOC. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charges, or order of the dispensing authority.	Punishment remitted.
		NIL.		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27th day of October.

(W.W. Thompson), Lt.-Col.,
Officer Commanding,
No. 1 Advanced Base Workshop, RCOC

---

14. This accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years ..... months

In the rank of ..... years ..... months

In the rank of ..... years ..... months

NIL.

(Signature)

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraph must be struck through, and the reason why it cannot be stated must be given. Any erasure must be initialled. In the case of a trial by field general court-martial, the circumstance must be explained, and the proceedings concerned amended accordingly.)

No. R63083 Name DICKS, N.H. Sqn., Battery, or Company - Corps R.C.O.C. Sheet No. 1.

Date of last entry in Company Conduct Sheet - No. and date of last drunk - Period not reckoning towards freedom from extra fine - Date of enlistment 2 Sep 41 G.C. Badges Signature O.C. Company, etc. Service or Proficiency Pay Character

Place	Date of offence	Rank	Class of Stoppages	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order Superintending with trial	By whom awarded	Remarks
New sheet in accordance with O.R.O. 2084, upon completion of 6 months service.									
Barriefield	6 Jun 42	Pte.		Sec.15(1)A.A. -AWL from 0600 hrs 6 Jun 42 until 2035 hrs 20 Jun 42. Total time absent 14 days 14 hrs. & 35 mins.	Cpl. Steward A Documentary	21 days Detention & Cost of apprehension $14.80	8 Jul 42	Major E.A. Starr	Forfeits 15 days pay. FRAI 149(1)(a).
Barriefield	12 Sep 42	Pte		Sec.15(1)A.A. -AWL from 0100 hrs 12 Sep 42 until 0800 hrs 14 Sep 42. Total time absent 2 days & 7 hrs.	Sgt. French C.J.	7 days C.B.	26 Sep 42	Capt. D.F. Adams	Forfeits 3 days pay. FRAI 149(1)(a).
U.K.	19 Apr 43	Pte		Sec.40 A.A. -WOAC - Conduct to the prej judice of good order and military discipline, i.e., he did have unauthorized articles in his respirator haversack in place of his respirator.	S/Sgt. Webster, J.D.	Forfeits 2 days pay FRAI 149(2)	19 Apr 43	(N.L. Thompson), Lieut.-Col.	Total forfeiture 2 days pay.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
U.K.	16 Aug 43	Pte.		Sec.15(1)A.A. -HAS- A.W.L., i.e., he was absent without leave from Tattoo at 2315 hrs 16 Aug 43 until 2345 hrs 16 Aug 43. Total time absent 30 mins.	DOCUMENTARY	3 days C.B.	17 Aug 43	(W.J. Davies) Capt.	

CERTIFIED TRUE COPY

(W.J. Davies), Capt.,
Regt'l Officer,
1 ADVANCED BASE WORKSHOP,
R.C.O.C.

UU-125

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA3) 40/P & S/1698 (2664)

Convened by Order of Major General P.T. Montague Comd C.M.H.Q. dated 3 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B63883	Pte	William Henry	DICKS	No 1 Advanced Base Workshop RCOC

Proceedings Reviewed R. Beaurills Capt. 27 Nov 43

Reviewing Officer (J.A.G.) C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 9 Nov 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AF3, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1010 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to as interpreter? Ans~~

The Interpreter is sworn.(1) Do you object to Wilson, WAAF, Ashworth, Cpl as shorthand writer? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, J.A., if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court etc:

President	Major	A E Doherenner	CMSC CMHQ
Member	Capn	E P Innes	RCOC CMHQ
Member	Capn	W G Brown	RCOC CMHQ
Judge-Advocate	Capn	B W Howard	REA CMHQ
Prosecutor	Capn	D M Treadgold	RCOC
Defending Offr	Lieut	T E Simpson	RCOC

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Div p 3.)

A8. The accused B63883 Pte Dicks W H before arraignment make(s) (no) No plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded (per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B63883 Pte William Henry DICKS

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd Alternative			Withdrawn by Prosecution upon compliance with RP 35(b)
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for 100 days.

(Sgd) [signature] Capt. 9 Nov 43 (Sgd) A E Doherenner

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 56(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not transferred to prison or detention barracks until further ordered. (1)

(1. AA 57A. Delete if not used.)

(Sgd) P Montague

Date Commanding (P. Montague) Major General Confirming Officer. Canadian Military Headquarters

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
B63883 Pte Dicks W H	23 Nov 43	W G Thompson Officer Commanding No. 1 Adv Base Workshops, R.C.O.C.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Re illegalities or irregularities such as could vitiate a finding or sentence, see Sec 139 of the National Defence Act. Any complaint should be made within a reasonable time after the trial, and before confirmation.

12 Nov 43

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*II*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B--PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Yes (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on all charge(s). ~~The accused is (are) so informed, and thereupon, changes(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 13, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C--PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D--PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AR5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(2).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFB fn 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(5), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(*1. When several accused tried separately see RP 2(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 42. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 361-366, Overseas RO 309, 2323, MML p 80, 737-738. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(8), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

JAG BRANCH - REVIEW RECORD

Accused

B63883 Pte Hicks. WN.

Remarks	Date
Trial in (Country)	
Charges See pre. con. sheet.	
Sentence	
Rec'd from CR at JAG Branch	27 Nov. 43
To D.W. for ~~(pre)~~(post) rev	27 Nov. 43.
Recommendations by DW	
(1) Pass and record.	
~~(2) Ltr on irregularities~~	
~~(3) Quash~~ charge(s).	
~~(4)~~	
Ret'd to JAG Rev 1 by DW	27 Nov.
Passed to	
Passed to	
To AG 5 for	
Ret'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal	
Kendalls Blud	27 Nov 43
Instrs completed by	

JAG BRANCH - REVIEW RECORD

Accused

B 63883 Pte. Hicks W.H.
No. 1 Ad. Base W/S. R.C.O.C.

Remarks	Date
Trial in (Country) Eng.	9 Nov.
Charges 18 (4)	
Sentence 100 dys det.	9 Nov.
Rec'd from CR at JAG Branch	
To D.W. for (pre)(post) rev	11 Nov.
Recommendations by D.W.H. JAG Rev 2	
~~(a) Pass and recom~~	
~~(b) Ldr on irregularities~~	
~~(c) Quash~~ charge(s).	
(d) OK to confirm	
Ret'd to JAG Rev 1 by D.W.H.	11 Nov 43
Passed to A/G Et pr Conf	12 Nov. 43.
Passed to Rev 1	12 Nov 43.
To AG 5 for Confirmation	12 Nov. 43
Ret'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal	
Instrs completed by	

4412.
Spr. Dickson H.D.

CHARGE SHEET

The accused No.C-35172 Sapper Arthur David DICKSON, Third Canadian Field Company, Royal Canadian Engineers, a soldier of the Canadian Army Overseas (C.M.F.) on Active Service, is charged with:

FIRST CHARGE Sec.9(2) ARMY ACT — WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he,

in the Field, in Italy, at approx. 1300 hrs 21 DEC 44, when ordered to resume work by M-41309 Sgt. A.D. Jensen, 3rd Cdn Fd Coy, RCE, did not do so.

R B Fraser

In the Field
In Italy
23 DEC 44

(R.B. Fraser) Major
Officer Commanding,
3rd Cdn Fd Coy, RCE.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL.

E.H. Webb

In the Field
In Italy
26 Dec 44

(E.H. Webb) Lt.-Col.
CRE 1st Cdn Inf Div

198.
Dec 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2)
40/FAR/1607 (Sec3)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 103(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C.33172	Spr.	Arthur David	DICKSON	3 Cdn Fld Coy RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 26 Dec 44 endorsed by me, (~~or by an offr of my comd for him~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable for delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 10RC).

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I appoint to oppose on them (Offrs to form the Court (by a Fd cnty or Fd judge), for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr ascertained hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 104.)	(Unit.)
Major	A.D. Carmichael		2 Fd Park Coy RCE

MEMBERS.

Captain	J.B. Bailey		1 Fd Coy RCE
Lieut. (Rank.)	C.T. Young	(Named or detailed. RP 104.)	HQ RCE 1 Cdn Div. (Unit.)

WAITING MEMBER.

Lieut. (Rank.)	To be detailed by	(Named or detailed, if any. RP 104.)	2 Cdn Fd Coy RCE (Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 104.)	(Unit.)

Active Service in the Fd

ITALY
(Country.)

26 Dec 44

(Signed personally. RP 105 fn 2.)

RCA.
(Rank.)

Commanding CCE 1 Cdn Inf Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for points and notes for use on trial.)

28 Dec 44

MEDICAL OFFICER'S CERTIFICATE
KR (CAN) Para 557

I certify that I have this morning examined

No. C 33172 Spr Dickson, A.D.

of the 3rd Cdn Field Company, R.C.E. and in my opinion he is fit/~~unfit~~ to undergo Trial by Court Martial.

Station - Field

Date - 28 December 1944

.....
(Medical Officer)

NCO i/c 7 Sec. 2 Pl.

First Witness for Prosecution. G51222 Cpl Doucett G.T.

having been duly sworn ~~on~~ affirmed states

I am G51222 Cpl Doucett G.T. NCO i/c 7 Sec. 2 Pl.

At 1300 hours 21 Dec 44 I was starting the men to work. I spoke to Spr Dickson and told him to start work. An argument started between us and Spr. Dickson went over to speak to Sgt. Jensen. A few minutes later I heard Spr Dickson talking rather loudly over by the section trucks. I went over to see what was going on and Spr Dickson complained to me about being on guard the night before and that he should not be out to work that day. I told him I did not know who had been on guard the night before and as he was out here he would have to go to work anyway. Sgt Jensen then came over and Spr Dickson made the same complaint to him. Sgt Jensen ordered Spr. Dickson to go to work with my section. Spr Dickson said he would go to work but not with my section. Sgt. Jensen again ordered him to go to work with my section or to go back to billets under close arrest. Spr Dickson refused to go to work with my section and Sgt Jensen detailed L/Cpl. Wynn of my section to escort Spr Dickson back to his billets. That is all I have to say.

Cross Examination by Defence

1. I was ordering the men to go to work as ~~they~~ I found them.
2. The accused and I just had an argument.
3. I do not recall the accused saying he would go to work when the rest of the section resumed work.
4. I did not say ~~those~~ (Pay) adc words. that he was no good for the section, never was, and never had been.
5. He became rather angry and the argument became personal.
6. The accused after arguing with me went over to see Sgt. Jensen.

adc { No. to Exam
RP 53(b) Complied with

adc

adc

Second Witness

M41309 Sgt Jensen A.D. 3 Fd Coy R.C.E. - abc.

Having been duly sworn ~~on~~ affirmed states

I am M41309 Sgt. Jensen A.D. Platoon Sgt. of No. 2. Pl. 3 Fd Coy RCE.

On 21 Dec. 44 we had just finished lunch and the men had started to work and the accused came up to me and said he was through with his section & words to that effect. I told him to wait a while and a few minutes after that I had Sgt the accused and his Section Cpl aside. I ordered the accused to go to work and he refused. I wanted to know if he refused to work or whether it was just his section he refused to work with. He did not refuse to work but refused to work with his section. So I then ordered him to work with his section, and he refused. I ordered him again to work with his section. He had made the remark about preferring to go in to his unit. I told him then that if he went in he would be charged so then once again I ordered him to work with his section. He refused again so I sent him in on the dinner truck under close arrest.

That is all I have to say.

abc

~~ADC~~ Examination by Prosecution

1. This incident took place on the road where we were working, in the vicinity of BAGNACAVALLO.
2. He did not refuse to go to work anywhere else than with his section.
3. He ~~seemed to be~~ ADC willing to work with any other section in the platoon.
4. He belonged to No. 7 Section.
5. Cpl. Doucett was in charge of No. 7 Section.

Cross Examination

1. ~~John~~ ADC The accused did not complain about anything to me except ~~the fact~~ ADC that he was through with No. 7 Section. (The first time I spoke to him)
2. The accused said something about sooner working with another section.
3. He did not give me any reasons for wishing to work with another section. I spoke to them for only a few minutes and told him I would see him later.
4. I did not specify a certain time that the accused should go to work but I meant immediately.

ADC { No objection
RP 53(B) applied with

ADC

ADC

First Witness for the Defence:

The Accused ADC having been duly sworn ADC states

I am C 33112 Spt Dickson A.D. of No. 7 Sec. 2 Fd. 3 Fd Coy RCE.

ADC Q- When Cpl. Doucett ordered you to work on the 21 Dec. 44 did he order the remainder of the section to go to work at the same time.

A- No he did not

Q- Did you refuse to go to work with No 7 Section

A- Not immediately after lunch.

Q- Did Cpl. Doucett say any hard words to you during this argument?

A- Yes he did.

Q- What did he say to you.

A- He distinctly said that I was no good to his section and never would be.

Q- Did you then go to work with No. 5 Section?

A- Yes I did.

Q- How long did you work with No. 5 Section?

A- Between 10 and 15 minutes

Q- Did you complain to Cpl. Doucett and Sgt Jensen about being on work the day following the night you were on guard.

A- Yes I did.

Q- Did you ask Sgt. Jensen for a transfer to No. 5 Section?

A- Yes I did

Q- Did you refuse to work when ordered to do so by Sgt Jensen. ADC

A- I refused to go to work with No 7 Sec. I did not refuse.

to go to work.
adt { Ves Cross Exam.
R.P. 83(B) Complied with

Second Witness for Defence

K 37713 Cpl. Hogan E.P. having been duly sworn states. adt.

I am K 37713 C/pl. Hogan E.P.

Q- Are you the NCO i/c 5th Sec. 2 Pl.
A- Yes
Q- Did the accused work with your section after lunch on the 21 Dec. 44.
A- Yes
Q- How long did he work with your section?
A- About ten minutes.
Q- Why did Spr. Dickson work with your section instead of his own.
A- Because he had a disagreement, I think, and asked my permission to work with my section.

No Cross-Examination by Prosecution.
adt. R.P. 83(B) Complied with

adt.

adc 3rd Witness for Defence The Prosecution having been duly sworn ~~affirmed~~ adc
I am Capt D.H. Gibson 2/c 3 Fd Coy RCE. I
am in charge of the Coy documents and
hereunto present a certified copy of MFM 6
of the accused as evidence.
(MFM 6 accepted as evidence adc and marked as Exhibit A adc)
~~No cross-Examination by Prosecution~~ adc
adc KR 83(b) Complied with

Closing Address by Defence

The case of the defence is that at about 1300
hours 21 Dec 44 the accused Sfsr Dickson had
an argument with his section corporal, ~~A/Sgt~~ Donnett
during which harsh words were exchanged. The
accused then went to work with No 5 section.

At no time did the accused refuse to work
and when ordered to return to work by his
Pl Sgt was given no specified time that he was
to return to work.

I call the Courts Attention to P.17 Chapt. III
Sec 11. MML.

The accused did not refuse to return to work
as stated on charge sheet ~~made a closing address~~
adc ~~The Prosecution~~ adc
by the Court under KR 86(b) adc
Second Witness for Defence, having been recalled and
being still under oath states under questioning by the
court.

Q - When you told accused the last time to go back to
work with No 7 Sec did he go to work after that?

A - No.

adc

Q - After you ordered the accused for the last time to go to work did the accused have an opportunity to go to work before being placed under arrest.

A - No.

Q - What prevented the accused from returning to work.

A. I prevented him: after his last refusal I placed him under arrest immediately

Q - The Prosecution does not wish any questions put to the witness. RP 83(B) complied with

F-2

Address for Mitigation of Sentence. By Defending Officer ADC.

I would like to say that you can see from Spr Dickens conduct sheet that in nearly three years service he has had only one crime and has been with the Division continuously since it landed in Sicily, and has had a good record in that time.

The evidence has shown that the circumstances surrounding the charge are based on a disagreement with his NCO. This disagreement made the accused feel that he could no longer work with him. He did work however during the time in question with the remainder of the platoon and did not refuse at any time to work.

Statement by Accused in Mitigation of the time ADC

It was just a disagreement with my corporal and not want to work with I see, but we had to work with 5 section.

ADC

MFM 6
(AFB 122)

No C 33172 Name DICKSON, A.D. Sqn, Battery, or Company DISTRICT DEPOT, M.D.3 Corps Date of enlistment 5.1.42 GC Badges Service or Proficiency Pay Class 2

Date of last entry in Company Conduct Sheet Nil No and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc ????????????? Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				VERIFIED TO DATE JUN 11 1942 ?????????????????????????? Lieut					
K				Verified in accordance with C.A.R.O. 2084 2 Sep 42 ?????????????? Lieut					
Field	1Feb43	Spr	1	A.A. Sec. 19 Drunk on duty 1 Feb 43	L/Cpl Goodwin, R.	ADMONISHED	3 Feb 43	????????	Captain

Certified true copy of M.F.M. 6 as at 23 December 1944.

R B Fraser

(R.B. Fraser, DSO) Major
O.C. 3rd Cdn Field Company, R.C.E.

(PTO)

Exhibit "D"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C 33172	Sapper	Dickson, A.D.	3rd Cdn Fd Company, R.C.E.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Section 19 A.A. (Leave) One times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 3 February 1943

Date of last entry in Field Conduct Sheet 3 February 1943

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~*3. The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 4 days in military custody, *i.e.*, 3 days in open arrest, 1 days in close arrest; of which 0 days were spent in hospital.

5. The present age of the accused is 21 years and 9 months

6. The date of his attestation is 5 January 1942

7. The service which the accused is allowed to reckon is 2 years 11 months 18 days.

†State the military decorations (if any) held by accused.

8. The accused is in possession of† Nil

9. (*If the accused is a warrant officer or N.C.O.*) The accused has served continuously without reduction, to the present date— N/A

Date of Promotion.

In the substantive rank of .....

In the war substantive rank of .....

In the acting rank of .....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W1.24470/968 100,000 4/42 A.&E.W.Ltd. Gp.698 Form B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 29 December 1944 day of

R B Fraser

(R.B. Fraser, DSO) Major
OC 3 Fd Coy RCE

SUMMARY OF EVIDENCE in the case of C-33172 Sapper DICKSON, A.D. of the THIRD CANADIAN FIELD COMPANY, R.C.E.

By direction of the Officer Commanding the evidence is taken on oath.

1st WITNESS FOR THE PROSECUTION

Number C-51222 Cpl Doucett, G.T., 3rd Cdn Field Company, R.C.E. having been duly sworn states:-

I am C 51222 Cpl Doucett, G.T. R.C.C. i/c No. 7 Section, No. 2 Platoon, 3rd Cdn Field Company, R.C.E.

At about 1300 hrs 21 Dec 44 my section, of whom Spr Dickson is a part, was beginning to start work in the area 402403 (Italy, 1/50,000 Sheet 89-III), having finished lunch. I was going around the men telling them to start work. When I came to Spr Dickson, I told him to go to work. He did not do so and started to argue with me. He then went to Sgt Jensen, A.D., the platoon sergeant. About five minutes later I heard Spr Dickson talking to some of the other men in the section, over where they were working, by the section truck. I went over to the truck and Spr Dickson complained to me that he had been on guard the night before, and that he shouldn't have been out on works that day. I told him that I did not know who had been on guard the night before, and as he was then out on the job he would have to work. At this point Sgt Jensen arrived and Spr Dickson complained to him. Sgt Jensen ordered Spr Dickson to go to work with my section and Spr Dickson refused. He said he would go to work, but not with my section. Sgt Jensen again ordered him to go to work with my section, and said that if he refused he would be sent back to the platoon billets under close arrest. Spr Dickson again refused to work with my section and Sgt Jensen ordered L/Cpl Wynn of my section to send him back to the platoon billet.

(C 51222 Cpl Doucett, G.T.)

The accused declines to cross-examine this witness.

(C 33172 Spr Dickson, A.D.)

2nd WITNESS FOR THE PROSECUTION

Number M-41309 Sgt Jensen, A.D., 3rd Cdn Field Company, R.C.E., having been duly sworn states:-

I am M 41309 Sgt Jensen, A.D., Platoon Sgt of No. 2 platoon, 3rd Cdn Field Company, R.C.E.

At about 1300 hrs on 21 Dec 44, two sections of my platoon were working on the road in the area 402403 (Italy, 1/50,000, Sheet 89-III). The party had finished lunch and had begun work. Sapper Dickson came over to me and said that he was through with No. 7 Section, (Cpl Doucett) and asked to be transferred to another section. I told him I was busy and to wait a few minutes.

About five minutes later I went over to his section area and called Cpl Doucett and Spr Dickson aside. I cannot remember just what was said, but I ordered Spr Dickson back to work with his section. He refused. I then asked him if he refused to work and he said he was quite willing to work. I again ordered him to work with his section. He again refused and said he would sooner go in, (meaning return to billets). I again ordered him to go to work with his section and told him that if he refused to work with his section and he was sent in, he would be charged. He still refused to work with his section and so I put him under close arrest and sent him back to the platoon billet.

(M 41309 Sgt Jensen, A.D.)

The accused declines to cross-examine this witness.

A.D. Dickson
(C 33172 Spr Dickson, A.D.)

The accused declined to make a statement and reserved his defence after being asked "Do you wish to make any statement, or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so but what ever you may say or any evidence you give will be taken down in writing and may be given in evidence."

A.D. Dickson
(C 33172 Spr Dickson, A.D.)

Certified that R.P. 4 (c)(d)(e) and (f) have been complied with.

Taken down by me in the presence and hearing of the accused this 22nd day of December 1944, in the field, Italy.

D.H. Gibson
(D.H. Gibson) Captain
3rd Cdn Field Company, R.C.E.

23 December 1944

I request that Lieut. W.E. Blake, of the 3rd Cdn Field Company, R.C.E. represent me as my defending officer.

.....
(C 33172 Spr Dickson, A.D.)
3rd Cdn Field Company, R.C.E.

RECORDED AT CMHQ IN AG [illegible] 41-12

RECEIVED 15 JAN 1945 JAG BRANCH

FIELD GENERAL COURT-MARTIAL

CPA86 (In lieu of AFA3) 40-P & S-1658 (5604)

Convened by Order of Lieut. Col R H Webb Comd RCE 1 Cdn Inf Div dated 26 Dec 44 adc

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C33172	Spr		Arthur David	DICKSON	2 Cdn Fd Coy RCE

PROCEEDINGS REVIEWED [illegible] JAN 1945 JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 28 Dec 44 adc

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2G-15

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instn, if any,~~ assemble, and the Court is closed. adc

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns to ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(A) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3) adc

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1015 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to as interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.) adc

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nor.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 56(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instn, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: adc

President	Major	A N Carmichael	2 Cdn Fd Coy RCE
Member	Capt.	J W Bailey	1 Cdn Coy RCE
Member	Lieut	C T Young	HQ RCE Kdn Sqn
Judge-Advocate			
Prosecutor	Capt. adc	D H Gibson	3 Cdn Coy RCE
Defending Offr	Lieut	W E Clarke	3 Cdn Coy RCE

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instrs will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ~~are~~ before arraignment ~~tendered~~, (not) ~~to~~ plea adc

(?)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposit, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. adc

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

F132 AG/26

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C33172 Spr Arthur David DICKSON 3 Coy RCE

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st S. 9(c) AA	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kis see RP 44 fn 6.)

At present ~~under sentence~~ for ~~.....~~ beginning on (date) ~~.....~~ (1) nil

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 1 days, of which 0 days were spent in hospital.(2)

(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To forfeit all ordinary pay for a period of twenty-eight days.

(Sgd) ..... Judge Advocate, if any

28 Dec 44 Date awarded.

(Sgd) Lt-Col Commanding Coy RCE President. (RP 45, 51.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, RR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(3), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: RR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be ~~not committed to prison or detention barracks until further orders~~ (1)

(1. AA 57A. Delete if not used.)

Date 29 Dec 44 (Sgd) Commanding CRE, Cdn Inf Div Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 50, RR Can 574, 577.)

Accused.	Date.	Signature of Offr.
C33172 Spr Arthur David DICKSON 3 Fd Coy RCE	30 Dec 44	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; securing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 86, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 15(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D5 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (D).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No. .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).~~(2) ~~The Court is closed, and considers the submission.~~(3) ~~The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, ~~make a statement~~, or do neither ? Do you intend to call witnesses on your behalf ~~as to character only~~ ?
Ans ~~Yes~~ Yes. ~~Are there witnesses as to character only ?~~ Ans ~~Yes~~ Yes.
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF RPS. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated in due course.~~(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans ~~No~~
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(2), ~~and certified true copy (copies) of Conduct Sheet(s)~~, purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that ~~this~~ document(s) refer to the accused, because (i) ~~it~~ ~~they~~ purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) ~~it~~ ~~they~~ purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ~~2~~ ~~and 2A~~, respectively.(3)
(1. *MFR 155 or MFR 29a.* 2. *See n 5.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans ~~No~~
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove no such anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~until the JA, if any~~.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 42, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 68, 138, 119(A), KR Can 308, 230, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for Civil offences by the law of England see AA 41(15), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SN-130

Pte. Dickson, A.E.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K 15590 Pte Albert Edward DICKSON (2 Cdn Gen Hosp RCAMC) att 1 Cdn Discipline Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 18(a).	Guilty.	Guilty.	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned without hard labour for six months.

(Sgd) A. M. Cameron Capt 20 Jun 45 (Sgd) Geo [illegible] Lt-Col
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 739-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until finally released.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) (J S H Lind) Brigadier

Date 21 Jun 45

Commanding 3 Cdn Base Rft Gp
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K15590 PTE ALBERT EDWARD DICKSON	4 JULY 45	W. Richmond Lt-Col. Comd, 1 Cdn Discipline Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

COR #697
4 Jul 45

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16-3-45	Pte		15(1) AWL whilst a patient from 1920 hrs 1bMar45 to 2303 hrs 1b Mar 45 (3 hrs 43 min)	Doc	5 days pay	17 Mar 45	CF Abbott Colonel	
Field	14May45	Pte		AA 40 Conduct-creating a disturbance	Doc	27 days FP 27 days pay	17May45	CF Abbott Colonel	

Certified true copy of original MFM 6 in my custody

MA Cooke Capt

(MA Cooke) Lt
Officer ic Regtl Books
1 Cdn Discipline Centre

No. K15590 Name DICKSON AE | Sqn, Battery, or Company | Corps RCAMC | Date of enlistment 12Aug42 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 49/PAM/136(5418)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Previous sheet destroyed on completion of 6 months service 22 Feb 43 Last entry 20 Oct 43 Drunkenness Nil

Place	Date of offence	Rank	Cases of drunkenness	Offence	Name of Witnesses	Punishment awarded	Date of award or date of entry in Conduct Sheet	By whom awarded	Remarks
Esquimalt	13May43	Pte		AA 40 Conduct to the prej etc	Bdr Frank J	1 days CB	13May43	Major Ransom	
Vernon BC	19Feb44	"		AA 19 Drunkenness	Cpl Archer	14 days CB	21Feb44	Lt col McDonald	
Debert NS	4May44	"		A[44] 15(1) AWL 3 days 3 hrs 46 min	Documentary	Admonished	8May44	Maj BA Macleod	4 days pay 149(1a)
Field	29-9-44	"		15(1) AWL from 2200 hrs 29Sep44 to 1435 hrs 2 Oct 44(2 days 14 hrs 35 min)	Cpl Tate E	28 days pay 14 days	6 Oct44	Lt col KJ Coates	3 days pay 149(1)(a)
Field	11-10-44	"		AA 10(4) Break. camp while default 15(1) 4 days 18 hrs 30 mins	Cpl Bell M RSM Cockrane	28 days pay 149(2) 28 days FP	17-10-44	Lt col KJ Coates	5 days pay 149(1a)
"	21-2-45	"		15(1) AWL from 0800 hrs 21Feb45 to 0845 hrs 21Feb45(45 mins)	Sgt Hadlow	3 days pay 5 days CB forf 10 days	21Feb45	CF Abbott Col	
Field	2-3-45	"		15(1) AWL from1330 2 Mar 45 to 1900 hrs 2 Mar 45(5 hrs 30 min) AA 40 Conduct-unfit for duty through prev indul in alc bev	Documentary		5Mar45	CF Abbott Col	

(PTO)

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT OF SUMMARY AWARD UNDER 47 AA AND OF CASES IN WHICH TRIAL HAS BEEN DISPENSED WITH OF ACCUSED

No record of conviction by Court Martial on MFH 6

I hereby certify that the foregoing particulars which have been extracted from the regimental books in my custody are correct to the best of my knowledge and belief.

Signed this 10th day of June 45

(HA Cooke) Lt
Officer i/c Records

Army Form B 296 (War)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martials only)

Number	Rank	Name	Regiment (or as the case may be)
K-15590	Pte	DICKSON AE	2 Can Gen Hosp RCAMC

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court-martial or a civil court:-

For 15(1)	4	6 times
For 40	2	3 times
For 19		1 times
For 10(4)	1	1 times

Date of first entry in Field Conduct Sheet 17May43

Date of last entry in Field Conduct Sheet 17May45

2. Previous convictions of the Accused by a Cour-Martial or a civil court are set out in the Schedule overleaf.

3. The accused at the present time is under sentence for 27 days FP beginning on the 16 day of May 1945.

4. The accused has been awaiting trial on the present charges for nil days in civil custody and for ~~15~~ 9 days in military custody, i.e. nil days in Open Arrest 9 days in close Arrest, of which nil days were spent in Hospital.

5. The present age of the accused is 23 years 10 months old.

6. The date of his Attestation is 31 August 1942.

7. The service which the accused is allowed to reckon _____.

8. The accused is in possession of C.V.S.M. with 6 Clasp.

9. (If the accused is a warrant officer or NCO). The accused has served continuously without reduction, to the present date:-

	Date of Promotion
In the substantive rank of _____	_____
In the War substantive rank of _____	_____
In the acting rank of _____	_____

RECORDED AT CMHQ IN A.F.H.Q. SN-130

CP Asst (To Item of AFAH 40-P-2 & 87-1808 (1940))

4/38B

FIELD GENERAL COURT-MARTIAL

RECEIVED 16 JUL 1945 JAG BRANCH

Convened by Order of Brig J G Spragge DSO OBE ED Comd 2 CBRG dated 16 Jun 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K 15590	Pte	Albert Edward	DICKSON	(2 Cdn Gen Hosp RCAMC) att 1 Cdn Discipline Centre

PROCEEDINGS REVIEWED

16 Jul 45

[illegible] Capt.

JUDGE ADVOCATE OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held at the Ed in (country) BELGIUM on (date(s)) 20 Jun 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 34|34.

A1. The President, Members, ~~waiting Member~~, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1330 hours trial commences.(1)

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused~~: Do you object to ..... an interpreter ? Ans .....

The Interpreter is sworn.(1) Do you object to ..... a shorthand writer ? Ans .....

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, ~~waiting member retires~~. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G P H COX	CAC Cdn C M Centre
Member	Capt	G T Clark	RCA Cdn C M Centre
Member	Capt	F E Fowler	COC Cdn C M Centre
Judge-Advocate	Capt	A M Enclestone	RAJA HQ 3 CBRG
Prosecutor	Capt	D W Rose	RCR Cdn C M Centre
Defending Offr	Capt	D B Marlowe	AC Cdn C M Centre

Questions by President: Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused K 15590 Pte DICKSON A E before arraignment makes(s) (no) ~~a~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 3

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol 7 p 195

GHQ

MEDICAL OFFICERS CERTIFICATE MFB 246

(KR(Can) Para 55)
(CMHQ CL 173)

I certify that I have this day examined Rfn (Rank) Pierson AE (Name) K/55990 (No.) and in my opinion he is fit ~~unfit~~ to undergo trial by Court-Martial.

Station Field.

Date 20 June 1945

(Medical Officer) (Sgd)

Unit I Cdn. Disc. Centre.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K 15590	Pte		Albert Edward	DICKSON	(2 Cdn Gen Hosp RCAMC) att 1 Cdn Discipline Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 Jun 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	G B H COX	CAC Cdn C M Centre

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	G T CLARK	RCA Cdn C M Centre
Capt	P E DOWLER	Cdn C M Centre

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	A M ECCLESTONE	ADJA HQ 3 CBRG

On Active Service in the Fd

in BELGIUM
(Country.)

Date 16 JUN 45

(Signature of Offr.)
(J G BURAGGE)
Commanding 2 Cdn Base Rft Gp
Brigadier
(Rank.)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (to Dirn of APAS) 60-1) & 6/1867 (40-11)

(See overleaf for oaths and notes for use on trial.)

RECORDED AT CMHQ IN AE 160 SA1-130

FIELD GENERAL COURT-MARTIAL

CPA66 (To lieu of AFA31) 40/1/44 & 8/1698 (43/61)

4/38B

RECEIVED 16 JUL 1945 JAG BRANCH C.M.H.Q.

Convened by Order of Brig J G Spragge DSO OBE ED Comd 2 CBRG dated 16 Jun 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K 15590	Pte		Albert Edward	DICKSON	(2 Cdn Gen Hosp RCAMC) att 1 Cdn Discipline Centre

PROCEEDINGS REVIEWED
16 Jul 45
Capt
JUDGE ADVOCATE OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held at the Fd in (country) BELGIUM on (date(s)) 20 Jun 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

34134.

A1. The President, Members, ~~waiting Member~~, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for paths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1010 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~President to accused~~: Do you object to _____ as interpreter ? Ans _____

The Interpreter is sworn.(1) Do you object to _____ as shorthand writer ? Ans _____

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G E H COX	CAC	Cdn C M Centre
Member	Capt	A. T. Clark	RCA	Cdn C M Centre
Member	Capt	P. E. Dowler	CAC	Cdn C M Centre
~~Judge Advocate~~	Capt	R. M. Lochhead	A&SH	HQ 3 CBRG
Prosecutor	Capt	D. W. Rose	R.O.R.	Cdn C M Centre
Defending Offr	Capt	D. B. Macdougall	CAC	Cdn C M Centre

Questions by President: Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See Dr p 3.)

A8. The accused K 15590 Pte DICKSON A E before arraignment make(s) (no) (~~a~~) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~does~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CORG Vol 7 p 198

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without assthy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 87(*E*) ; *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans N.O. (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records findings of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(B) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, K-15590 Pte Albert Edward DICKSON, 2 Cdn General Hospital RCAMC, attached to 1 Cdn Discipline Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 18 (4)
Army Act

WHEN ON ACTIVE SERVICE STEALING PUBLIC PROPERTY

in that he

in the Field, at approximately 1530 hrs 15 May 45, stole three (3) Canadian Army Blankets, public property

In the Field.
7 Jun 45

(J M Medhurst) Lt col
Commanding
1 Cdn Discipline Centre

To be tried by Field General Court-Martial

In the Field
16 Jun 45

(J G Sprague) Brigadier
Commander
2 Cdn Base Rft Gp

Approved on behalf of the JUDGE ADVOCATE GENERAL pursuant to KR (Can) 540.

In the Field
15 Jun 45

(A M Ecclestone) Capt
ADJA
HQ 2 Cdn Base Rft Gp

9.00 2

K. 155 90. Pte Dickson A. E.

The accused is arraigned and at 1000 hrs 20 June 45
the trial Commences.

The accused pleads guilty. Accused does
not wish to make a statement regarding the
charge. The summary of evidence is read.

E.I The accused duly sworn states.
I joined the army in August 1942 in
the artillery. I served in England 9 June 44
I became in France 7 July 44. I was
with No 10 Field ambulance. I stayed
with them from 7 July to 21 Aug 44. They
were in the front line keeping fit and
passed. When I came across I was A1.
My category now is S4 up — I being
the other was 9 Can we were in
action. We were being shelled this
position any one night one time when
not a shell was pretty close I was
stunned by the blast, I was sent back
to Hqs of my unit. I was with Hqs
for a while then sent out to "A" Coy
who were working at a C.C.P and the
R.A.P I came through Belgium and
up to Holland. A number of men were

period for eighteen hours in the Infantry Regiments in G.C.I.B. & my city was sent to the F.M.R.s. & was sent them 2 weeks when I come out with bouts of bronchitis. I was sent back to Hqrs of my unit. The first week when unit the F.M.R.s we were behind the S.S.R. Then we relieved them.

After evacuation I went to 3 C.C.S. I was examined on ground S.H. I went to No 3 Reclassification. I went before an S.P.O. He said I could not go to the F.M. until improvements around so I was sent to 9 Con. Gen Hosp.

On morning 7 15 th of May I was paid at 1000 hrs. I went to a park about a block away and started drinking, we must have left there until 1600 hrs I do not remember leaving. I went over to the hotels. I remember being in the hotels, when I really came to my senses was about 21 00 or 22 00 hrs.

The Belgian Canteen was not open of course. I never had anything to do until me before it would not have happened if I had been sober.

I am not married. I have been sending half my pay home but my father is working. My father served in the last war.

a volunteer for the far East and worked up on the Aleutian Islands & on 23 June 10 months ago. I came from Vancouver.

~~[redacted]~~ By J.A.

I remember but very vaguely giving the blankets to the civilian and getting 500 francs I was thinking that night, I must have spent the money.

R.P.83(B) compared with 4/W

Prosecutor Pursues AFB 246 and MFM 6.

entered as Exhibits "D" & "E" respectively.

2. 3. Defending Officer Accuses Court in Mitigation

The accused has told the court freely the particulars of his arrest and also what happened on this unfortunate day. He told me this morning that he was NOT sure to fight the charge, that he would much prefer to be heard about it. I have followed his decision

He has served nearly 3 years. There is nothing very serious on his M.F.M. 6 He served a comparatively long time on a position of danger and as a result his health has been seriously affected. On pay day he started drinking and behaved disgracefully. He is not the first person

who has behaved himself while drinking
& moves suggest with anyone that the
court in appreciation of his having showed
temperance and mercy and guilt the
accused on crimes which will count in
enforcing discipline but will also permit
the accused to continue his service, which
is so far commendable in our army.

The accused has volunteered for the
Invasion For Last Time.

A. M. Emerson. Capt.
Judge Advocate

Exhibit "A"

SUMMARY OF EVIDENCE

in the case of

No.K15590 Pte DICKSON A.E. , No.2 Canadian General Hospital RCAMC C.A.O. charged with being improperly in possession of three Army blankets.

By direction of the Commanding Officer, the evidence was taken on oath.

FIRST WITNESS- U1514 S/Sgt AYRE G.L., B.E.M., Canadian Provost Corps, having been duly sworn, states:

"I am U1514 S/Sgt AYRE G.L., B.E.M., Canadian Provost Corps. About 1600 hrs, on the 16th May 45, I received a voluntary statement, from a civilian employee, whose name is MAEBE Maurice, stating that Pte Dickson had sold him three Canadian Army Blankets for five hundred Belgian Francs. At about 1610 hrs this civilian identified Pte Dickson in my presence.

At about 1600 hrs, 16 May 45, after being duly cautioned, Pte Dickson gave me a voluntary statement which I now produce.

Pte Dickson was placed under close arrest by me at about 1615 hours."

G L Ayre S/Sgt.

S/Sgt AYRE G.L. B.E.M.
Can Provost Corps.

The accused declines to cross examine this witness.

A E Dickson

Pte DICKSON A.E.

The statement referred to in the evidence of the above witness is attached hereto as Exhibit "A"

SECOND WITNESS - Major P.S. OSLER, RCA having been duly sworn states:

"On the 17 May 45, I obtained a voluntary statement from DICKSON, which I now produce."

P S Osler

P.S OSLER, Major RCA

The accused declines to cross examine this witness.

A E Dickson

Pte DICKSON A.E.

The statement referred to in the evidence of the above witness is attached hereto as Exhibit "B"

THIRD WITNESS - MAEBE Maurice, Nieuwenhoven, 19, GENT.

"I certify that in my opinion, the attendance of this witness, due to expense and inconvenience involved cannot be readily procured. A written statement of his evidence, purporting to be signed by him, has been read to the accused and is attached hereto as Exhibit "C". The certified English translation is attached as Exhibit "D".

N.W. Simmons, Lt.
N.W. SIMMONS, Lieut,
Officer taking this
Summary of Evidence.

"I do not require the attendance of MAEBE Maurice for the purpose of cross examination"

A.E. Dickson
A.E. DICKSON, Pte

FOURTH WITNESS - B5073 S/Sgt COOTE W., No.2 Cdn General Hospital C.A.O. having been duly sworn, states:

"On 16 May 45 at 1345 hours I saw a woman, who was a stranger to me, going downstairs from the mens' billets, carrying a fairly large bundle. I stopped her and I opened the bundle; I examined the contents and found therein three army blankets.

There were two light grey comparatively new blankets and one dark and fringed along the edges. These three blankets were the only army property in the bundle.

At 1400 hrs I put H35053, Sgt HADLOW F.J. in charge of the two civilians and the three blankets, while I telephoned the Sgt. Major.

On my return in ten minutes, I took over from him the three blankets and the custody of the two civilians. At about 1445 hours the R.S.M. and Q.M.S. MacMillan and the civilian foreman arrived. I then surrendered the three blankets and the two civilians to Sgt Major McBuckle. The blankets were never out of my sight, except for the period in which they were guarded by Sgt Hadlow. I surrendered them from my care to that of the R.S.M.

W. Coote S/Sgt
W. COOTE, S/SGT.

The accused declines to cross examine this witness.

A.E. Dickson
A.E. DICKSON, Pte.

FIFTH WITNESS - H150313, Pte Grant, W.G. No.2 Cdn General Hospital, C.A.O. having been duly sworn, states:

"On 15 May 45, at about 1130 hours I was issued with three Canadian Army blankets. I immediately took them to my billet and put them folded on my bed, which is located along the far wall from the door and slightly to the left.

At 1330 hours the blankets were where I had left them. I was absent from the billet until nearly 1700 hours, and on my return I found the blankets had disappeared. The blankets, I was given were two grey and one dark, but further than that I cannot positively identify them.

W.G. Grant
W.G.GRANT, Pte

The accused declines to cross examine this witness.

A.E. Dickson
A.E.DICKSON, Pte

SIXTH WITNESS - Mevrouw CLAUS Rachel, 28 Brandstraat, GHENT, having been duly sworn states through Miss M.Minne, 127 bis Coupure, GHENT, also duly sworn as an interpreter as follows:

"I am Mme CLAUS Rachel of 28 Brandstraat, Ghent. On the 16 of May 45, at about 1.30 p.m. I called at the mens billets for soldiers' washing. I received from MAEBE Maurice, one bundle wrapped in one of my own table cloths. He said "Here is the parcel to be washed; I will come for it" and handed me the bundle.

I was arrested by a staff sergeant who opened the bundle. I did not know until then that the bundle contained blankets. I was too much disturbed to notice the number or colour of them.

I received bundles wrapped in the table cloth or in a towel and money from Maurice only; never from the soldiers themselves.

All other parcels of laundry have been opened only by me in my home. There never were any blankets in them. Maurice has never taken back any unopened bundle of unwashed clothes from me. I have never had army blankets in my home at any time.

I left the bundle with the staff sergeant, who arrested me.

Claus Rachel
CLAUS Rachel.

The accused declines to cross examine the witness.

A.E. Dickson
A.E. DICKSON, Pte.

SEVENTH WITNESS - R35853, Sgt HADLOW F.J, 2 Can General Hospital C.A.O. having been duly sworn, states:

"On 16 May 45, at about 1400 hours I was told by an orderly that S/Sgt COOTE wished to see me in the billet hallway. When I reported to the S/Sgt he told me to watch "these blankets and these civilians while he phoned the Sgt Major. I placed the blankets behind the door and on the floor of a small Laboratory room close by and told the civilians to wait inside. I closed the door after them and stood on guard outside until S/Sgt Coote returned, which is approximately ten minutes. The only time

the blankets were out of my sight was when they were in the small room. S/Sgt Coote looked into the room and then he said I could go.

F.J. Hadlow
F.J. HADLOW, Sgt.

The accused declines to cross examine this witness.

A.E. DICKSON, Pte

EIGHTH WITNESS - P30332, R.S.M. McLOCKIE R.M., No.2 Canadian General Hospital C.A.O. having been duly sworn states:

"On 16 May 40, at approximately 1400 hours, I received a phone call from S/Sgt Coote from the Out Patients Department he informed me that he had caught a civilian leavingthe mens' billets with some blankets. I proceeded to the mens' billets and found S/Sgt Coote with two civilians, one male and one female. I counted the blankets, there were three. I bundled them up and had the civilians carry them to my office. There I identified them as army blankets and locked them up. They were under my care until the summary of evidence was taken, when I surrendered them to the officer taking summary of evidence. Since that time they have either been in my care or in the care of the officer taking the summary. One folded corner of each blanket is sown with army thread for identification purposes. The blankets are further labelled as Exhibit "B", Exhibit "F" and Exhibit "G"

R.M. McLOCKIE
R.M. McLOCKIE, R.S.M.

The accused declines to cross examine this witness.

A.E. Dickson
A.E. DICKSON, Pte

The accused was cautioned as follows:

Q. "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you want to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence?

A. "I have nothing to say now".

The accused does not call any witnesses.

A.E. Dickson
A.E. DICKSON, Pte.

I certify that the foregoing Summary of Evidence, consisting of five pages was taken down by me in the presence of the accused and that R.P. 4 (C), (D), (E), (F), & (G) have been complied with.

GHENT, 22 May 1945.

N.W. Simmons Lt

N.W. SIMMONS, Lieut,
No.2 CDN GEN HOSP RCAMC
(Officer detailed to take this Summary of Evidence)

#2 CANADIAN GENERAL HOSPITAL
CANADIAN ARMY OVERSEAS

Exhibit "A"

DATE: 16 MAY 45

REG NO. K-15590 RANK: PTE. NAME: DICKSON A.E.

UNIT: CANADIAN ARMY MEDICAL CORPS.

I have been cautioned by S/SGT. G.L. AYRE B.E.M. of the CANADIAN PROVOST CORPS that I am not obligded to say anything unless I wish to do so, but that anything I do say will be taken down in writing and may be used in evidence: To show that I understand this caution I sign my name here:

A E Dickson

STATEMENT

On the 15 MAY 45 at about 1530 Hrs. I sold three Canadian Army blankets to a civilian who works in the men's billett at the Hospital Annex.

This civilian paid me 500 Belgium Francs for the blankets. The sale took place in the men's ablution in the men's billetts at the Hospital Annex.

I have read carefully the statement that I have made and I have had the opportunity to add or delete anything I desired from the statement. It is a true record of what I have said.

A E Dickson

WITNESS:- G.L. Ayre S/SGT

U-1514 S/SGT. G.L. AYRE B.E.M.

#2 CANADIAN GENERAL HOSPITAL
CANADIAN ARMY OVERSEAS

DATE: 16 MAY 45

REG NO. K-15990 RANK: PTE. NAME: DICKSON A.E.

UNIT: CANADIAN ARMY MEDICAL CORPS.

I have been cautioned by S/SGT. G.L. AYRE R.E.M. of the CANADIAN PROVOST CORPS that I am not obligged to say anything unless I wish to do so, but that anything I do say will be taken down in writing and may be used in evidence: To show that I understand this caution I sign my name here:

A E Dickson

STATEMENT

On the 15 MAY 45 at about 1530 Hrs. I sold three Canadian Army blankets to a civilian who works in the men's billett at the Hospital Annex.

This civilian paid me 500 Belgium Francs for the blankets. The sale took place in the men's ablution in the men's billetts at the Hospital Annex.

I have read carefully the statement that I have made and I have had the opportunity to add or delete anything I desired from the statement. It is a true record of what I have said.

A E Dickson

WITNESS:- G L Ayre S/SGT.

U-1514 S/SGT. G.L. AYRE R.E.M.

Exhibit "B"
Re statements of [illegible]

I have been cautioned by Major P.S. Osler RCA that I am not obliged to say anything unless I wish to do so, but that anything I do say will be taken down in writing and may be used in evidence.

A E Dickson

When I came into the billet I was pretty well drunk there was a bed just inside the door. I took the three blankets off it and sold them to a Belgian. As you go in the door of the billet the bed was one of those on the left hand side. I don't know exactly which one. Everything else that happened I told in my other statement made on 16 May 45.

A E Dickson

P.S. Osler maj
witness

17 May 45

COPY.

EXHIBIT "8"

This is a true copy of Exhibit "A" to the Summons

K-15990 Pte

DICKSON A.E.

17 MAY 45

2 CDN GENERAL HOSPITAL RCAMC

I have been cautioned by Major P.S. OSLER RCA, that I am not obliged to say anything unless I wish to do so, but that anything I do say will be taken down in writing and may be used in evidence.

(SGD) A.E. DICKSON

Statement of Witness

When I came into the billets I was pretty well drunk; there was a bed just inside the door. I took the three blankets off it and sold them to a Belgian. As you go in the door of the billet the bed was one of those of the left hand side. I don't know exactly which one. Everything else that happened I told in my other statement made on 16 May 45.

(SGD) A.E. DICKSON

Witness: P.S. OSLER, Major RCA.

16 Mei 45

MAEBE Maurice
Nieuwenhoven, 19
GHENT

Ouderdom: 37

Verklaring van den getuige:

Op 15 Mei 1945 rond 19u.30' kocht ik 3 Canadeesche-leger-dekens van een Canadeesch soldaat, die ik hier nu in deze plaats herken. (K15590 Pte DICKSON A E) (RCAMC)

Ik kocht deze dekens van den Canadeeschen soldaat op het derde verdiep in de badkamer van het gebouw der soldaten. Ik betaalde dezen soldaat 500 Belgische frank voor 3 Canadeesche-leger-dekens. Dit is de eerste maal dat ik dekens van een soldaat koop.

Nadat ik de dekens van dezen soldaat gekocht had, heb ik ze in de badkamer laten liggen tot 14u. den 16 Mei 1945, toen ik ze wegnam en aan Mevrouw CLAUS Rachel meegaf; ze moest ze naar naar huis dragen, waar ik ze dan zou afhalen. Mevrouw Claus Rachel wist dat ik deze dekens van een Canadeesch soldaat had gekocht.

Getuige: [illegible]

M. Maebe

Mevrouw CLAUS Rachel,
Brandstraat, 28
GHENT

MEBE - Maurice
Meuwinkom, 19
Brant

16 May 1945
Age - 37 MBE

Statement of Witness

On the 15th of May 1945 at about 3.30 P.M. I bought 3 Can army blankets from a Canadian soldier whom I now recognise in this room.

These blankets were sold to me by this Canadian soldier on the top floor in the ablution room of the new billets.

I paid the above Canadian soldier 500 B. Frcs. for 3 Canadian army blankets.

This is the first time that I ever bought blankets from soldiers.

After receiving the blankets from this soldier I left the blankets in the ablution room until the 16th of May 1945 at which time ~~the~~ I then took the blankets from the ablution room and gave them to Mme Claus Rachel. She was to take these blankets to her

home where I would pick them up later
Mrs Clara Rachel knew that I bought
these blankets from a Confederate soldier
M Mata.
Page 1567

Mrs Clara Rachel
Brunswick, Ga
Glynn

MAEBE Maurice
Nieuwenhoven, 19
GHENT

Exhibit "D"
16 May 1945

Age: 37

Statement of Witness

On the 15 of May 1945 at about 3.30 p.m. I bought 3 Canadian Army blankets from a Canadian soldier whom I now recognize in this room. (K15590 Pte DICKSON A E) (RCAMC)

These blankets were sold to me by this Canadian soldier on the top floor in the ablution room of the mens' billets. I paid the above Canadian soldier 500 Belgian frs for 3 Canadian Army blankets. This is the first time I ever bought blankets from a soldier.

After receiving the blankets from this soldier I left the blankets in the ablution room until 2 p.m. the 16th of May 1945 at which time I then took the blankets from the ablution room and gave them to Mme Claus Rachel. She was to take these blankets to her home where I would pick them up later. Mme CLAUS Rachel knew that I bought these blankets from a Canadian soldier.

H Layne 5/507
Witness: S/SGT AYRE G.L.

M. Maebe

Mme CLAUS Rachel
Brandstraat, 28
GHENT.

I hereby certify that this is the direct translation of the statement made by M.MAEBE Maurice, marked Exhibit "C"

Jos. J. Crimmins
Secretary-Interpreter

LIST OF WITNESSES FOR THE PROSECUTION.

U1514 S/Sgt (A/CSM) AYRE G L. — 1 Cdn Disciplinary Centre.
C Prove C.

Major P S OSLER RCA. — Office of the ADAJ. HQ CAN Gp.

M Maurice MAESE — Civilian. — Nieuwenhoven 19. GHENT Belgium.

B5073 S/Sgt COOTE W. RCASC. — 2 Cdn Gen Hosp RCAMC. Coupure 213. GHENT Belgium.

B150313 Pte GRANT W G RCAMC — 2 Cdn Gen Hosp RCAMC. Coupure 213. GHENT Belgium.

Me. Rachel CLAUS — Civilian. — Brandstraat 28. GHENT Belgium.

H35835 Sgt HADLOW RCAMC — 2 Cdn Gen Hosp RCAMC Coupure 213 GHENT Belgium.

P30332 RSM MaLUCKIE R M RCAMC — 2 Cdn Gen Hosp RCAMC Coupure 213 GHENT Belgium.

WITNESSES FOR THE DEFENCE — N/A

LIST OF EXHIBITS

Written statement of accused taken by U-1514 S/Sjt AYRE G L (B E M) — "A"

Written statement of accused taken by Major PS OSLER RCA — "B"

Written statement of MAESE Maurice Nieuwenhoven 19 Ghent — "C"

Three Army blankets — "E","F"&"G"

I, the undersigned hereby acknowledge having received one copy of Charge Sheet and one copy of Summary of Evidence free of charge on 7 Jun 45

K-15590 Pte Dickson AE

I, K-15590 Pte Dickson AE desire to have an officer assigned to represent me at my trial by Field General Court/Martial.

I desire the services of ~~any officer detailed~~ ~~if he is available~~

(Signature of Accused)

DATED 7 Jun 45

MEBE Maurice
Chemin de Rouen, 19
Caen

16 mai 1945
Age 37 ans

Statement of witness

On the 15 of May 1945 at about 3.30 PM I bought 3 Can army blankets from a Canadian soldier whom I now recognise in this room

These blankets were sold to me by this Canadian soldier on the left floor in the ablutions room of the Mairie Hôtel de Ville

I paid the above Canadian soldier 500 B. francs for 3 Canadian army blankets

This is the first time that I have bought blankets from soldiers

After receiving the blankets from this soldier I left the blankets in the ablution room until the 16th of May 1945 at which time ~~I took~~ I then took the blankets from the ablution room and gave them to Mme Claus Rachel. She was to take these blankets to her

home where I would pick them up later
Mrs. Elaine Rachel knew that I bought
these blankets from a Egyptian soldier
M Mahr.
Ph Cairo 1967

Mrs. Elaine Rachel
Grandville, 29
Ohio

TTT-222.

Pte Dickson, RS

CHARGE SHEET

The accused A-59932 Pte Ralph Stuart DICKSON, C.I.C., on strength of 2 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with

FIRST CHARGE
Sec. 9 (1)
Army Act.

WHEN ON ACTIVE SERVICE DISOBEYING IN SUCH A MANNER AS TO SHOW A WILFUL DEFIANCE OF AUTHORITY A LAWFUL COMMAND GIVEN PERSONALLY BY HIS SUPERIOR OFFICER IN THE EXECUTION OF HIS OFFICE

in that he

at Barnsley, at approximately 2310 hours on the 14 July 1944, when personally ordered by H-16728 L/Cpl. Johnson, G.R. of the Canadian Provost Corps, his superior officer, acting in the execution of his office, to leave the premises of the Cuban Dance Hall, to which he did not have a ticket of admission, did not do so, saying at the same time "I refuse to leave", or words to that effect.

ALTERNATIVE SECOND CHARGE
Sec. 9 (2)
Army Act.

DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

at Barnsley, at approximately 2310 hrs on the 14 July, 1944, when ordered by H-16728, L/Cpl. Johnson, G.R. of the Canadian Provost Corps, his superior officer, to leave the premises of the Cuban Dance Hall, to which he did not have a ticket of admission, did not do so, saying at the same time "I refuse to leave", or words to that effect.

In the Field
29 Jul 44

(M.K. Greene) Colonel,
Commanding, 2 C.I.R.U.

To be tried by Field General Court Martial.

(G S N Gostling) Brig
Comd
"A" Gp Cdn Rft Units
CAO

Field
31 Jul 44

Field
3 Aug 44

MacAlpine Major
President, F.G.C.M.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A59932	Pte		Ralph Stuart	DICKSON	2 CIRU CIC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (*date*) 31 Jul 44 endorsed by me, ~~or by the offr of my staff for same~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Pvt Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
MAJOR	M S McALPINE		2 CIRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by CO 2 CIRU	
Lt	to be detailed by CO 2 CIRU	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	to be detailed by CO 2 CIRU	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

(Signed personally. RP 105 fn 2)
(G S N Gostling)
Commanding "A" Gp Cdn Rft Units CAO
Convening Officer.

Brigadier
(Rank.)

Date 31 Jul 44

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (See overleaf for oaths and notes for use on trial.)

Field

3 Aug 44

MacAlpine Major
President, F.G.C.M.

M.I.R. 2 C.I.R.U.

This is to certify that I have examined PTE. A59932 DICKSON, R.S.
on 3 Aug. 1944 and I find him medically fit to stand
Trial by Court Martial.

S.A. Armin Capt.
Medical Officer
2 C.I.R.U.

MACAlpine Major
Pupil at R.C.M.P.

I certify that I have this morning examined No. .....
.....DICKSON..... R.S. ..... and in my opinion he is
~~UNFIT~~ FIT to undergo trial by Court Martial.

Station: 2 C.I.R.U.

Date: 3 Aug. 44

S.A. Armin Capt.
(Med Offr)

M.I.R. 2 C.I.R.U. A 59932

This is to certify that I have exdmined J Dickson. Rf.

on 4 Aug 1944 and I find him medically FIT. to stand

Trial by Court Martial.

Alb. Wallace Capt

Medical Officer
2 C.I.R.U.

Uncatalogued Nav
4 Aug 44

I certify that I have this morning examined No. A 59932 Pte.

DICKSON R.F. and in my opinion he is

FIT to undergo trial by Court Martial.

Station: 2 C I R U

Date: 4 Aug 44

A. A. Simon Capt

(Med Offr)

Evidence in case of A-29932 Pte Dickinson, Ralph
Stuart 2 C.I.R.U. C/C 3 Aug 44.

Ernst Wilkes

Q What is your name, & address
A. Walter Wilcock. Cuban Dance Hall
Q. Do you recognize the accused
A. yes
Q. Do you recall the 1st July last
A. Yes
Q Would you tell the court to the best of your memory what happened.
A. He came into the Cuban & I asked him for his pass out & he told me that he had given it to the doorman at the bottom of the stairs I told him that it wasn't a thing we did here, but I would go down to the doorman to see if he done so. I then got back & told him that the doorman hadn't taken the passout from him & then I told him that I was very sorry that he couldn't go into the dance. The two Provosts were at the top of the steps at the time he came up & they also told him he would have to leave the premises & yet they told him about three times & then they gave him an order & then they arrested him. After the order was given what length of time passed before they arrested him.
about two minutes.

Ralph

Q. Did the accused (2) say anything after the order was given.
A. I did not hear him.
No cross exam by defense
~~The defense~~ R.P. 83(b) complied with

Second Witness for Prosecution
Q What is your no rank name
A. H 16728 L/Cpl Johnson J.R. 13 Del 7 Prov Coy.
Q Do you recognize the accused
A Yes
Q. Do you recall the 1st July last
A. Yes
Q Will you give your evidence as to what happened on that day
A at approx 2310 hrs 1st July 44 while on patrol in town of Barnsley in company of L/Cpl Chas Fletcher while checking the Curfew at Dance Hall. We were at the top of the stairs when a soldier coome up the doorman asked him on his passout ticket. He said he gave it to the one at the bottom of the stairs. The doorman asked us not to let him in while he went down & checked. The doorman came back & said he had no ticket. He said I couldn't go in he would have to leave. I appeared to him he couldn't go in without a ticket. I then ordered him three times to leave premises. He ignored the orders & wanted to argue with us & then

ASACA

asked him if he refused to obey the order. He then replied he refused to leave. I then warned him he was under close arrest & to come along with us. He came along peacefully & we escorted him to police station & later to unit guard room where a body receipt was obtained.

Q. What was the name of the ~~gentleman~~ doorman R.H.C. upstairs

A. Mr Wilcock

Q. What opportunity was given the accused to obey the order

A. He was given a minute after each order, but kept wanting to get in

Defence Cross-Exam

Q. You say that you asked the accused if he refused to obey the order

A. Yes

Q. Are you sure

A. Yes

Q. Do you recall the original hearing of this charge

A. Yes sir

Q. In that case you also recall being given what is termed a dressing down by Lt. Col Bingham

A. Yes

Q. Why did he dress you down

A. He didn't seem to think we had done it the proper way. The reason I asked him if he refused to obey an order because after each order. He kept

on arguing with us & ignored the orders. And to stop from keeping there any longer & causing disturbance & asked him if he refused to obey an order

Q. I want to ask you once again whether or not you do refuse to obey an order, or if you asked him to leave

A. I asked him if he refused to obey an order

Q. You say that the accused didn't cause any other trouble

A. He didn't cause any great extent of trouble except he wanted to get into dance hall & came along peacefully when arrested

~~Questions~~ by Court

Q. What were the exact words of your order.

A. I told him I was giving him an order to leave the premises

Q. When & how did the accused leave

A. We escorted him immediately

Q. Any question of intoxication

A. He was quite capable of walking without staggering. R.P 8361 complied with.

Cross

Third Witness

Q Give your no rank name

A. L 09706 L/Cpl Fletcher D.C. "3 Det 7 Prov. Coy.

Q. Do you recognize the accused

A. Yes.

Q. Do you recall the 14 July 44 last

A. On 14 July in the town of Barnsley at approx 2310 hrs. in company with L/Cpl Johnson I was checking the Cuban Dance Hall We were at the top of the stairs when the accused came up. Mr. Wilcock who was at the door asked him for his ticket. The accused said the man at the bottom of the stairs had taken his ticket. Mr Wilcock asked us not to let accused in dance hall while he went & checked to see if he had given his ticket to the man at the bottom of the stairs. While he was gone the accused admitted having no ticket. Mr Wilcock said as he had no ticket he would have to leave the hall L/Cpl Johnson ordered him to leave the hall. The accused wouldn't leave & L/Cpl Johnson ordered him 3 different times. L/Cpl Johnson asked him if he refused the order to leave the hall. The accused said yes I refuse L/Cpl Johnson then placed him under close arrest & escorted him from the hall.

nrwa

Q. What opportunity was the accused given to obey the order.
A. The accused was given a few minutes between each order to obey.
Cross. Exam by Defense.

Q. You say the last order given by Lt Col Johnson was do you refuse to obey the order to leave the premises
A. That wasn't the last order that was the last question asked.
Q. Do you recall a dressing down from Col. Bingham at the request hearing of this charge
A. I recall Col Bingham talking to Lt Col Johnson myself.
Q. Can you tell the court why in that case it was done in private.
A. The reasons I don't know.
Q. What did he talk to you about.
A. He talked to us about the case which is now before this court.
Q. Any particular referea to any evidence.
A. It had a bearing on the case.
Q. He didn't tell you to get further evidence.
A. No he didnot sir.
Q. You are quite certain.
A. I am certain he didn't tell us to get more

further evidence.

Q. Sir can you explain why when this case was remanded for further evidence the R/Cpl Johnson & yourself went downtown & obtained a statement from a civilian witness.

A. We talked to the civilian witness but didn't obtain a statement. There is no statement in our evidence from the civilian witness.

~~Cross-Exam~~ Questions by Court.

Q Was there any indication of intoxication of the accused

A. The accused may have been under the influence of liquor

Q. What leads you to suppose that.

A. By his speech & his actions.

Q. Will you elucidate that. What did he say & do.

A. His speech was rather slurred when he spoke, his actions in wanting to get into the dance hall when he knew that he didn't have a ticket lead me to believe that he was under the influence of liquor.

Q. Could you smell any liquor at all

A. Yes I could smell the ordour of liquor on his person.

R.P. 83(6) complied with

MAIA

Prosec. Closing Address.

The charges in this case are alternative so that if the court finds that the accused is not guilty of the first charge it may find him guilty on the 2nd ~~che~~ less serious charge. However the prosecution submits that the evidence has clearly shown the accused guilty of the 1st charge. The evidence of all the witnesses which was unquestioned by the defense was that a direct order was given to the accused to leave the premises of the Cuban Dance Hall. In fact to give the accused every opportunity to keep out of trouble the order was repeated 2 or 3 times & after each order the accused was given a minute at least to obey it. The order was given personally by a superior officer of the accused namely a R/Cpl. When the accused made no move towards leaving the premises after the order to do so the evidence of the two provost R/Cpls is that they asked him if he refused to obey the order. The accused then stated that he did ~~not~~ refuse to leave the premises or words to that effect thereby showing a wilful defiance of authority. The defense has not questioned any of this evidence, but merely asked the provost witnesses whether the accused was asked if he refused to obey to which the provost in their evidence in chief. The prosecution submits therefore that it has proven that the accused disobeyed in such a manner as to show

wilfull defiance to authority a lawful command given personally by his superior officer in the execution of his office. It is the duty of the provost corps to keep order & prevent trouble in town

Defense Closing Address

The defense would first like to point out that since the accused according to the prosecution own witnesses was under the influence of liquor that his recollection of what happened that evening was not good. & that if the officer had been taking the summary of evidence has done his job properly & impartially that he could have had any witness in his own defense. The only possible defense would have been to prove that since the time of the original charge the statements of the provost had been changed & the defense was not permitted to produce witnesses to that effect since it involved statements not under oath. The prosecution contends wilfull defiance in a man under the influence of liquor which is a crime in itself in the army cannot possibly be guilty of wilful defiance since he is not responsable for his actions. And I contend the same applies having reference to disobeying an order.

Character Witness - Lt Col Bingham W.J. M.C. J.D.

The statement which I give as to the character of the accused is as follows

I have always found him trustworthy & reliable To the best of my knowledge he does not drink.

I have know him since he has drawing with the unit. ~~I have~~ I think you get to know quite a bit about a man if he is acting as a driver over a period of time In the period of time in which Dickson has been driving me I have found him above reproach.

Recorded
No. 1

Clerk of Mutilation Ct Hudson

The accused has been in the army two years & six months and during that time has had only 3 minor charges against him the greatest punishment being 7 days CB. He is one of our best drivers and an excellent soldier and I trust the court will be as lenient in granting the sentence as an equally good sentence punishment would only tend to make a good soldier

J Fiske Lovell

RESCALPIAC

Major

~~Plea of Mitigation of Punishment~~

Plea of Mitigation of Punishment

See attached.

EXHIBIT "A"
Affidavit Re [illegible]

A.F.B. 355
(GM—5-41 (572-S)
H.Q. 1772-39-5(2)
A.F.B. 206)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A-59932	Pte.	Ralph Stuart DICKSON,	2 C.I.H.V.

1. The following is a fair and true summary of the entries in the ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Service and General~~ Regimental and ~~Squadron, Battery~~ ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed of summary awards under Section 47 of the with.

	Within last 12 months	Since enlistment or appointment
For Sec. 40	1 times	2 times
For Sec. 15 (1)	1 times	1 times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ or

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ ~~Air Force Act~~ ~~A.F.A. 73~~

3. The accused is not under sentence at the present time

~~The accused at the present time is under sentence to~~ or ~~beginning on the~~ ~~day of~~

4. The accused has been in ~~close~~ open arrest awaiting trial on the present charge for nil days in civil custody, and 15 days in military custody, making a total of 15 days in custody, of which — days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22 yrs. 4 mos.

6. The date of his ~~commission~~ specified in his ~~record of service~~ attestation paper is March 26, 1942.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon~~ service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~military~~ decoration, or ~~no other~~ military reward (or is in possession of or entitled to). State any ~~war service~~ military decoration or reward. C.V.S.M. & Clasp.

10. ~~If the accused is a warrant officer.~~ ~~The accused before he was made a warrant officer last held~~ ~~Air Force~~ ~~the regimental rank of~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused. Number ..... Rank ..... Unit Regiment

Name ..... of .....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3 rd day of August 44 Kenneth A Knight

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Exhibit "A" signed by the president, and annexed to the proceedings.

R.S.M. CALPIN

Naval Pers.

EXHIBIT "B"

NA-59932 Name Dickson, R.S. Sqn, Battery, or Company — Corps C.I.C. — Date of enlistment 26-3-42 — GC Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet: N/A — No. and date of last drunk: N/A — Period not reckoning towards freedom from extra fine: N/A — Sheet No: One. — Signature OC Company, etc

Place	Date of offence	Rank	Class of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dissmissing with trial	By whom awarded	Remarks
Old Sheet destroyed 24 Nov 43. Certified True Copy. Signed F.B.Walters, Lieut.									
Field	5th Oct 42.	Pte		A.A.Sec 40. Conduct to the prej. etc. in that he, at approx. 1610 hrs 5-10-42 while on duty on AA post 3 CDIRU lines failed to carry out duties in a proper manner.	R.S.M. Ferguson, J.	7 Days C.B.	7-10-42	Lt-Col. J.A. McIntosh.	
Field	17-9-43	Pte		A.A.Sec 40 Cond. to the Prej etc	Sgt. Durham, G.	7 Days C.B.	18-9-43	Capt. D.P. Kennedy.	
Field	22-12-43	Pte		W.O.A.S. A.W.L. From Lying Piquet from 2200 hrs 27-12-43 to 0100 hrs 28-12-43. Total Absence:- 3 Hours. AA Sec 15 (1)	Sgt. Poole. L/Cpl. Christenson	4 Days C.B.	29-12-43.	Major Herbert.	

(PTO)

Plate	Date of offence	Rank	Corps of Organisation	OFFENCE	Name of Witnesses	Punishment awarded	Date of award of sentence (Group Army only)	By whom awarded	Remarks

Certified True Copy.

Major 31 August 1944.

Officer having Custody of Original Document.

RSM Campbell
No. 27

SUMMARY OF EVIDENCE

In the case of A-59932 Pte. Ralph Stuart DICKSON, C.I.C., on strength of 2 Canadian Infantry Reinforcement Unit, a soldier in the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

First Witness Prosecution

H-16728 L/Cpl. Johnson, G.R., 3 Prov. Det., 7 Prov. Coy., having been duly sworn states as follows:-

"I am H-16728 L/Cpl. Johnson, G.R. 3 Prov.Det.,7 Prov. Coy.,

"I was on duty in the town of Barnsley on the 14th July, 1944, in company with L/Cpl. Ketchen, D.C. At approximately 2310 hrs., while checking the Cuban Dance Hall, the accused, whom I now recognize, came upstairs. The man in charge of the entrance upstairs, whom I now know to be Mr. W. Wilcock, asked him for a ticket and he said he gave it to the man at the bottom of the stairs. Mr. Wilcock went down to find out if it was true and asked us not to let the accused in to the dance. Mr. Wilcock came back and said the accused had not a ticket and that he would have to leave. The accused admitted not having a ticket, so I explained to him thathe would have to leave. He kept on arguing with us and I ordered him three times to leave the premises. After each order I gave him a few minutes to obey it. I then asked him if he refused to obey the order and he stated 'Yes, I refuse to leave'. I placed him under close arrest and escorted him to the Civil Police Station and later to his Unit Guard Room where a live body receipt was obtained."

The accused declines to cross-examine the witness.

H.R. Johnson
H.16728, L/Cpl. Johnson,G.R.

Second Witness Prosecution.

L-59756, L/Cpl. Ketchen, D.C., 3 Prov. Det., 7 Prov. Coy., having been duly sworn states as follows:-

"I am L-59756, L/Cpl. Ketchen, D.C., 3 Prov. Det., 7 Prov. Coy,

"I was on duty in the town of Barnsley on the 14th July 1944 in company with L/Cpl. Johnson,G.R. At approximately 2310 hrs., while checking the Cuban Dance Hall, the accused came upstairs. The man in charge of the entrance upstairs, whom I now know to be Mr. Wilcock, asked him for a ticket and he said he gave it to the man at the bottom of the stairs. Mr. Wilcock went down to find out if it was true and asked us not to let the accused in to the dance. Mr. Wilcock came back and said the accused had no ticket and that he would have to leave. The accused admitted not having a ticket, so L/Cpl. Johnson

18 RCA Pipe Major

SUMMARY OF EVIDENCE

In the case of A-59932 Pte. Ralph Stuart DICKSON, C.I.C., on strength of 2 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

---

explained to him thathe would have to leave. He kept on arguing with us, and L/Cpl. Johnson ordered him three times to leave the premises and after each order he was given a few minutes to obey it. L/Cpl. Johnson then placed him under close arrest and escorted him to the Civil Police Station and later to his Unit Guard Room where a live body receipt was obtained."

The accused declines to cross-examine the witness.

D.C. Ketchen
L-59756 L/Cpl. Ketchen, D.C.

Third Witness
Prosecution. Mr. W. Wilcock, of Cuban Dance Hall, Barnsley.

A written statement of this witness's evidence Purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Appendix "A"

Having regard to the expense and loss of time involved, attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

W.L. Liscombe
(W.L. Liscombe) Lieut.
Officer detailed to take the Summary of Evidence.

The accused was cautioned as follows:

"Do you wish to make any statement or to give any evidence on Oath? You aremot obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c) (d) (e) (f) & (g) have been complied with.

In the Field,
28 July 1944.

W.L. Liscombe
(W.L. Liscombe) Lieut.
Officer detailed to take the Summary of Evidence.

APPENDIX "A".

Statement of Mr Wilcox

I am employed as doorman at the Cuban Dance Hall, Barnsley. and I rember the occurance which took place between a Canadian Soldier who I had never seen before and two Canadian Military Policemen on the night of 14 July 44. The facts as I remeber Them are, at about 2300 hrs a soldier came up to the floor and I asked him for his ticket he stated that he had given it to the doorman down stairs, I told him this was not usual and that I would go down stairs and check. As the two Military Policemen were there I requested them not to let him in until I had checked. However if the Military Policemen had not been there I would have let him in without a ticket. I went down stairs and checked and found out that he had not given his ticket to the doorman downstairs. I came back up stairs and told him that he must be mistaken about the ticket, he said he didn't want to dance but just wanted to watch. One of the provost said, "Well you can watch from here". "He said "no, I want to go inside and watch." The military police then told him three of four times to leave. He said that he wouldn't, so they placed him under arrest.

I do not think that he should get into any trouble as I feel that all the provost had to do was to escort him outside. He was not in a nasty mood or offered any violence.

Q Had he been drinking.

A Yes
Q Was he drunk.
A Well, he wasn't helpless but it was very noticable that he had been drinking.
Q Do you think the police did their duty.
A Yes but I don't think that the thing was as serious as they have made out.

M. Wilcox.

Annexure No. 4

LIST OF WITNESSES

In the case against No. A-59932, Pte. Ralph Stuart DICKSON, C.I.C.

(For the Prosecution)

1. H.16728, L/Cpl. Johnson, G.R., 3 Prov.Det.,7 Prov.Coy.
2. L.59756, L/Cpl. Ketchen, D.C., 3 Prov.Det.,7 Prov.Coy.
3. Mr. W. Wilcock of Cuban Dance Hall, Barnsley.

(For the Defence)

Nil.

NDAC Appeal No. 107

LIST OF EXHIBITS

In the case against No. A-59932, Pte. Ralph Stuart DICKSON, C.I.C.

(For the Prosecution)

Nil

(For the Defence)

Nil.

Attached Paper

A-59932 Pte.Ralph Stuart DICKSON

Capt. J.P. Keen

R.S. Dickson

19 July, 1944. A-59932,Pte.R.S.Dickson.

A-59932, Pte. R.S. Dickson,

R.S. Dickson

19 July, 1944. A-59932, Pte. R. S. Dickson.

CERTIFICATE OF WAIVER

In the case of A.59932, Pte. Dickson, R.S.

I hereby certify that there were no objections to the members who constituted the Court which tried the a/m soldier by Field General Court-Martial. The Waiting Member, Lieut. J.W. Freeman, was, therefore, permitted to withdraw.

In the Field
3 August, 1944.

R.N. McAlpine
(R.N. McAlpine) Major,
President.

CERTIFICATE OF OFFICERS WHO ATTENDED TRIAL

In the case of A.59932, Pte. Dickson, R.S., C.I.C.,
I hereby certify that the following officers attended the trial of the a/m soldier by Field General Court-Martial:

In the field,
3 August, 1944.

Lieut. W.A. Dale,
Lieut. A.W. Freeman.

R.N. McAlpine
(R.N. McAlpine) Major,
President.

RECORDED AS EXHIBIT Q IN AB 160. TTT-222

FIELD GENERAL COURT-MARTIAL

CPA96 (To take place of AFA3) 41/P.Z.S. 1606 (2864)

Convened by Order of Brig G S N Gostling, ED. Comd "A" GP CRU dated 31 Jul 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
A59932	Pte	Ralph Stuart	DICKSON	2 CIRU CIC

PROCEEDINGS REVIEWED

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Held in the Fd in (country) England at (place) Canada on (date(s)) 3, 4 Aug 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A93, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet~~(s)~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1610 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 44(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused. Do you object to as interpreter ? Ans .~~
~~The Interpreter is sworn.(1) Do you object to as interpreter ? Ans .~~
~~The shorthand writer is sworn.(1) as shorthand writer ? Ans .~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	M S McALPINE	2 CIRU
Member	Capt	P.A. CIANCI	2 CIRU
Member	Lt	L.C. TOMPKINS	2 CIRU
~~Judge Advocate~~			
Prosecutor	Lieut.	W.L. LISCOMBE	2 CIRU
Defending Offr	Lieut.	S. FIDLER	2 CIRU

Questions by President: Is the Prosecutor a lawyer ? Ans YES Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (b) and fn 2 were not followed. See Dr p 2.)

A8. The accused A59932 Pte DICKSON, R.S. before arraignment make(s) (no) ~~(no)~~ plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A59932 Pte Ralph Stuart DICKSON - 2 CIHU CIC.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 9(1)	NOT GUILTY	NOT GUILTY	
2nd AA Sec 9(2)	NOT GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and on loss of kit see RP 44 fn 6.)

~~Not~~ present under sentence for ~~imprisonment~~ beginning on (date) ~~detention~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~NIL~~ Time in ~~detainment~~ awaiting present trial—a total of 17 days, of which No days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

SENTENCE AWARDED BY THE COURT: To Suffer Field Punishment for NINETY (90) DAYS and to forfeit all ordinary Pay for a period of NINETY (90) DAYS

~~Name~~ Judge-Advocate, if any. 4 Aug 44 Date awarded. ~~Name~~ President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p Page)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revisited: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding of the Court but I commute the sentence & read as follows: "To forfeit 90 days pay & to undergo field punishment for 28 days" and I confirm the sentence as so commuted

I direct that the accused be not committed to prison or detention barracks until further orders. (Date, if not used.)

Date 7 Aug 44 (Sgd) Commanding "A" Gp Con Rec Units C A (Ox & Bucks L I) Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Officer.

A59932 PTE RALPH STUART DICKSON 9 Aug 44

PART II ORDERS 1944 No. 191

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans _____ (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea's) of Guilty to Not Guilty on _____ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on _____ charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex _____, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras C1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (C).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the _____ charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the _____ charge(s), and allowed on the _____ charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Do neither Do you intend to call witnesses on your behalf ?
Ans Yes Are they witnesses as to character only ? Ans Yes
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 163(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the findings ~~if any~~, of Not Guilty, and states to the accused that the findings of the Court on the Second charge(s) being subject to confirmation, will be promulgated later.(1) ~~The President announces that the accused is found Not Guilty on all charges and as to be released if present, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans I wish to call a character witness
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces ~~Statements as to Character and Particulars of Service~~(1), and certified true copy ~~sentence~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(*1. MFB 255 or MFB 296. 2. MCM 6. 3. RP 46, KR Con 536. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the ~~Statements~~ and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. Where several accused tried ~~separately~~ see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 363-366, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences consigned for civil offences by the law of England see AA 40(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 66(1), KR Con 564. 2. RP 50. As to release from arrest by Convening Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

LLL-152
PIE DIE 5.

RECORDED AT CMHQ IN AB 180 4 22152

FIELD GENERAL COURT-MARTIAL

CPA96 (To Issue of AFA31 40/P & S. 1666 14/10/40)

4/38B

Convened by Order of Brig G S N Gostling Comd "A" Gp CRU dated 6 May 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E5514	Pte	Stanislas	DIE	6 CIRU CIC

PROCEEDINGS REVIEWED 2 June 44
W. C. Dodd Lieut.

REVIEWING OFFICER, JAG BRANCH

G.S.I.R.U. RECEIVED 8-MAY 1944 1315 hrs.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 9 MAY 44 at 1315 hrs.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fms ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1500 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. President to accused: Do you object to ..... as interpreter? Ans .....

~~The Interpreter is sworn.~~ (1) Do you object to ..... as shorthand writer? Ans .....

~~The shorthand writer is sworn.~~ (1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	J W MOSSOP	2 CIRU
Member	CAPT	J. MAJOR	6 C.I.R.U.
Member	LT	H.W.A WARD	2 C.I.R.U.
~~Waiting Member~~ JUDGE ADVOCATE	CAPT	J.M. GWAY	6 C.I.R.U.
Prosecutor	LT.	~~C.~~ CORNELISSEN	6 C.I.R.U.
Defending Offr	LT.	O. J LANGLAIS L.M. LANGEVIN	6 C.I.R.U.

Questions by President: Is the Prosecutor a lawyer? Ans. NO Is the Defending Offr a lawyer? Ans. NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See CF A 21.)

A8. The accused E5514 Pte DIE S before arraignment make(s) (no) objection(s). (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such pleas, the addresses made in support or against, the evidence, if any, and findings are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared~~ and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B, C, D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc., offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).

2. The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 68(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 86, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(3), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) (changes) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No Z-5514, Private Stanislas DIX, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 11
ARMY ACT

WHILST ON ACTIVE SERVICE, NEGLECTING TO OBEY MT DRIVERS' REGULATIONS, CANADIAN ARMY OVERSEAS,

in that he,

in the Field, at 2040 hours on the 21st day of April, 1944, did drive MD vehicle No CZ.42042710 while smoking, contrary to MT Drivers' Regulations, Canadian Army Overseas, directing all persons not to smoke while driving.

SECOND CHARGE
SECTION 40
ARMY ACT

WHILST ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in the Field, at 2040 hours on the 21st day of April, 1944, was found improperly dressed, that is, he was wearing a black beret and his tunic was unbuttoned.

THIRD CHARGE
SECTION 40
ARMY ACT

WHILST ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in the Field, at 2040 hours on the 21st day of April, 1944, was driving MD vehicle No CZ.42042710, while under the influence of alcoholic spirits

FOURTH CHARGE
SECTION 40
ARMY ACT

WHILST ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in the Field, between 1715 hours and 2040 hours, on the 21st day of April, 1944, did improperly use a Canadian Government Vehicle and petrol for private purposes.

In the Field
2 May 44.

(W.T. MORGAN), Col.
Commander
6 Cdn Inf Rft Unit.

To be tried by Field General Court Martial.

(G.S.B. Gostling) Brig.
Comd
"A" Gp Cdn Rft Units,
C A (O)

6 May 44
Field

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E5514	Pte		Stanislas	DIE	6 CIRU CIC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[s] named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet[s] attached and on (date) 5 May 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person[s], and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Pd Offr as President, for the reasons I have attached hereto.~~

~~(AA 49, RP 104(b), 107(4). Delete the whole or part, if not applicable.)~~

~~5. I also appoint an Judge Advocate (hereat the Offr mentioned hereunder.~~

~~(RP 106(b). Delete if none appointed.)~~

PRESIDENT.

(Rank.)		(Unit.)
MAJOR	J W MOSSOP	2 CIRU

(Must be named. RP 106.)

MEMBERS.

(Rank.)		(Unit.)
CAPT	to be detailed by OC 6 CIRU	
LT	to be detailed by OC 2 CIRU	

(Named or detailed. RP 106.)

WAITING MEMBER.

(Rank.)		(Unit.)
CAPT	to be detailed by OC 6 CIRU	

(Named or detailed, if any. RP 106.)

~~JUDGE ADVOCATE.~~

(Rank.)		(Unit.)

(Must be named, if any. RP 106.)

On Active Service in the Fd

in England
(Country.)

Date 5 May 44

(Signed personally. RP 105 fn 2)

Brigadier
(Rank.)

(G.S.R. Gostling)
Commanding "A" Gp Cdn Rft Units, C A (O)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (Para 104 (a) (iii) of AP 143 or Y & E/1067 (Edn))

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.A. (Can) para 557

E5614

I certify that I have this morning examined No. Pte Mc S (Rank) (Name)
of 6 C.I.R.U. and in my opinion he is fit to undergo
trial by Court Martial.

Station
Date May - 9 - 1944

Sgd [illegible] (Medical Officer)

-CASE-

E-5514. Pte Stanislas Die 6 C.A.R.V. A.C.

1st Witness (Pros.) Lt C. A. Breakey O.C. 7 Prov. Bde
6 C.A.R.V.

1- Q- Do you know Pte Die
1- A- He is right there
2- Q- Tell the Court what happened on the 21st of April at approx. 20 hrs
2. A- I was sitting in front of W. Horse Hotel in my Station Wagon with Capt de Montigny D.O. 6 C.A.R.V. the accused was seen to pass my vehicle driving a truck. As he was smoking a cigarette while driving I followed him & stopped his vehicle. Before I overtook him he stopped his vehicle and an officer stepped out - the started his veh. once more travelled about 10 yds and when I overtook him and stopped him. Taking his particulars I found he smelled strongly of alcoolic spirits, he was dirty and unshaven wearing a black beret. He could not satisfactory obey an order to do up his tunic. While inspecting his work ticket I had reason to query the hours of the journey. I referred the work ticket to Capt de Montigny D.O who stated that it was no good. I placed the man under closed arrest. Capt de Montigny ordered a substitute driver and a sergeant as escort and we took him to the police station and took him over to the Provost on duty. The vehicle was returned to transport lines 6 C.A.R.V by substitute driver.
3- Q- Would you say that the beret ~~was~~ worn by the accused was mechanic issue or similar to that issued to the tank corps.
3- A- It is not a mechanic beret - It was a block felt beret similar to one worn by tank corps

P.2.

4. Q. Would you explain to the Court what your duties are in so far as English soldiers & Wd rebelles are concerned

4. A. My duties re all Wd rebelles in the commission of an offence at any time is to take action. As regards to British or English soldiers I am only concerned with their authorities or responsibilities whenever in charge of rebelles.

R.P. 83(6) complied with.

By the Defence:

5. Q - Will you tell the Court in what position the truck stopped

5. A - Passed the Hopper lights in front of the Market Square

6 - Q - Was it near the curb then

6 - A - It was about 2 or 3 feet from the curb

~~Q - Have you ever taken a course in medical~~

~~A - no~~

7 - Q - Will you tell the Court how the tunic was unbottoned?

7 - A - It was undone to the second button from the top.

R.P. 83(6) complied with.

2nd Witness (Prosecution) Capt P. P. De Montigny. 6 C.I.R.V.
being duly sworn states:

Q - Give the Court your name rank and occupation?

A - I am acting Capt. P. De Montigny R de Mans. 2.0. 6 C.I.R.

Q - Do you know E. 5514 Pte Bee Can you point him out?

A - Yes the man on my right

10-Q. Tell the Court what happened on 7th April

10A. On the 7th April I was with Lt Breaker 7 Provost sitting in his car near White Horse Hotel in town watching for any irregularities that may occur either with tpt, misbehaviours and so forth. At 2040 hrs I saw a WD veh. passing by looked at the no of the veh, the last three numbers 710 and realised the vehicle should not be on the road. Noticed also that the accused Pte Dee was smoking and also there was an officer sitting in front. I asked Lt Breaker to go after him. At about 500 x from where we had started he pulled in front of 15 cwt that had just stopped. The officer had got out and was marching away. Lt Breaker questioned the driver and asked for his particulars. Then the officer who had marched away from the vehicle came back. He asked Lt Breaker if he could speak to him. Mr Breaker's answer was "I am busy at the moment". I then spoke to the officer who was a Lieut of RASC a Britisher. He told me he had been picked up a few minutes earlier by Pte Dee while from the way to go to Leeds. The officer asked if he could drop him on the way. At that moment,

By defending officer: I object to hear say evidence as submitted by the witness.

Objection allowed by the Court.

During my talk with the British officer, Lt Breaker drew my attention away by asking me whether the word ticket was an order. I looked at it and assumed it was not. That vehicle was used for training purposes and was due in at 1730 hrs, that is according to the transport regulation.

I noticed during Lt Breaker's investigation that Pte Dee was improperly dressed and that he was wearing a black beret ordinarily worn by the armoured corps. He was unshaven, tunic unbottoned. He was also smoking and under the influence of liquor in my opinion. Two or three times Lt Breaker ordered Pte Dee to throw his cigarette away. Pte Dee did not seem to obey very quickly that order. Lt Breaker asked him if he understood English or not to which Pte Dee answered he understood. He finally put out the cigarette. One of my N.C.O. passing by was detailed by me to take vehicle back to camp and make a complete check-up of the vehicle. There were no deficiencies of tools and the vehicle was in good order. We took the accused to the police station.

Q- Is it against Drivers Regulations to give a lift to soldiers or officers that would take the drivers out of his route

A- Yes it is against Dpt Regulations unless as ordered by R.R. § 316) complied with.

By the Defence:

Q- You say that the work ticket in question was not in order

A- That's right. The work ticket was made for a jeep

Q- Who for Capt Benoit who was then acting O.C. 3 S. Wing. Capt Benoit was not there and I know that vehicle must have been in at 1730 hrs on 7th April.

Q- Is it usual that the drivers should be familiar with the requisition?

14-A - The driver has no business to see the requisition. This is handled by the despatcher who assigns him to his duties and the appr. time of his return

14-Q - How could you tell that the witness was under the influence of liquor?

14-A - First of all he smelled of beer and the eyes appeared to be watery and dilated.

3rd Witness (Prowse)

15- Q - Give your name rank and occupation?

15- A - Capt Louis Denuset acting O.C. 35 Wing 6 C&R V

16-Q - Do you know E. 5514 Pte Die?

16-A - Yes.

17-Q - Will you tell the Court what happened on 21st April regarding the accused

17-A - On the 21st April I used Pte Die as a driver whilst I was making a recce for a Tactical Exercise without troops. I travelled roughly 50 to 75 miles that day. I came back to No 4 Camp of 6 C&R V at approximately 1715 hrs. Just as we were arriving to No 4 Camp, there was an officer going up the hill. We stopped to give him a lift. I asked him without looking at him as he jumped on the back, where he was going. I don't remember whether he said 1-2-3 Camp but I know he didn't say No 4 Camp. When we reached No 4 Camp I told Pte Die that I did not need him any more and to report to the transport office which is 1½ mile from No 4 Camp.

26

I told him to drop the officer of on the way as he had to pass in front of No 3 and No 1 Comp to get to No 1 Comp where the transport office is.

20-Q - When you ordered the driver to go back to Comp was he properly dressed?

20-A - If I remember right, he was unshaven. ~~I am not sure about that.~~

21-Q - Did you remark anything particular about his headdress.

21-A - No.

22-Q - When you told the driver to drop this officer on his way back, was it clear to you and the driver that the officer should be dropped off somewhere in between No 1 Comp and the transport office?

22-A - Yes definitely.

The defence refuses to cross-examine the witness R.P. 83(b) has been complied with.

The prosecution is closed.

104 Pte Davies (Defence) E-5514 Pte Stanislas Bee 6 C.I.R.U. C.A.C. being duly sworn.

21-Q - Tell the Court in your own words exactly what happened from the moment that Capt Demarest told you to drop an officer in one of the other camps?

21-A - At 1710 hrs on 21st April 44 when I left No 4 Camp Capt Demarest told me to take an officer down to the transport. I dropped him at No 3 Camp. when [illegible]

dropped him there another officer was there and he asked me where I was going to which I replied: To report myself at the transport. The officer informed me that he had his order from Capt de Montigny S.O. 6 C.I.R.V. to take him down town to which I replied there was no order and he asked to see my work ticket. On seeing this the officer said it was good to go anywhere. I know this as I am a transport officer myself. Then I requested that he put his signature on the work ticket to which he replied there is already one on I can't put mine. He then paid not to argue with him as he was a Captain and I was only a private. I told him if I took him down town I did not want any trouble and he questioned me about my service and I told him he wants to know too much. I took him down town and he ordered me to park my vehicle behind the fire station in Batley I was then ordered to pick him up at 2015 hrs near a big clock. It was there I was stopped and questioned by an English officer who asked him where I was going to which I replied near the clock. ~~Before I got to~~ I gave him a ride as he was going to the same place and on the way to the clock I was stopped by the police.

A- Whilst this R.P. 83(6) has been complied with.

The Court adjourns until 1330 hrs.

The Court reassembles at 1330 hrs.

- Will you tell the Court why you drove on when requested to stop

Because I was on the right side of the road and I had to clear the traffic.

Why was your license undone?

When I was with my regiment I was told to leave the

hook and top bottom undone while driving a lorry on that day I had pulled a button off.

24 Q - Were you ever issued with a black beret?

24 A - Yes

25 Q - Were you ever wearing the same hat on duty before?

25 A - Yes sir and also had it on, on a parade the same day.

26 Q - On that date did you or did you not take any spirit?

26 A - No Sir.

27 Q. - Why did you not drink?

27 A - In 1943 I was in hospital with V.D. and I was advised by the M.O. not to drink.

28 Q - Did you shave on that day?

28 A - I shaved at 0715 hrs 31st August 44

29 Q - Did you use your vehicle for your own purpose that day?

29 A - No Sir.

Cross-examined by the Prosecutor

Q - In the 3½ hours you were in town were you in the vehicle all the time?

A - I was never out of sight of the vehicle at any time.

Q - Did you have any supper?

A - No Sir

32 Q – Are you familiar with your M.T. Regulations

32 A – Yes I've been driving since 1939

33 Q – Do you know it's improper to take a vehicle without a work ticket

33 A – Yes, but my work ticket was signed.

34 Q – Where you on a race at the time of your arrest?

34 A – No Sir.
R.P. 83(c) has been complied with.

The Court is addressed by the Prosecution:

Prosecution has proven that the accused was found downtown with his vehicle at 2040 hrs. The work ticket shows that his duty started at 0930 hrs in the morning with said vehicle. Capt. Dennet stated that duty with said vehicle ceased at 1715 hrs Therefore, there is a lapse of time of 3½ hours ~~for~~ during which the vehicle was used without authorization. It was also proven th by witnesses of the Prosecution that the driver of said vehicle was improperly dressed at the time of his arrest. and also that his breath smelled of liquor.

The Defending officer addresses the Court.

He states that the three remaining charges, except first one are unfounded. It is stated that he was improperly dressed because he was wearing a blood test all drivers of 6 Cdn RU are issued with it and they wear them on parade. On the morning of that date the accus.

L. Col

sed was wearing it and no one mentioned that he was wrong. Yet in the same night, they charged him with being guilty of a crime.

Satisfactory explanation for his time being unbottoned has been given to the Court.

As far as the charge of the accused driving under the influence of liquor, nothing has been proven and the charge is unfounded.

The witness giving statement under oath has shown that as far as the charge of driving and using a W.D. vehicle for his own purpose, the accused has done so, being ordered to do so by a superior officer who took advantage of his rank to impede upon the regulations. I ask the Court if a vehicle being used outside the camp limits or transport lines constitute sufficient reason to imply that a W.D. vehicle is being used for personal purpose. I am sure the Court will consider the above related points

Plea of mitigation of sentence is made by Defending Officer.

It is proven that on various occasions he wore a beret and never had been checked up Also, I wish the Court to bear in mind that he only is found guilty of being improperly dressed after having being forbidden for so long with his beret. He was used in the fields to have his time with one hook and a button undone. He cigarette he was smoking has been given to him and he smoked it through force of habit. I beg the Court to be indulgent.

M.T., Office, No.6 Cdn. Inf. Rein. Unit. M.T.-9-6

To/ Lieut. Menard. M.P.
No.6 Cdn. Inf. Rein. Unit.

Re: STATEMENT ALREADY GIVEN IN THE CASE OF PTE. DIE.

1. Further to my statement already given concerning, Pte. Die., "As we pulled in front of the vehicle being driven by Pte. Die., an Officer from the Royal Army Service Corp(British), which I had noticed sitting in the front with the driver was already out and walking away from the vehicle.

On seeing that the driver was being questioned by Lieut. Braekey, from the 7 Provost Corp, the English Officer walked back towards the vehicle and asked Lieut. Breakey, if he could speak to him. Lieut. Breakey asked the Officer if he was in charge of the vehicle, to which the Officer replied in the negative, and Lieut. Breakey resumned his investigation The English Officer then spoke to me and told methat the driver of the vehicle had picked him up a few minutes earlier and that he was given a lift down town. He also told me that Pte. Die had asked him the way to Leeds, and also mentioned that the driver was under the influence of Liquor. I then turned to Lieut. Breakey, Provost Officer, to give him these details, when he asked me whether the Work Ticket was in order or not, to which "I replied that it was not."

After I gave Lieut. Breakey, details given to me by this British Officer, I turned to get his particulars and found that he had disappeared and could not be found any where around.

Regarding the use of a Training Vehicle on M.T. Holiday, has no bearing on this case, but can easily be explained. A Recce., T.E.W.T. (Tactical Excercise Without Troops) had to be made on that day as having just arrived in a new Area, training localities had to be Reccied as soon as possible.

PdeM/lm

P. de Martigny
(P.P.de Martigny) Capt.
Transport Officer,
No.6 Cdn. Inf. Rein. Unit.

CHARGE

Army Form B 252
(See King's Regulations)

S.C.I.R.U.

'A' Troop

Regiment / Battery / Squadron / Troop or Company

CHARGE against No. [illegible] Rank [illegible]

Name [illegible]

Place [illegible] Date of Offence [illegible]

OFFENCE

(1) [illegible]

(2) [illegible]

(3) [illegible]

(4) [illegible] dressed, unshaven.

Names of Witnesses:—

Lieut C.A.Breakey No.7.Provo.Det.Sec.

Capt.DeMartigny S.C.I.R.U.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

IN THE CASE OF: Reg.No. [redacted]5514
Pte Dle.S.
6.C.I.R.U.

Statement of **EVIDENCE**

At approx. 2045 hrs. 21 apr 44. while in company with Capt. Martigny, the m/n soldier was seen to pass my car, driving a FORD 15 cwt, No. C.L.42042710 with a cigerette in his mouth. I followed him and found that his work ticket did not authorize his trip. he was under the influence of alcoholic spirits, he was dirty and unshaven, he was wearing a black beret, and his waist was open. I placed him under close arrest, and sent the vehicle back to camp. Duly receipt is on file at this H.Q.

Lieut.
(C.A.Breskey.)

I have read over and corroborate the above statement.

Capt.
(DeMartigny.)

REMARKS

Army Form G 3518
(in P & S use)

Exhibit B

TRANSPORT WORK TICKET

Make of Vehicle Ford Chas6 Cwt. W.D. No. CE-4204710 *Date* 16 Apr 44 No. U 15-4-50

Unit 6 C.I.E.U. *Section* M.T. *Driver's Name* Pte. Die, E-5514 *Hour of Parade* 0800

For whom journey is performed (1)	FULL Details of load and service (2)	ROUTE From (3)	ROUTE To (4)	ROUTE Via (5)	Signature of person authorising journey (6)	TIME TAKEN From (7)	TIME TAKEN To (8)	Miles run (9)
					A			
					B			
					C			
					D			
					E			
21 April 44	Own Unit Recce for Tow	Farnleigh	Training Area		F Lt. Paul Collette	0930		53 T
					G			
					H P.de Montgomery			
					K (P.de Montgomery) Capt. Transport Officer, No.6 Cdn. Inf. Bgde. Unit.			
					TOTAL			

CERTIFIED TRUE COPY.

HEADQUARTERS 6 CDN INF BDE APR 1944 A.C.J.U.

SPEEDOMETER READINGS

	Miles
(10) In	
(11) Out	31041
Mileage	

PETROL Galls.

(12) Held at Start	
(13) *Add*—Amount drawn	
(14) *Deduct*—Remains on completion	
(15) Quantity Consumed	

(16) TOTAL hours out on duty

(17) *Signature of Driver*

(18) *Countersigned*

Rank

Exhibit C

M.T. DRIVERS' REGULATIONS

Canadian Army Overseas.

9. Precautions against fire.

(f) IN NO CASE WILL THE DRIVER SMOKE WHILE ACTUALLY DRIVING ANY VEHICLE.

Certified true extract from MT Drivers' Regulations

.....
Officer having custody of
original documents.

Note: Authorized by Overseas Routine Orders
No.3610 d/ Jun 43.

In the Field
25 Apr 44

1. I acknowledge th t I have been served with a copy of the Summary of Evidence taken at Algonquin Camp, Witley, Surrey, prior to my trial by Court-Martial. I fu ther acknowledge that I have been served with a true copy of the charges upon which I am being bro ght to trial by Court-Martial.

2. I desire the services of an Officer to represent me at my trial by Court-Martial. I request the services of

.....Lieut. Langevin, Regiment de Maisonneuve.....

if he is available.

[redacted],
[redacted].
26th day of April 1944. [redacted].
1100 hours.

.....Pte.....

LIST OF WITNESSES

In the case of No E-5514, Private Stanislas DIE, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Prosecution

Lt C.A. Brankey, Cdn Pro Corps, on the strength of No 7 Pro Coy.

Capt. G. De Martigny, R de Mais, on the strength of No 6 CIRU.

Capt. L. Deniset, Royal 22e Regiment, on the strength of 6 CIRU.

Defence

Nil

In the Field
26 Apr 44.

/mcw

LIST OF EXHIBITS

In the case of No M-5714, Private Stanislas DIX, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Exhibit "A": Statement of Evidence (Army Form B 252)

Exhibit "B": Certified true copy of Work ticket.

Exhibit "C": Certified true extract of MT Drivers' Regulations

In the Field
26 Apr 44

/M.M

SUMMARY OF EVIDENCE

In the case of No M-5514, Private Stanislas DIE, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

First Witness for the Prosecution

Lt C.A. BREAKEY, of the Cdn Pro Corps, on the strength of No 7 Cdn Pro Coy., a written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked "Exhibit 'A'". Having regard to the exigencies of the service, the expenses and the loss of time involved, attendance of this witness cannot in my opinion be readily procured.

.....Lt.
Officer detailed to take the Summary of Evidence.

The accused does not demand the attendance of this witness for cross-examination.

Second Witness for the Prosecution

Capt. P. DeMartigny, of Le Regt de Mais., on the strength of 6 CIRU., having been duly sworn, states as follows:

I am T.O., of No 6 CIRU. On 21 Apr 44, I was in company with Lt C.A. BREAKEY, of the Cdn Pro Corps. We were sitting in his car and parked near the WHITE HORSE Hotel, OTLEY, YORKSHIRE. We were standing there for the purpose of checking army irregularities that might occurred either with soldiers or WD vehicles. At 2040 hrs, I saw one of my vehicle No CZ.42042710 passing by and I noticed the driver smoking a cigarette. An Officer was sitting with him in front of the vehicle. We went after the truck and stopped it about four hundreds (400) yards from where we were standing. The officer got off the vehicle. Lt BREAKEY and I questioned the accused, whom I now recognise, and found that he was improperly dressed, in that he was wearing a black beret pattern worned by armoured corps. His tunic was unbutton to the extend of one button and the two hooks, near the neck. He was still smoking and was dirty and unshaved. Lt BREAKEY asked him for his work ticket which he produced and BREAKEY asked me if it was in order or not. I looked at it and found it was not. I hereby produce a certified true copy of the said work ticket. The driver was then placed under arrest by Lt BREAKEY and I detailed a driver passing by to take the truck back to camp. A check of the vehicle and tools was made upon the arrival of the vehicle in camp and nothing was missing. I hereby produce a certified true copy or extract of M.T. Drivers'regulations, Cdn Army Overseas as "Exhibit 'C'." Standing orders to that effect are not posted in this camp now because we have no definite place yet and because we have just arrived here, but I am certain that the accused was aware of those regulations. They are part of tools and equipment of vehicles and are thereby issued to all drivers as they take a vehicle. They were also posted in the MT garage while we were stationed in WITLEY, SURREY.

Questioned by the officer taking the Summary.

Q.1 When you saw the accused at 2040 hrs on the 21st Apr 44, was he under the influence of alcoholic spirits?

A.1 In my opinion he was.

Q.2 Was the accused working at the MT garage while you were stationed in WITLEY?

A.2 Yes he was.

Q.3 What is the procedure to follow for a driver when his duty is complete?

A.3 He comes back to the garage and reports to the NCO i/c of the MT office. He then closed his work ticket, which means that he enters the hours he came back from his last trip and also enters the numbers of miles run during his trip.

The accused declines to cross-examine this witness.

.....Capt.

SUMMARY OF EVIDENCE

In the case of No H-5514, Private Stanislas DIK, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

Third Witness for the Prosecution — Capt. L. DENISET, of the Royal 22e Regiment, on the strength of 6 CIRU., having been duly sworn, states as follows:

On 31 Apr 44, I was in charge of a number of officers and as we were to proceed on a reconnaissance T.E.W.T., I needed a transport. I made an application for such and the truck, driven by the accused, whom I now recognise, arrived at my office at about 1000 hrs. We used the transport until about 1715 hrs. I then told the driver to report back to the MT garage as I did'nt need him anymore. I also instructed him to drop on the way back to the garage an officer who stated that he was stationed in one of the camps near the MT park. I do not know if he is stationed in No 1 or 2 Camp.

The accused declines to cross-examine this witness.

L. Den. D. Capt.

The accused is then warned in French as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything unless or to give evidence unless you wish to do so, but whatever you may say will be taking down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of two page, was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C), (D), (E), (F), and (G) have been duly complied with.

K. P. Minard ..... Lt.
Officer detailed to take the Summary of Evidence.

In the Field
26 Apr 44.

/MPM

COMPILED FROM MFM 4 ---- ORIGINAL INCOMPLETE

MFM 6 (AFB 122) 61/PAM/106 (3456)

No. W-5514 Name Stanislas DIE | Sqn, Battery, or Company: Corps Cdn Inf Corps | Date of enlistment: 11 Mar 40 | OC Badges: n/a | Service or Proficiency Pay: n/a

Date of last entry in Company Conduct Sheet: n/a | No. and date of last drunk: n/a | Period not reckoning towards freedom from extra fine: n/a | Sheet No 1 | Signature OC Company, etc: MA. Sjmard Maj. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of or order dispos ding with trial	By whom awarded	Remarks
Field		Pte		AA.15(1) AWL 2 days		2 days C.B.	20 Nov 40	DO- 65/40	Forf 2 days pay for AWL
Field		Pte		AA.40 Conduct to the prejudice of good order and military discipline(		14 days F.P. 14 days pay.	14 Jan 41	DO- 4/41	
Field		Pte		Civil offence	Documentary	3 Months Impt Released 4 Apr 41 2 days pay	3 Feb 41	Civil Court remission 1 month DO-209/41	
Field		Pte		AA.15(1)AWL A.A.11 Disobeying standing orders		7 days C.B.	20 Oct 41	DO-540/41	Forf 2 days pay for AWL
Field		Pte		AA.15(1)AWL 2 days		7 days C.B.	[illegible]	17/42	Forf 1 day pay for AWL
Field		Pte		AA.15(1)AWL 1 day					

Certified true copy dated

officer having custody of original documents.

(P10)

COMPILED FROM MFM 4 ---- ORIGINAL INCOMPLETE

MFM 6 (AFB 122 and PAM 158 Chgs)

No. B-5514 Name Stanislas DIE | Sqn, Battery, or Company: Corps Cdn Inf Corps | Date of enlistment: 11 Mar 40 | GC Badges: n/a | Service or Proficiency Pay: n/a | Character: Meft.

Date of last entry in Company Conduct Sheet: n/a | No and date of last drunk: n/a | Period not reckoning towards freedom from extra fine: n/a | Sheet No 1 | Signature OC Company, etc: pMA. Simard

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of each award and with what	By whom awarded	Remarks
						2 days C.B.	20 Nov 40	DO- 81/40	Forf 2 days pay for AWL
Field		Pte		AA.15(1) AWL 2 days		14 days F.P.	14 jan 41	DO- 4/41	
Field		Pte		AA.40 Conduct to the prejudice of good order and military discipline	Documentary	14 days pay. 3 months Impt	3 feb 41	Civil Court	
Field		Pte		Civil offence		Released 4 Apr 41 2 days pay		Remission 1 month 29 aug 41 DO-209/41	
Field		Pte		AA.15(1)AWL A.A.11 Disobeying standing orders		7 days C.B.	20 [illegible] 41	DO-[illegible]/41	Forf 2 days pay for AWL
Field		Pte		AA.15(1)AWL 2 days		7 days C.B.	[illegible]	[illegible]/42	Forf 1 day pay for AWL
Field		Pte		AA.15(1)AWL 1 day					

Certified true copy dated

officer having custody of original documents.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with title	By whom awarded	Remarks
Field		Pte		AA.15(1)AWL & Cost of appr £0.13.0		20 days pay Stop £0.13.0	25 Aug 43	DO 42/43	
Field 31 Jan 43		Pte		AA.15(1)AWL Fr 2215 hrs 31 jan 43 till 1130 hrs 2 feb 43(1 dy,13 hrs,15 mi)		14 days C.B. 14 days pay.	2 feb 43	DO- 2/43	Forf 2 days pay for AWL
Field		Pte		AA.15(1)AWL 2 days		7 days C.B. 7 days pay.	23 mar 43	DO-46/43	Forf 2 days pay for AWL
Field		Pte		AA.15(1)AWL 12 hrs		14 days pay.	2 Apr 43	DO-70/43	Forf 1 day pay for AWL
Field		Pte		AA.15(1)AWL 2 days		21 days F.P. 21 days pay.	30 Apr 43	DO-78/43	Forf 2 days pay for AWL
Field		Pte		1. Civil offence(sec 20, Act 1941) 2. Civil offence(sec 42, Act 1941)		4 days concurrent with previous sentence 6 months Impt 2 months to run concurrently Released 11 Oct 43 Remission 71 days.	11 jun 43	Civil court	Forf 9 days pay for time in arrest
Field 9 dec 43		Pte	X	AA.15(1)AWL Fr 1525 hrs to 1545 hrs 9 dec 43 (20 mi)	Cpl. Audet	3 days C.B.	11 dec 43	[illegible] Battalion	

certified true copy dated:

officer having custody of original documents.

COMPILED FROM MFM 4 ---- ORIGINAL INCOMPLETE

No. [redacted] Name Stanislas DIE Sqn, Battery, or Company Corps Cdn Inf Corps Date of enlistment 11 mar 40 GC Badges n/s Rate of Proficiency Pay n/s MFM 6 (AFB 132)

Date of last entry in Company Conduct Sheet n/s No and date of last drunk n/s Period not reckoning towards freedom from extra fine n/s Sheet No 2 Signature OC Company, etc [illegible] Character M of A

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 14	jan 44	Pte		AA.15(1)AWL fr 1410 hrs to 2230 hrs 14 jan 44(8 hrs 20 mi)	Sgt.Madeau	14 days C.B.	15 jan 44	Lt/Col. Mathieu	forf 1 day pay for AWL
Field 21	jan 44	Pte		AA.40 Conduct to the prejudice of good order and military discipline(improperly dressed on parade)	Sgt.Godin Sgt.Beaulieu	14 days pay. 7 days C.B.	31 jan 44	Maj.Lavigne	
Field 29	jan 44	Pte		AA.40 Conduct to the prejudice of good order and military discipline(dirty rifle on guard duty)					
Field 5	feb 44	Pte		AA.15(1)AWL fr 2230 hrs to 2300 hrs 29 jan 44 (1 hrs 30 mi)	Sgt.Desrosiers	7 days C.B.	4 feb 44	Maj.Lavigne	
				AA.15(1)AWL fr 2230 hrs to 2345 hrs 5 feb 44 (1 hrs 15 mi)	Sgt.Desrosiers	7 days C.B.	[illegible] feb 44	Lt/Col. Mathieu.	

certified true copy dated

officer having custody of the

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 26	Mar 44	Pte		AA.15(1)AWL fr 0930 hrs to 2145 hrs 26 Mar 44(12 hrs, 15 mi)		9 days pay	27 Mar 44	DO-88/44	Forf 1 day pay for AWL

Certified true copy consisting of one page dated:

.....

Officer having custody of original documents

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
M-5514	Private	Stanislas DIX	Canadian Infantry Corps.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not entered in the proceedings.

† See para. 677, K.R., 1940.

* The numbers entered should agree with the number of entries in the conduct sheets, and discrepancies being given in the most serious offence in each entry, and in any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment
For A. A. 18 (1) AWL	6 times	14 times.
For A. A. 40	2 times	3 times.
For A. A. 11	Nil times	1 times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

~~There are no entries in the conduct sheets of the accused.~~

~~The accused has not been previously convicted.~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 53 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. ~~The accused at the present time is under sentence of~~ ~~beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 4 days in military custody, making a total of 4 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~records of service~~ attestation paper is 27 years

6. The date of his ~~enlistment~~ attestation specified in his ~~records of service~~ attestation paper is 11 Mar 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 years 89 days

8. The accused is entitled to deferred pay or gratuity in respect of 4 years, 89 days, service.

9. The accused is entitled to reckon 4 years, 89 days, service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, ~~no military decoration or military award (or is in possession of, or entitled to, the war military decorations or awards)~~ Cdn Vol Med & Clasp.

11. ~~The accused is a warrant officer. The accused before he was made a warrant officer held the substantive rank of~~

12. *(In the case of an officer.)* The accused holds in the army the rank of dated and in this regiment (or corps or department) the rank of dated

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. [redacted] Rank Private Name Stanisław DIK of 6th Inf Corps. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
Civil Court	Field 3 Feb 41	Civil offence	3 months Impt	1 month
Civil Court	Field 11 Jun 43	Civil offence Civil offence	6 months Impt 2 months to run concurrently	61 days.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this _____ day of _____

officer having custody of original documents.

In the case of [redacted] years

In the case of [redacted] years

Date of Promotion

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO.(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s) (2) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(3)~~
(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. Give evidence on oath.
Ans. NO. Are they witnesses as to character only? Ans. NO. Do you intend to call witnesses on your behalf?
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding.(1) The finding(2) of the Court is (~~are~~) recorded in Part I of the Schedule.(3) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1) Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(1)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Mitigation of sentence.
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 3019, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 367. As to assembly and disposal of record after trial see inserts on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E 5514 Fte Stanislas DIE 6 CIRU CIC

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 11	Guilty	Guilty	
2nd AA Sec 40	Not Guilty	Guilty	
3rd AA Sec 40	Not Guilty	Guilty	
4th AA Sec 40	Not Guilty	Guilty	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of list see RP 44 fn 6.)

~~The present sentence to~~ (1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.) ~~Nil~~ None can (date) (2)

Time in confinement awaiting present trial—a total of 4 days, of which Nil days were spent in hospital. (2)
(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To serve detention for a period of six (6) months

9 May 44. (Sgd) [illegible] President. (RP 45, 50)
Date Awarded. 2. C. I. R. C.

(Sgd) Judge-Advocate, if any.
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 47(2), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be released from detention. (1. AA 57A. Delete if not used.)

(Sgd) [illegible]
(G.S.W. Gosling) Brig
Date 11 May 44 Commanding "A" Gp Cdn Int Units CA(C) Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Promulgated before a full Unit according to A Gp direction A/12 d/ 11 May 44

Accused.	Date.	Signature of Offr.
E 5514 Gd S. DIE (Initials) 6 CIRU CIC	12 May 44	[illegible] CAPT. ADJT. 6 CDN [illegible]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

94 s. Gz. Sidney, pf

(2)

I certify that No. M/11545 Pte. DIEBOLD J.F.

is fit to undergo trial by Courts Martial.

Alec Lennie Capt.

M.O. Calg. Highrs. C.A.(O).

26/9/41

G

CHARGE SHEET

mach (5)

The accused, M-11545 Pte. Jack Frederick DieBold, The Calg. Highrs., a soldier of the Canadian Army (Active), is charged with:

FIRST CHARGE
A.A. Sec. 41

COMMITTING A CIVIL OFFENCE, that is to say, housebreaking and larceny, contrary to Sec. 26(1) of the Larceny Act, 1916,

in that he

at Talavera Bks., Aldershot, Hants., on 19 June 41, did break and enter W.D. premises, and did steal therein one government safe, No.1144, of the value of £15/ (fifteen pounds) containing £206/14/2 (two hundred and six pounds, fourteen shillings and two pence) cash, in notes and coin and a number of cheques for varying sums totalling £311/12/6 (three hundred and eleven pounds, twelve shillings and sixpence), all being public property.

in the alternative

SECOND CHARGE
A.A. Sec. 15(4)
(Alternative)

WHEN ON ACTIVE SERVICE, STEALING PUBLIC PROPERTY,

in that he

at Talavera Barracks, Aldershot, Hants., on 19 June 41, stole one government safe No.1144 valued at £15/0/0 (fifteen pounds) containing £206/14/2 (two hundred and six pounds, fourteen shillings and two pence) cash in notes and coin and cheques totalling £311/12/6 (three hundred and eleven pounds, twelve shillings and six pence)all being public property, from the pay office of the Calgary Highlanders, Talavera Barracks, Aldershot, Hants.

THIRD CHARGE
A.A. Sec. 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he

at Talavera Barracks, Aldershot, Hants., on 19 June 41, used vehicle No.CZ4205054, a vehicle on charge to the Calgary Highlanders, without authority of his Commanding Officer.

H.C. Thorne Major
Comd. The Calgary Highlanders,
Canadian Army (Active).

Dated this day
of Sep, 1941.

TO BE TRIED BY F.G.C.M.

G.R. Whitelaw Brigadier
Comd 1st Canadian Inf Bde

(9)

Under close arrest for 92 days (period 1145 hrs./19 Jun.1941 to 1145 hrs. Sep. 19./41

H.C.A. Harvey

H.C.A. Harvey, Major
O.C. Calg. Highrs. C.A.(O).

(7)

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL, HELD AT ALDERSHOT, HANTS ON 26 SEPTEMBER, 1941

TRIAL OF NO. M/1545, Pte. J. P. Diebold, Calg Highrs.

PROSECUTOR: Lieut. W. McQueen, Calg Highrs.

DEFENDING OFFICER: Lieut. H.T.R. Gregg, Calg Highrs.

SHORTHAND REPORTER: D24030, S/Sgt. J. H. Spence, H.Q. 2 Cdn Div.

---

1. The Order Convening the Court is read to the accused.

2. The accused is asked the following questions:

Q 1 Do you object to being tried by me as President or by any of the Members whose names you have heard read over?

A 1 No, sir.

Q 2 Do you object to having the evidence taken down in shorthand?

A 2 No, sir.

3. The President, Members of the Court and shorthand writer are duly sworn.

4.(a) The accused answers to his name and number and is duly arraigned.

(b) The accused pleads "Guilty" to the first charge. The second, alternative, charge is withdrawn by the Prosecutor.

5. Rule of Procedure 35(a) is complied with.

6. The summary of evidence is read.

7. The Prosecutor files A.F.B. 296 and M.F.M.6 in connection with the accused, which are formally admitted by the defence.

THE ACCUSED MAKES THE FOLLOWING STATEMENT IN MITIGATION OF SENTENCE:

I realize now, sir, that a grave mistake has been made. Pte. Scott woke me up in the evening and he asked me if I would drive him down to Bordon, as the busses had quit running. I told him I would and he had another Private with him. They had broken the window in the Paymaster's Office and he asked me to help them out with the safe and then they drove down and hid the safe and they said they would leave it there until later and they asked me if I would take the truck back to the unit and put it back in the parking shot, which I did. I realize now how much of a foolish mistake it was and I should never have become mixed up in the affair at all.

THE DEFENDING OFFICER: I would just like to bring to the attention of the Court the statement made in the summary of evidence, especially the statement of the accused, and take into consideration the fact that the sentences passed on the other two soldiers that were implicated in this case. Further to this from the statements made by the accused and from the statements made by Pte. Scott and the other man mixed up in this case, it would appear that this man wasn't the prime instigator in this case, but was merely more or less led into it, and I would ask the Court to take into consideration the fact that he was not so much a party of the first part, but just an accomplice, and also I would like the Court

to remember that he has been in detention, awaiting this Court Martial now for over three months.

CERTIFIED TRUE TRANSCRIPT OF THE RECORD OF THE PROCEEDINGS IN THIS TRIAL, TAKEN BY ME IN SHORTHAND AT THE TIME AND PLACE AFORESAID.

J.H. Spence.

(D2/030, S/Lt. J.H. Spence.)

Summary of Evidence in the case of M-11545 Private DieBold, J.F. Calgary Highlanders of Canada:-

Capt. T.M. Insinger, The Calgary Highlanders, C.A.(O) having been duly sworn states:-

"I am Captain T.M. Insinger of The Calgary Highlanders. On the night of 18/19 June 1941 I had been working in the Bn Orderly Room. At 0030 hrs 19 June I left there and passing the Intelligence Office I noticed that the window was closed. I also felt the door of the paymaster's office and found it locked.

At about 0345 hrs 19 June I was informed that the window of the Intelligence office was open and that the safe in the paymaster's office was missing. I saw that the safe was not in its accustomed place and that the window in the Intelligence office was open and broken.

I informed the Paymaster and the Military Police Aldershot Area.

At about 0415 hrs 19 June I saw the 8 cwt truck "B Ech 1" parked in an obviously wrong place at the East side of the parade square. At about 0100 hrs I had noticed this same truck parked in front of the kitchen. I questioned the driver of this truck.

At about 0700 hrs accompanied by L/Cpl. Gunson of the Mil. Police Aldershot Area and P.C. Johnson of the Hants Constabulary I proceeded to Bordon, where I interviewed Pte. Scott. He admitted having cached the safe and led us to a place about 500 yards from the barracks. We returned to Aldershot with Pte. Scott and the safe.

I saw Pte. Scott sign a statement which I read previously.

At Bordon I had Pte. Sawatzky placed under arrest. I had him taken to Aldershot in the afternoon of 19 June and saw him sign a statement after having been questioned.

At about 1130 hrs 19 June I ordered Pte. DieBold to be placed under arrest and after having been questioned I saw him sign a statement.

Summary of Evidence in the case of M-11545 Private DieBold, J.F. Calgary Highlanders of Canada:-

L/Cpl. W.C. Gunson, C.M.Police, having been duly sworn states:- "Sir, at about 2.15 p.m. 19th June 1941, in consequence of information I received I interviewed the accused Private Jack DieBold and told him that I was an officer of the Corp Military Police and that I had reason to believe he was concerned in theft of a safe from the Paymaster's Office. He at first denied this but after questioning he admitted he had taken part in the theft. I asked him whether he wished to say anything in answer to the charge. I told him he was not obliged to do so unless he wished but anything he did say would be taken down in writing and given in evidence. DieBold made a statement".

Q. I produce statement marked exhibit "A". Is this the statement you refer to?

A. Yes.

Q. Can you identify this statement?

A. Yes. I have read this statement which was signed by Pte.DieBold in my presence and was signed by me as witness. The signature on this statement as witness is my signature.

The accused asked no questions.

(13)

Summary of Evidence in the case of M-11545 Private DieBold, J.F. Calgary Highlanders of Canada:-

Police Constable E.J. Johnson, having been duly sworn, states:- "I am a constable in the C.I.D., Aldershot Hants Constabulary. At about mid-day, 19th June 1941, I was in company with L/Cpl. Gunson C.M.P. making enquiries regarding an offence of office-breaking at Talavara Barracks, Aldershot, where a safe containing approx £200 had been stolen. Private DieBold, whom I now identify, was told that we were police officers making enquiries respecting this offence. He was shown the safe which had then been recovered and asked if he had seen it before. He replied, 'No, only when I came in to get my pay'. He went on to say he knew nothing about the offence. He was further interrogated and later, after being cautioned, a statement was taken from him which I typed out at his dictation, which he signed, I witnessed and now produce as Exhibit "A"

Copy of statements made by Privates Scott and Sawatzky were brought to his notice. He was later conveyed to Aldershot Police Station and detained, being cautioned and charged, and he replied 'I have been a fool'."

Summary of Evidence in the case of M-11545 Private DieBold, J.F. Calgary Highlanders of Canada:-

L/Sgt. Lasance, H.A.J., Transport Section, Calgary Highlanders, having been duly sworn states:-

"On the morning of the 19th June 1941 after the Battalion had come in I got orders from Capt. Insinger to check the trucks and he told me to see if any were misplaced or missing. I found B Ech 1 parked at an unusual place and in an unusual manner. That is truck No. CZ 4205054, which I reported to Capt. Insinger immediately.
He asked me who the driver was and told me to awaken him and report to him. Private Wood was the driver and he reported to Capt. Insinger."

The accused asked no questions.

(17)

Summary of Evidence in the case of M-11545 Private DieBold, J.F. The Calgary Highlanders of Canada:-

M.11010 Pte. Wood, S.J. Transport Sec., Calg Highrs, having been duly sworn, states:-

"Sir, on the morning of the 19th April, L/Sgt. Lasance, awakened me and told me to report to Capt. T.M. Insinger. Capt. Insinger asked me where I had parked my truck on the night I returned from the scheme. I told him I had parked it in the usual place with the other trucks in the line, by the Mens Kitchen. He then showed me where the truck was parked and asked me if I had left it there and I said "NO".

The accused asked no questions.

Summary of Evidence in the case of M-11545 Pte. DieBold, J.F. The Calgary Highlanders of Canada:-

Capt. J.C. Valentine, Paymaster, Calg Highrs, having been duly sworn states:-

"Sir, I am Capt. J.C. Valentine, Paymaster, Calgary Highlanders. Safe No. P.4440 (No.1144 painted on the outside) was issued to me on approximately 19 Dec 1940. Duplicate keys are on deposit with the Barrack Officer, Wellington Lines. Original key is held by me. It has been in use in my office exclusively to date for the safe custody of Government funds and records.

On the evening of 18th June 1941 I last visited my office at approx 2130 hours. I checked my desk to see if there was any correspondence, checked the handle of the safe to see if it was locked, and left, locking the office door behind me. At approx 0345 hrs on the 19th June I was awakened by Capt. T.M. Insinger who asked me if I had removed my safe from the office. I said 'No'. He asked me then if there was any money in it. I said 'Yes', about £200'. He said, 'Your safe has been removed from your office'. I got dressed and arrived at the office at about 0355 hrs and found that the safe had been removed. I noticed that the blackout was down, which had been up, and inquired who had let it down. I was informed that the office was as it had been found some time earlier. I also noticed that there was a burnt match on the little wooden stand above the safe. This I knew had not been left by anyone from my staff as we all use cigarette lighters.

The contents of the safe were as follows -- an open acquittance roll signed by the rear party men; cheques from officers amounting to £71/15/0; Chief Treasury Officer's Cheque in favour of the Commanding Officer for £239:17:6; Cash in notes and coin £206:14:2 all being public property, and in addition approx £20:0:0 being the property of men of the unit, left with me for safe custody. With the exception of the one cheque made in favour of the Commanding Officer, the rest were all made out to 'Cash'.

The accused asked no questions.

(23)

Summary of Evidence in the case of M-11545 Pte. DieBold, J.F. The Calgary Highlanders, Of Canada.

M.11353 Cpl. Hall, J., Calg Highrs, Having been duly sworn, states:-

"Sir, on the night of 18th June, 1941, at 2130 hrs, I was in room 41 ans spoke to private DieBold. At about 0400 hours I was awakened by the Barracks officer and I awoke Private DieBold".

The accused asked no questions.

Summary of Evidence in the case of M-11545 Pte. DieBold, J.F. The Calgary Highlanders of Canada.

Lieut. P. Kench, O.C. Rear Party, Calg Highrs, having been duly sworn, states:-

"Sir, I was awakened about 4 o'clock on the morning of the 19th. I came down to the pay office and I was asked to hold a muster of all members of the rear party. There was no one absent at that time."

Question: Do you know the accused, Private DieBold?

Answer: Yes, Sir, he was a member of the rear party during the WATERLOO Scheme.

Question: Did you issue any pass to Pte. DieBold?

Answer: No, Sir.

Question: Were you in charge of the Rear Party?

Answer: Yes, Sir.

The accused asked no questions.

(27)

Summary of Evidence in the case of M-11545 Pte. DieBold, J.F. The Calgary Highlanders, of Canada:-

M.10501 RQMS Petrie, W.S., having been duly sworn, states:-(in answer to question)

Question: Can you give evidence as to the value of War Department Vehicle No. CZ 4205054?

Answer: "I can only give evidence that I as R.Q.M.S. obtained the value of the truck today from H.Q. 2 Cdn Div, and it was given to me as £453:0:0."

The accused asked no questions.

Mach

(24)

RE FIELD GENERAL COURT MARTIAL M11545 PTE. DIEBOLD, J.F.

In accordance with K.R. 14 (B), it is requested that Lieut. H.T.R. Gregg, The Calgary Highlanders C.A.(O) be assigned as defending Officer

Camp 49B
Aldershot, Hants.

P.T.E. DieBold.
M11545 Pte. DieBold, J.F.

Mach (31)

(Substitute for A.F.B.296)
or M.F.B.355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. M 11545 NAME Pte. John Frederick DIEBOLD UNIT Calgary Highlanders C.A.(O).

AGE 23 MARRIED OR SINGLE Married NO.OF DEPENDENTS 1

DATE OF ATTESTATION June 3, 1940

NO.OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL Nil MILITARY ✓ HOSPITAL ✓ TOTAL 100

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATIONS OF RANK, IF ANY

Nil

A CERTIFIED TRUE COPY OF M.F.F.6 MUST ACCOMPANY THIS FORM

(Officer i/c Records) Capt Adjt.
E Langton
Unit.

Dated at Aldershot Mil - Camp 296 Ewshot
this 26 day of Sep 194 1
(To be dated and signed as of date of trial)

No. M.11545 Name Diebold J.F. Sqn., Battery, or Company H.Q. Corps The Calg. Highrs. Date of Enlistment 3/1/40 G.C. Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 22/5/40 No. and date of last drunk Period not reckoning towards freedom from extra duty C.A.S.F. Sheet No. 2 G.O.C. Commdg. etc. S.M. Welsh Character

1 Sheet Destroyed 15/7/40.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	6/3/41								Major. C.V.B.C.
Talavera Bks.		Pte		W.&A.S. contravening A.C.O.163 Paral845. A.A. Sec.11	Documentary G.M.P.	Admonished	8/3/41	Lt.Col J.F. Scott	
Talavera Bks.	8/4/41	Pte		A.A.Sec15(2) Failing to appear at the place of parade	L/Sgt. Bodgener J.B.	5 days C.B.	9/4/41	Major J.	J.M.T. Taylor
Southwater	16/4/41	Pte		A.A. 40 Conduct to the prejudice etc. in that he did not act as gas sentry when ordered to do so.	L/Cpl. Lyster W.L. CSM. McMillan K.	10 days detn.	24/4/41	Major F.H.	Johnson C.V.B.

CERTIFIED True Copy

E. Clapton Capt.

Capt. & Adjutant

Correspondence to be PINNED here.

PROCEEDINGS REVIEWED.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-third day of September, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 5 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *and that it is not practicable to delay the trial for reference to a superior qualified officer.

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*I am unable to appoint ~~(1. Three officers to form the Court; (2. A Field Officer as President;~~ for the following reasons, namely:—

* Omit if not applicable.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	D.O. McLaughlin	Calg Highrs.

Members.

Rank.	Name.	Regiment.
Captain	M. Trembley	R de Mais.
Captain	J.E. Knox	R.H.C.
Captain	B. McKenzie	Calg Highrs.
Waiting		

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed G.R. Pearkes
Brigadier
Commanding 5 Cdn Inf Bde.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
M-11545 Pte. Diebold, J.F. A.A.Sec. #1 Calg Highrs A soldier of the Cdn Active Forces Overseas.	FIRST CHARGE A.A.Sec. #1 SECOND CHARGE ~~A.A.Sec. #1(a)~~ (Alternative) THIRD CHARGE A.A.Sec. 40 SEE CHARGE SHEETS annexed, marked 'G'	Guilty Withdrawn By Prosecution Guilty	Guilty Guilty To undergo detention for a period of ten months	Confirmed L.C.O.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J. Mobbs
Brigadier
Commanding 5 Cdn Inf Bde.
Convening Officer (c)

(Signed) Machaughlan
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Twenty Sixth day of September, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~3. The interpreter~~
*(4. The officers under instruction)

* Omit if not applicable.

were duly sworn. The Short hand writer

Signed this Twenty sixth day of September 1941.

Machaughlan
President of the Court Martial.

* See footnote (h) on page 762 M.M.L. 1929

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this ~~day of~~ 19

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority so commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 7 day of Oct. 1941.

L.C.O.
Confirming Officer.

Promulgated and extracts taken in the case of Pte Diebold J.F M11545

(a) (Dated) 11 Oct 41 (Signed) J Mon
THE CALGARY HIGHLANDERS (Adv.)

Promulgated and extracts taken in the case of M11545 Pte DIEBOLD J.F.

(Dated) 17 Oct. 41 (Signed) J Mobbs
COMD 5 CDN INF BDE.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(84) 30-38062-1310 Thos. Law W. & C. Ltd. Cat. 748-2

45-1

Pb Dutta D

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.67450 Pte Donald DIETTE - CIC - 2 CITR

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA See 15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present~~ under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of Ninety (90) days.

(Sgd) ..... 31 Jan 45 (Sgd) .....

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 52, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the amount to be remitted be (strike out inapplicable words)~~ (1. AA 57A. Delete if not used.)

Date 1 Feb 45 (Sgd) N Blackader Brig

Commanding Comd 13 Cdn Inf Bde

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 576, 577.)

Accused B.67450 Pte Diette D. Date 7 - FEB 1945 Signature of Offr

ENTERED [illegible] 34

DATE 9 Feb 45

BY [illegible]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ IN AB 160 [illegible] 45-1

RECEIVED 15 FEB 1945

FIELD GENERAL COURT-MARTIAL

CPA&PR (Tn lieu of APAR) 40/P & R/1608 (R1&4) 4/38B

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd 13 CITB dated 29 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 306, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.67450	Pte	Donald	DIETTE	CIC 2 CITR

PROCEEDINGS REVIEWED J Rutherford Capt. 18 Feb 45 DEPUTY CHIEF K.R. JAG (BRANCH) CANADA

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 31 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, ~~and Offrs under instr~~, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for duties and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 182.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (not) amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP (1-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 1115 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (not) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 537. 2. AA 46(5), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. ~~President to accused: Do you object to~~ ..... or interpreter? Ans .....

~~The interpreter is sworn.(1)~~ Do you object to Sgt 8126 Sgt C.M. Sinclair as shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO, SIR

(1. RP 110. 2. If no objection, waiting member retires. RP 66(5). If objection, see procedure AA 51, RP 15, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.A. REDMAN	OC, CRU
Member	CAPT	H.G. McKINLEY	2 CITR
Member	LT	A.A. GUERTIN	4 CITR
~~Judge Advocate~~			
Prosecutor	LT.	P. SAPERIA	2 CITR
Defending Offr	LT.	B. STEARN	2 CITR

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (3) and fn 1 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~of~~ plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 63(2), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or for one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (not) arraigned (separately) on all charges in the charge sheet.(1) The accused does (not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO, SIR.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement(1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 15(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 43. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A) see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AF5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes oddresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 44, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (c), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans I'd Like Char Witness NOTE ATT
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 255 or AFB 295. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Same As I Said Before (NOTE ATT)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or add anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(4), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP 71 (c). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 68, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 737-738. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(3)(c), 68(1), KR Can 564. 2. RP 50. As to reinstr from accept by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.67450, Pte. Donald DIETTE, CIC, on strength of 2 Cdn. Inf. Training Regt., a soldier of the Cdn. Army Overseas, is charged with:-

Sec 15 (1) Army Act

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF WITH-
OUT LEAVE

in that he

In the Field, at 1230 hrs. 9 Sep 44, while undergoing Field Punishment, illegally absented himself without leave until he was arrested at London by the Cdn. Prov. Corps at 1600 hrs. 16 Jan 45.

(Total time absent: 129 days, 3 hrs., 30 min.)

Laurentide Camp,
25 Jan 45.

(J A Wilson) Col
Comdr,
2 C I T R

To be tried by Field General Court Martial.

(K G Blackader) Brig
Comd
13 Cdn Inf Trg Bde

In the Field
29 Jan 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. , (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.67450	Pte	Donald	DIETTE	CIC 2 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 Jan 45 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Pd Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
LT COL	D L REDMAN, VD		HQ CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer		2 CITR
Lieutenant	to be detailed by Commanding Officer		4 CITR

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer		4 CITR

JUDGE ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 29 Jan 45

(Signed personally. RP 105 fn 2.)

(K G Blackader)

Brigadier (Rank.)

Commanding 13 Cdn Inf Trg Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (PAM 1 to Sec of AFA) 40 7 & 8 1497 (4631)

MED C/TRS CERTIFICATE 2 CITR/11

K.R.Can.Para 557

I certify that I have this morning examined No. B.67.5.2.

Pte. Dubois D. and in my opinion he

is FIT ~~UNFIT~~ to undergo trial by Court-Martial.

Station: Laurentide Camp ..... Capt.
(RCAMC) attached to 2 CITR

Date: 31 JAN 45

"Plea in Mitigation"

B 67450 Diette D. E-3 (M)

1 The accused, Pte Diette has had his troubles in the past few months. You have heard evidence of his qualities as a soldier from the mouth of his platoon commander. He has been a good soldier and has won his battle marks in the hard going of Normandy.

But his return to England for convalescence was to prove a sad period for him. You will remember from the evidence of the accused the agonies that he came back to. I think this ~~man~~ is to be commended on the action he took in proper army manner he applied for compassionate leave + further for an extension of this leave. ~~He~~ ~~was~~ unfortunate that circumstances caused him to be AWL at this time ~~which he~~

It was during this extended leave period that he was in the area where a buzz bomb landed causing a condition ~~which~~ vouched for by one of the documents presented.

In quick succession a number of responsabelities ~~that~~ piled up on him to which was added the losing of his child — a new born baby girl.

Pte Diette, the accused did his best to meet every situation through what will all agree were difficult times. He ~~was~~ succeeded to a degree only a portion of the funeral bill to be paid. He was picked up.

E-3 (M)

CASE OF

B.67450 Pte DIETTE D 2 CITR

CHARACTER WITNESS

Lt J CALVERT, 1 NETD, having been duly sworn, states:

Sir, the accused was in my pln in action and I remember that he asked me to write some letters about having some help for his troubles that he had in private life. He was wounded and was evacuated before he could do anything about it. That was in Jul 44. I can say that he was a good soldier, and no trouble was had with him at all and he was one of the best fighters I've ever had and I would be glad to be with him in action again.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

STATEMENT BY THE ACCUSED
(ON OATH)

R-1

Sir, before my release from 24 CCH I recd word that caused me to go AWL afterwards. Mrs. Thorpe who is my legal next of kin and Mother of my 2 children, while in a cafe a man came along and sold her blankets. Not knowing they were stolen she bought them and later she was brought up in Court about them and given either a month's imprisonment or £20. She went to prison as I couldn't get the money, and at the time she was nearly 8 mths pregnant. I make an assignment of pay to her of £2/4 for the children only. The LCC then took the 5 children and put them in the Chelsea Workhouse and after I came out of hosp I got 7 days leave, but while on leave she was only on remand and it was after this that she was convicted. I got a 48 hr pass and went to London to try to get enough money to release her from prison and also to try to get my son out of the Home. I got a 24 hr extension then the LCC had evacuated my son to WALES and I had to go up there and it took me sometime to get things straightened out - they telling me when I got there that I couldn't have the son out of the Home without the Mother's permission. That was on 7 Sep 44 and I had been absent 5 days and the LCC sent a letter to my Col stating that it was necessary for me to be up there to get my son out. The Col gave me 28 days FP although I asked him for 28 days pay instead. When I got out I got the balance of the money for her fine by working for it and she was released from prison. She served a little over 2 wks altogether. We got our son back, then I took her to hospital, and I worked by day to get some money and spent it on the rent and keeping of my son at night - while I had someone look after it in the daytime while I was away. My wife gave birth to a little baby girl on 11 Oct and then it caught pneumonia and died on the Thurs before Christmas and then I arranged for a funeral but it couldn't be buried the funeral director said until I had the money to pay for the funeral expenses. However, he gave me until 15 Jan to pay for it and while this time was passing I was apprehended by the Pro, and I didn't get a chance to pay the bill.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

PLEA IN MITIGATION
(NOT APT)

"Plea in Mitigation"

B 67450 Diette D. E-3 INF

The accused, Pte Diette has had his troubles in the past few months. You have heard evidence of his qualities as a soldier from the mo of his platoon commander. He has been a good soldier and has won his battle marks in the lead going of Normandy.

But his return to England for convalescence was to prove a sad period for him. You will remember from the evidence of the accused the activities that he came back to. I think this ~~case~~ is to be commended on the action he took in proper army manner he applied for compassionate leave + further for an extension of this leave. ~~He was~~ unfortunately that circumst caused him to be AWL at this time ~~which he has~~

It was during this extended leave period that he was in the area where a buzz-bomb landed causing a condition ~~which~~ vouched for by one of the documents presented.

In quick succession a number of responsibilities ~~had~~ piled up on him to which was added the coming of his child — a new-born baby girl.

Pte Diette, the accused did his best to meet every situation though what will all agree were difficult times. He ~~was~~ succeeded too and with result a portion of the funeral bell to [illegible] ~~and~~ he was picked up

E-3
INF

This man is "B" category now. He has proven himself a good soldier in action. Having his domestic troubles cleared up he has a clean mind with one thought — to get back to action with the battalion in France.

In throwing himself on the mercy of the court, the accused pte. Dietle begs leaving to expidate his return to battle.

Both Mrs. Thorpe & Pte Dietle the accused, are married to other people from whom they are separated. But — the court must know that these two people are utterly sincere in their relationships as father & mother of children & as soon as they are able to obtain divorces are to be married & start a true family relationship which they both desire a great deal.

SUMMARY OF EVIDENCE

In the case of B.67450, Pte. Donald DIETTE, CIC, on strength of 2 Cdn. Inf. Training Regt., a soldier of the Cdn. Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

.....

First Witness Prosecution. Lieut. H.J. Boake, Reg. H.Q., 2 CITR, having been duly sworn, states as follows:-

"I am Lt. H.J. Boake, Reg. H.Q., 2 CITR, and I produce the following as exhibits for the prosecution:-

Exhibit "A":- Certif. True Copy of Record of Decl. of Court of Inquiry held 3 Oct 44, showing that B.67450, Pte. DIETTE, D. illegally absented himself without leave from 1230 hrs. 9 Sep 44, and that he was still so absent on the date of the Court.

Exhibit "B":- Certificate in accordance with P.C. 2797, showing B.67450, Pte. Diette, D. was arrested at London by the Cdn. Prov. Corps at 1600 hrs. 16 Jan 45.

Exhibit "C": Certif. True Extract of 2 CITR Pt. II D.O. No. 222, d/14 Sep 44, showing that B.67450, Pte. Diette, D. was awarded 28 days Field Punishment on 9 Sep 44.

Which above exhibits pertain to the accused herein.

The accused declines to cross-examine this witness.

H.J. Boake .....Lt.
(H.J. Boake)

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

Laurentide Camp.

15 Jan 45. .....Lieut.
(F. Saperia)
Officer detailed to take Summary of Evid.

RECORD of the Declaration of a Court of Inquiry assembled at Field on the 3rd day of October 19 44

for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. B-67450 Pte. Diette, D.

DECLARATION

The Court declares that B-67450 Pte. Diette, D. illegally absented himself from 1230 hrs. 9 Sep 44 in the field; that he is still so absent, and that at 160X hrs. 30 Oct 44 he was deficient, and is still so deficient, of the following articles:

See Appx. A & B

Names of President and Members:

Signature of Commanding Officer

Certified true copy

Signature of Officer [illegible] custody of original record.

PART II ORDER No. 251

CERTIFICATE IN ACCORDANCE WITH I.R. A79c of 10 Apr 43 C.d.d.7 B

I certify that No. B.67450 Rank Pte. Name Piette, P.

Unit No. 2 C.I.T.R. was arrested at London

at 1600 (hour) on 16 Jan. 45 (date) and that at the time of his arrest I was verifying (Military Uniform) ~~XXXXXXXXXXXXXXXXXX~~, Signature of Provost-Marshal, Assistant Provost-Marshal, or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the Officer, Warrant Officer or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
17 Jan. 45

J.A. Thomson Lieut.,
(J.A. Thomson)
Admn. Off., N.D.Mts Br.,
C.M.H.Q.

Copy

N.A. ... - C.M.H.Q.

2 CANADIAN INFANTRY TRAINING REGIMENT

Last Order No: 221 d/ 13 Sep 44

PART II DAILY ORDERS BY: 4/COLONEL J A WILSON, COMMANDER

This Order No: 222 d/ 14 Sep 44

Para: 10 (a)

B-67450 Pte DIETTE D (HLI) Charge: AA Sec 15 (1) AWL from 1730 hrs 31 Aug 44 until 1000 hrs 7 Sep 44. (absent 6 days 16 hrs 30 mins)

AWARDED: 28 days F.P.

FORFEITS: 7 days pay FR&I 149 (1) (a)
28 days pay FR&I 149 (1) (b)

TOTAL FORFEITURE: 35 days pay

9 Sep 44.

(Sgd) J.L. HENSLOWE, Capt.
for A J A BAXTER - MAJOR
ADMIN OFFICER
2 CITR

Certified True Extract

24 Jan 45 (Date) (J.L. Henslowe) Capt.
Records Officer 2 CITR

Seriously ill notice

G.H. 225

London County Council
Public Health Department. No. 18982

Padd. Hospital.

20. 12. 1914.

Dear Sir (or Madam),

I regret to inform you that JOSEPHINE THORPE Ward A. 1.

is dangerously ill and may be visited on any day, as long as the name remains on the special visiting list.

Will you please note that the number of visitors at the bedside should not be more than two at any one time.

Yours faithfully,

L. K.

L. K. Steward.

To Mrs. Thorpe.
126. Clarendon Cres.
W. 9.

1917

O.S. 16492 25-6-43

Burial notice

H.P. 66.

LONDON COUNTY COUNCIL

Public Health Department

Paddington Hospital

Ward X

Unit

12. 10. 1926

To the

Please

This is to certify that Mrs. Ellen Temple came to her death on a female infant on 11. 10. 1926.

Signed [illegible]

M.R.C.S. L.R.C.P.

Visiting Card.

London County Council
PUBLIC HEALTH DEPARTMENT

PADDINGTON HOSPITAL
HARROW ROAD, W.9

I have to inform you that Mrs. Thorpe
has been admitted to this hospital.

Ward 10.

VISITING DAYS

ADULT WARDS - TUESDAY from 7 p.m. to 7.30 p.m.
THURSDAY from 3 p.m. to 3.30 p.m.
SUNDAYS from 2 p.m. to 4 p.m.
(in Maternity wards from 3 p.m. to 4 p.m.)

Sundays 2.30 - 3.30
Wednesdays 7.15 - 7.30

CHILDREN'S WARDS - SUNDAYS from 3 p.m. to 4 p.m.

No one will be admitted without a card

This card is to be shewn on request to any hospital official and must be surrendered upon the patient's discharge from hospital.

P.T.O.

Husband + 1 female visitor

1. Visits to the children's ward are allowed on Sunday afternoons for 1 hour only, except for patients on the "Serious Illness" list.

2. When patients are placed on the "Serious Illness" list notice will be given to the relative or friend indicated by the patient, and such persons will be permitted to visit the patient at any time. They must leave the ward temporarily at the request of the Sister or the Nurse in charge.

3. Children under 14 years of age are not allowed to visit patients, except by permission of the Medical Superintendent.

4. The following articles may be brought by visitors for patients: papers and books; flowers; tobacco; cigarettes and safety matches; articles of food (fruit, eggs, biscuits, sweets, jam). All articles of food whether brought by visitors or sent to patients must be handed to the Sister or the Nurse in charge of the ward. The introduction of alcoholic liquor is strictly forbidden.

5. Order and quietness must be observed in the hospital.

6. Visitors are not permitted to pass from one bed to another, nor to pass from one ward to another.

7. Visitors must leave the ward when required to do so.

8. No gratuity of any kind is permitted to be given to any person in the hospital.

9. All changes of address should be at once notified to the Steward, Paddington Hospital, stating name of patient and date of admission.

10. Visitors are advised not to bring valuable property to the hospitals. The Council does not accept liability for the custody of, or loss or damage to, property belonging to visitors.

3000—(1) [S.O. 3672]—28.11.43

Doctor's Statement after Enemy Bomb

DRS. FAULKNER & STEWART
138 WALM LANE N.W.2

CONSULTING HOURS

Dr. FAULKNER, 138, Walm Lane. Telephone: Gladstone 1344	10—11 a.m. 6—8 p.m. (except Thursday Evening)	Dr. STEWART, 145, Crickleswood Lane. Telephone: Gladstone 1813	10—11 a.m. 6.30—8 p.m. (Except Friday evening)

Residence in Private Address, 11, Hendon Way, N.W.2. Telephone: Gladstone 1813

B 67450 Dietke D.
was seen by me this
evening suffering from
anxiety state, for which
I prescribed Eedatine.
In my opinion he should
report sick on arrival
at camp.

H. A. Faulkner

26.8.44.

Death notice of

G.H. 191
(No.) 115722

London County Council
PUBLIC HEALTH DEPARTMENT

PADDINGTON HOSPITAL HOSPITAL
285 HARROW ROAD, W 9
(Address)

Telephone Nos.:
Telephone No.
CUNningham 7381
(3 lines)

21 · 12 1944

DEAR SIR OR MADAM,

I regret to inform you that Josephine Thorpe

died in this Hospital at 9 · 10 a.m. ~~p.m.~~ to day.

Will you kindly call on me at 10.30 a.m. Fri day, in order to make the necessary arrangements for the funeral.

By presenting this at the Hospital gate you will obtain admission.

Yours faithfully,

L. T. C. ROUSE

Steward

O.S. 18023 22-11-43

Please turn over

METROPOLITAN POLICE 189

Childs burial notice. 21-12- 1944

To	From	A.S. Serial No.
AD.	Paddington Hospital	Station Serial No. 20

Please inform Mr Thorpe
126 Clanendon Crescent Hall
Josephine Thorpe died at 9-10am
today. Will she please attend
Inquest at 10-15 am

Done by. PMY

Time of origin	Sender	Time in 9-30	Received by JB

TO BE USED WHEN FORWARDING MESSAGES

Sent to	Time	Sent by	Received by	Sent to	Time	Sent by	Received by	Reference to other messages

M.P. 1834/2,000 Pads Aug./1944 E48

MFM 6
(AFD 122)
40/F&S/136 (2438)

No B 67450 Name DIETZE D. | Sqn, Battery or Company | Corps CIC | Date of enlistment 2-2-40 | GC Badges | Service or Proficiency Pay | Character

Company Conduct Sheet
Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc D.E. Carter Maj.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Toronto	17-4-40	Pte		AA Sec 15(1) AWL from 2400 hrs 17-4-40 till 0305 hrs 18-8-40.	Sgt Lamont Cpl O'Connor	3 days C.B.	18-4-40	Maj. J.F. West	
Toronto	6-5-40	Pte		AA Sec 15(1) AWL from 2400 hrs 6-5-40 till 0050 hrs 8-5-40.	Cpl Gunstone	5 days C.B.	8-5-40	Captain Clapton	Forf. 2 days pay FR&I
Camp Borden	5-6-40	Pte		AA Sec 15(1) AWL from 0100 hrs 5-6-40 till 2145 hrs 6-6-40.	Sgt Kirkman	5 days C.B.	7-6-40	Captain Carter	Forf. 2 days pay FR&I
Kafusarfjordur	29-6-40	Pte		Resisting an escort A.A. Sec 10 AA Sec 15 (1) AWL from 2200 hrs 29-6-40 till 0135 hrs 30-6-40	Cpl Surplis L/C Gordon	14 days F.P.	1-7-40	Maj. D.E. Carter	Forfeits 14 days pay FR&I

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Alafoss	1-10-40	Pte		Conduct to the prej. etc. refusing to obey and order given by a superior officer.	PSM T. Nobelton	7 days C.B.	2-10-40	Captain Carter	
Alapass	2-10-40	Pte		AA Sec 10 (4) Breaking out of Camp. AA Sec. 15 (1) AWL from 1800 hrs 2-10-40 till 1200 hrs 4-10-40.	L/Cpl Graves	14 days F.P.	4-10-40	LtCol G.A. Barker	Forf. 17 days pay FR&I
				Released from Alabaster Field Punishment Camp 17-10-40.		Remission earned.		Capt Cordt.	
Aldershot	13-12-40	Pte		AA Sec 15 (2) Absent from parade appointed by his C.O.	L/Sgt Gregory Sgt Kirkman	28 days Detention	31-12-40	LtCol G.H. Barker	Forf 17 days pay for AWL 28 days pay while in d[illegible]. Total Forf. 45 days pay
Aldershot	14-12-40	Pte		AA Sec 15 (1) AWL from 0800 hrs 14-12-40 till 1130 hrs 30-12-40					
Released from Aldershot Detention Barracks on 23-1-41 sentence having expired.							4 days remission.		

No B 6745G Name DIETTE D. Sqn, Battery or Company Corps CIC Date of enlistment 2-4-40 GC Badges Service or Proficiency Pay MFM 6 (AFB 131) 40/PAM/136 (3438)

Company Conduct Sheet Date of last entry in No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 2 Signature of Company, etc D.S. Carter Maj. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	12-4-41	Pte		Conduct to the prej. etc. Failing to get up at Reveille. A.A. Sec 40.	Cpl W. MacDonald	3 days C.B.	12Apr41	Lt. W.B. Thomson	
Field	25-7-41	Pte		(1) AA Sec 15 (1) AWL from 0700 hrs 25-7-41 till 2330 hrs 18-8-41. Cost of app. £3/6/11. (2) AA Sec 15 (1) When in open Arrest AWL from 2200 hrs 24-8-41 till 0900 hrs 6-9-41. Cost of apprehension £4/7/8.		(See over)			

(P19)

Place	Date of offence	Rank	Cause of detention	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				(3) When in confinement at Font Hill Bks. AWL from 1415 hrs 12-9-41 till apprehended at 1400 hrs 27-9-41. Cost of apprehension £2/4/10.		150 days detn. Stopp. of pay £14/5/11 for cost of app.	24-10-41	F.O.C.M.	Forf 28 days pay FRI 149 (1) 25 days pay FRI 149 (1) 33 days pay FRI 149 (1) (a) Forf. 150 days pay FRI 149 (1) Total forfeiture 236 days pay.
				(4) AA Sec 22 Escaped at about 1400 hrs 3-10-41 when in confinement					
				(5) AA Sec 15 (1) AWL from 1900 hrs 3-10-41 to 1430 hrs 8-10-41 Cost of app. £4/6/6.					
				(6) Conduct to the prej. aided B 5/344 Pte McMillan C.S. in attempting to escape. AA Sec 40 Guilty on all Charges					
				Released from Detention Bks. 7 Feb 42.		43 Days Remission.			

N.B 67450 Name DIETZE D. | Sqn. Battery or Company | Corps CIC | Date of enlistment 2-4-40 | OC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAM/136 (3438)

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25-5-42	Pte		AA Sec 15 (1) AWL 50 minutes.	Sgt Preston	1 days C.B.	29-5-42	Captain McLean	
Field	30Aug42	Pte		AA Sec 15 (2) Failing to appear at place of parade appointed by his C.O.	Cpl Strom Cpl Tait L/C Pollard	7 days C.B.	1Sep42	Capt P.E. Wright	
Field	2 Oct 42	Pte		AA Sec 15 (1) WOAS AWL from 0815 hrs 2-10-42 till 2345 hrs 24-10-42. Surrendered to MP at Larkhall Scotland.	Cpl S. Procopec P.C. McDonald	27 days F.P. 22 days pay	28-10-42	Major T. Nichols	

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	23Dec42	Pte		AA Sec 40 Neglect to the prej. Untidy Kit Layout.	CSM Blackett	5 days C.B.	28Dec42	Major F.S. Wright	
Field	24Feb43	Pte		AA Sec 15 (1) AWL from Kitchen Fatigue from approximately 1720 hours 24 Feb 43.	L/Cpl Rossell	5 days C.B.	26 Feb 43	Capt J.C. Anderson MC	
Field	26Feb43	Pte		AA Sec 15 (1) AWL from 1800 hrs. 26 Feb 43 till 1400 hrs 31 Mar 43 Cost of app. £0/14/3. Time absent 32 days, 20 hours. (2) AA Sec 40 Conduct to the prejudice etc. Not in possession of his MBM 1.		Continued on following Sheet			

No B 6745 Name DIETTE D. | Sqn, Battery or Company | Corps CIC | Date of enlistment 2-4-40 | OC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 4 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of other disposal dealing with case	By whom awarded	Remarks
				Continued from Sheet # 3					
Field	7Apr43	Pte		(3) AA Sec 15 (1) AWL from 0015 hrs 7 Apr 43 till apprehended by Civil Police in London at 0730 hrs 1 May 43. (24 days, 7 hours, 15 minutes)	Documentary Sgt Williams Sgt Loyd L/Cpl Warsington	12 months det.	1Sep43	F.G.C.M. Confirmed by Brig. J.M. Bager Comd. 4 OIB	Cost of app. £2/4/7 Forf 306 days pay.
	10May43	Pte		(4) AA Sec 15 (1) AWL from 0600 hrs 10 May 43 till 1215 hrs 24 May 43 when apprehended by Civil Police. Cost of app. £0/15/2. (14 days, 6 hrs, 15 min)	Documentary				
				Continued on other side of sheet					

(PTO)

Place	Date of offence	Rank	Class of detention now	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Inserting also title)	By whom awarded	Remarks
Field	19Jul43	Pte		(5) AA Sec 15 (1) AWL from 0500 hrs 19 Jul 43 till 0930 hours 25 Aug 43. Post of apprehension R0/15/2. (37 days, 4 hours, 30 min)	L/Cpl Harrington Documentary	as per ord			
				Released from Detention Bks 27 May 44. 93 days Remission of Sentence.					
Field	31Aug44	Pte		AA Sec 15 (1) AWL from 1730 hrs 31 Aug 44 till 1000 hrs 7 Sep 44. Absent 6 days, 16 hrs, 30 min.	Cpl L.B. Edgeworth	28 days F.P.	9 Sep 44	Lt/Col W.J. Bingham	Forf 7 days pay FR&I 149 (1) (a) 28 days pay FR&I 149 (1) (b)
				CERTIFIED TRUE COPY CONSISTING OF..1..PAGES DATE.12.Jan.45					

W.J. Dearness
(H.W.J. Dearness) Lieut
Officer Having Custody of Regimental Books

(COPY)

186 Clarendon Cres,
Harrow Rd.,
PADDINGTON, W. 2

Dear Sir:

I hope you don't mind my taking the privilege of writing this letter but perhaps after I've explained a few things, things won't look so black against my husband Pte D Drette.

First of all I got into a little trouble regarding some blankets I bought, then Peter found out they were stolen. I was consequently fined £20 or one month's imprisonment. That was the start of my husband's being AWOL as he was trying to raise the money. He did not succeed so ultimately I served one month in prison. Then we had trouble to get baby out of the home he had been in while I was serving my sentence.

A few weeks later I was taken to hospital to have my second baby. After I came out of hospital our baby girl was taken ill, went into hospital and died. Pte Drette fully intended to return to camp after trying to settle the funeral expenses but was unable to settle down. He himself had not been in the best of health.

I take this opportunity of asking you to please be lenient with him for the sake of our little boy, 16 mths old, who is fretting for his daddy. I should hate anything to happen to our baby as he is the only thing we have left to live for.

I am sure for his son's sake Pte Drette will go straight in the future.

Thanking you in anticipation, I remain

Yours truly,

(sgd) (E. Drette)

CERTIFIED TRUE COPY:

(D.L. REEMAN) Lt-col
Pres of the Court

M.F.B. 335
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B.67450	Pte.	Diette, D.	2 CITR.

1. The following is a fair and true summary of the entries in the ~~Conduct sheets~~ Service and General ~~or~~ Regimental and Squadron, Battery, Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment
For 15(1)	1 times	15(1)	11 times
For 15(2)	0 times	15(2)	1 times
For 10(3)	0 times	10(3)	1 times
For 40 10(4)	0 times	40 10(4)	3 times 1 times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~ ~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 14 days in military custody, making a total of 14 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 24 yrs 1 month

6. The date of his ~~enrolment~~ specified in his ~~record of service is~~ attestation attestation paper 1 Apr 40

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to ~~an air force~~ military decoration, or ~~air force~~ military reward ~~or is in possession of or entitled to~~. State any ~~air force~~ military decoration or reward.

CVSM & CLASP.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

DA 13

RWY

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force

dated ..... and in his regiment (or corps), the rank of unit

dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number S.67459 Rank Pte. Air Force

Name Diette, D. of 2 C I T Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
FGCM	Field 24-10-41	Sec. 15(1) (4 charges) Sec. 22 Sec. 40	150 days Detention Stoppages £14-8-11	43 days remission.
FGCM	Field 1 Sep 43.	Sec. 15(1) (4 charges) Sec. 40	12 months Detention. Stoppages £2-4-7.	93 days remission.
~~FGCM~~	~~Field 1 Sep 43~~	~~Sec. 15(1) (4 charges) Sec. 40~~		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 31st day of Jan 44 Rodney Lamb Asst Adm Offr

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

LIST OF WITNESSES

In the case of A.67450, Pte. Diette, D.

CIC, on strength of 2 Cdn. Inf. Trng. Regt. a soldier of the Cdn. Army Overseas.

(For Prosecution)

1. Lieut. H.J. Bonke, Reg. H.Q., 2 CITR.

(For Defence)

NIL

.....

LIST OF EXHIBITS

In the case of A.67450, Pte. Diette, D.
CIC, on strength of 2 Cdn. Inf. Trng. Regt. a soldier of the Cdn. Army Overseas.

(For Prosecution)

Exhibit "A": Certif. True Copy of Record of Decl. of C. of I. held 3 Oct 44, showing accused AWL from 1230 hrs. 9 Sep 44.

Exhibit "B": Certif. in accordance with P.C.2797, showing B.67450, Pte. Diette, D. was arrested at London at 1600 hrs. 16 Jan. 45.

Exhibit "C": Certif. True Extract of 2 CITR, Pt. II D.O. No. 222, d/14 Sep 44, showing accused was awarded 28 days F.P. on 9 Sep 44.

(For Defence)
NIL.

.....

Request for Defending Officer

I, B.67450, Pte. Donald DIETTE, hereby request that the Convening Officer appoint ~~Lieut. H.J. Bonke~~ to represent me at my forthcoming trial by Court-Martial, should he be available.

Laurentide Camp. B.67450 Pte. (D. Diette)

17 Jan 45.

Receipt for Documents.

I, B.67450, Pte. Donald DIETTE,
hereby acknowledge that I have received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial, and I further acknowledge receipt of a true copy of the Charge Sheet under which I am being brought to Court-Martial.

Laurentide Camp
17 Jan 45. B.67450 Pte. (D. Diette)

5 K-33

Pb. Diette, D.

CHARGE SHEET

The accused, B.67450, Pte. Donald DIETTE, CIC, on strength of 2 Cdn. Inf. Training Regiment, a soldier of the Cdn. Army Overseas, is charged with:-

FIRST CHARGE
Sec. 15(1) Army Act.

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, at 2359 hrs. 8 Apr 45, illegally absented himself without leave until he was apprehended by the Cdn. Provost Corps, London, at 1530 hrs. 30 April 45.

(Total absence: 21 days, 15 hrs. 21 min.)

SECOND CHARGE
Sec. 15(1) Army Act.

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, at 1900 hrs. 6 May 45, whilst in Unit Custody, illegally absented himself without leave until he was apprehended by the Cdn. Provost Corps, London, at 1230 hrs. 8 June 45.

(Total absence: 32 days, 17 hrs. 30 min).

In the Field,

25 Jul 45.

R.C. Clark

(R.C. Clark) Colonel,
Comd, 4 C.I.T.B.

To be tried By Field General Court Martial.

K.B. Blackader.

(K.B. Blackader) Brig
Comd
13 Cdn Inf Trg Bde

IN THE FIELD
31 Jul 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 61, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-67450	Pte		Donald	DIETTE	CIC 4 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 31 Jul 45 endorsed by me, (~~or by an offr of my command~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and also that it is not practicable to delay the trial for reasons connected with public service~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I nominate as President of the Court, by reason of my opinion that the exigencies of the service render it necessary that the President should be an officer of the rank of Brigadier.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint the Judge Advocate to the Court.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LT COL	D L REDMAN, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Comd	4 CITR
Lieutenant	to be detailed by Comd	9 Cdn Repat Dep

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Comd	4 CITR

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(*Country.*)

Dat 31 Jul 45

(Signed personally. RP 105 fn 2.)

Brigadier
(*Rank.*)

Commanding (W G Blackader)
13 Cdn Inf Trg Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 98 (In lieu of AFA 2; 4/F.G./1941 (8143))

MEDICAL OFFICER'S CERTIFICATE

K.R.Can. Para 557

I certify that I have this morning examined No. B 67450

Private Diette . D. and in my opinion he

is FIT to undergo trial by Court-Martial.

Station: 2 R 17 R

Date: August 1. 1945 G. MacDonald Capt
(RCAMC) Attached to 2 CIBH

B67-50 Pte. Diette D.

STATEMENT

The defendant, Pte DIETTE enlisted in Apr 40 and proceeded to Iceland with the Royal Regt of Cda in Jun 40.

He arrived in the United Kingdom in Nov 40, and later proceeded to France with the Highland Light Infantry, Jul 44 where he was wounded on 25th Jul and returned to England.

On Apr 8th the defendant received a message, stating that his child was ill with pneumonia in Paddington Hospital. He left immediately for the hospital and remained nearby until he was apprehended by the Cdn Provost Corps. on 30 Sept. 45.

He went A.W.L. from Unit Custody on 6 May until apprehended on 8 June 45 during which time he cared for his child to the best of his ability. I would like to point out that the defendant has done everything in his power to care for his child in a practical way by assigning pay and assisting allowance.

Defending Off

Awarded 28.

SUMMARY OF EVIDENCE

In the case of B.67450, Pte. Donald DIETTE, CIC, on strength of 2 CITR, a soldier of the Cdn. Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

First Witness Prosecution, Lieut. A. W. Geddes, RHQ, 2 CITR, having been duly sworn states as follows:-

"I am Lt. A.W. Geddes, RHQ, 2 CITR, and I produce the following documents pursuant to Overseas R.O. 5352 which have been read over and shown to the accused, and which are attached hereto as exhibits:

Exhibit "A":- Certified True Extract of 2 CITR D.O. No. 87, d/12 Apr 45, showing B.67450, Pte. Diette, D. illegally absented himself without leave from 2359 hrs. 8 Apr 45, and that he was still absent at 2359 hrs 9 Apr 45.

Exhibit "B":- Certificate in accordance with P.C. 2797 showing B.67450, Pte. Diette, D. was arrested at London by the Cdn. Prov. Corps at 1530 hrs. 30 Apr 45.

Exhibit "C":- Certified True Extract of Pt. II D.O. No. 110 of 11 May 45, showing B.67450, Pte. Diette, D. having illegally absented himself from 1900 hrs. 6 May 45 and was still absent at 1900 hrs. 7 May 45. (Escaped Unit Custody)

Exhibit "D":- Certificate in accordance with P.C. 2797, showing B.67450 Pte. Diette, D. was arrested at London by the Cdn. Prov. Corps at 1230 hrs. 8 June 45.

Which above exhibits pertain to the accused herein.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

aw Geddes Lieut.
(A.W. Geddes)

The accused was cautioned as follows:-

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.".

The accused declines to make a statement and reserves his defence.

I certify that the foregoing summary of evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

In the Field,
25 July 45.

P Saperia Lieut.
(P. Saperia)
Officer detailed to take the Summary of Evidence.

EXA
MY

2 CANADIAN INFANTRY TRAINING REGIMENT

Last Order No: 86 d/11 " pr 45

PART II DAILY ORDERS BY A/COLONEL JA WILSON COMMANDER

This Order No: 87 d/12 Apr 45

PARA:

10. ABSENT WITHOUT LEAVE

Exhibit A

(1) AWL from 2359 hrs 8 Apr 45. Still absent 2359 hrs 9 A pr 45

B67450 PTE DIETTE D (HLI)

Certified True Extract

6 May 45
(Date)

(Sgd) J.L. HENSLOWE, Capt
For AJA BAXTER - Major
ADMIN OFFICER
2 CITR

(JL Henslowe) Capt.
Records Offr 2 CITR

CERTIFICATE IN ACCORDANCE WITH P.C. 2787 OF 17 APR 42

Exhibit B

I certify that No B-67450 Rank Pte Name Diette P.

Unit No. 2 C.I.T.R. (CRU) was arrested a t London (place

at 1530 (Hour) on 30-April-45 (date) and that at the time of his arrest he was wearing (Military Uniform) xxxxxxxxxxxxxxxxxxxx Signature of Provost-Marshal, Assistant Provost-Marshal, or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London

1-May-45.

.....Capt.
(R.W. Kyle)
D.A.P.M. C.M.H.Q.

2 CANADIAN INFANTRY TRAINING REGIMENT

Last Order No: 109 7 May 45

PART II DAILY ORDERS BY A/COLONEL JA WILSON COMMANDER

This Order No: 110 11 May 45

PARA: 11(k) ABSENT WITHOUT LEAVE

B-67450 Pte DIETZE D. HLI

AWL from 1900 hrs 6 May 45 Still absent 1900 hrs 7 May 45

(Escaped Unit Custody)

E, Exhibit C

Certified True Extract

12 May 45
(Date)

(Sgd) J.L. HUNSLOW, Capt
For AJA BAXTER - Major
ADMIN OFFICER
2 CITR

(J.L. Hunslow) Capt.
Records Offr 2 CITR

CERTIFICATE IN ACCORDANCE WITH P.C. 2787 of 10 APR 42 Exhibit D

I certify that No.B-67450....Rank. Pte.....Name..Diette.D.....
Unit..No.2.C.I.T.B...(CBU).....was Arrested at...London.....(place)
at.1230.hrs.(Hour) on.6-June-45...(date) and that at the time of his arrest he was wearing (Military Uniform) and that at the time of his arrest, Signature of Provost-Marshal, Assistant Provost-Marshal, or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (strike out part inapplicable).

London
9/June-45.

Exhibit "D" to the
Summary of Evidence.

(J. Stephenson) Lieut.
A.P.M. C.M.F.

(Name and rank of
officer detailed to take
the Summary of Evidence.

M.F.B. 388
22M—5-41 (372-3)
H.Q. 1772-30-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B.67450	Pte.	Donald DIETTE,	H.C.I.T.R.

1. The following is a fair and true summary of the entries in the ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.A. Sec. 15(1)	1 times	A.A. Sec. 15(1)	7 times
For		times	A.A. Sec. 15(2)	1 times
For		times	A.A. Sec. 40	2 times
For		times	A.A. Sec. 10(4)	1 times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time.~~ The accused is under sentence at present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for ~~[illegible]~~ nil days in civil custody, and ~~19~~ 7 days in ~~Air Force~~ military custody, making a total of ~~19~~ 7 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 24 yrs. 7 mos.

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 2 Apr 40

7. ~~The service which the accused is allowed to reckon towards discharge is .....~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his position, etc.~~

9. The accused is in possession of or entitled to ~~an air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to)~~. State any ~~air force~~ military decoration or reward.—

CVSM & Clasp.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the ~~Air Force~~ regimental rank of .....~~

CXB

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force dated ....., and in his regiment (or corps), the rank of ..... unit dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

In the rank of ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number B67450 Rank Pte. Air Force Name Diette, D. of 4 CITR Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	24 Oct 41	AA Sec. 15(1) (4 charges) AA Sec. 22 AA Sec. 40	150 days Detention	43 Days Remission.
F.G.C.M.	1 Sep 43	AA Sec 15(1) (4 charges)	12 Mon. Detention	93 days Remission.
F.G.C.M.	31 Jan 45.	AA Sec.15(1)	90 days Detention.	30 Days Remission.
Civil	19 June 45	Larceny	1 month Imprisonment.	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 1st day of August 1945

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

NB 67450 Name DIETTE D. | Sqn, Battery, or Company | Corps CIC | Date of enlistment 2-2-40 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 60FA&S/126 (5418)

Date of last entry in Company Conduct Sheet 1-10-40 | No. and date of last drunk Nil | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc D.E. Carter Major. | Character

Previous sheet destroyed after six months service, Drunkenness entry - Nil. No. of Charges - 5

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of night (from last)	By whom awarded	Remarks
Alapass	2-10 40	Pte		Breaking out of camp, AA 10 (4) AWL from 1800 hrs 2-10-40 till 1200 hrs 4-10-40 AA 15 (1)	L/Cpl Graves	14 days FP	4-10-40	Lt Col G.A. Barker	Forf 17 dys pay
				Released from Alabaster Field Punishment Camp 17-10-40 Remission earned Capt Cordt.					
Aldershot	13-12 40	Pte		Absent from parade appointed by his C.O. AA Sec 15 (2)	L/Sgt Gregory	28 days Detention	31-12-40	Lt Col G.M.Barker	Forf 17 days pay fro AWL 28 dys pay whilst in detn. Total forf 45 days pay.
Aldershot	14-12-40	Pte		AWL from 0800 hrs 14-12-40 till 1130 hrs 30-12-40. AA Sec 15 (1)	Sgt Kirkman				
				Released from Aldershot Detention Barrack on 23-1-41 sentence having expired. Remission earned under Rules for Detention Barracks and Military Prisons 4 days.					

Place	Date of offence	Rank	Cause of absence over 7 days	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or if under Regtl. Sjt. with date	By whom awarded	Remarks
Aldershot	12-4-41	Pte		Conduct to the Prejudice etc. Failing to get up at Reveille AA Sec 40	Cpl W. MacDonald	3 days C.B.	12 Apr 41	Lt. H.B. Thomson	
Field	25-7-41	Pte		(1) AWL from 0700 hrs 25-7-41 till 2330 hrs 18-8-41 AA 15 (1) Cost of apprehension £3.6.11 (2) When in Open Arrest-AWL from 2200 hrs 24-8-41 till 0900 hrs 6-9-41 AA Sec 15(1) Cost of Apprehension £4.7.8. (3) When in confinement at Pont-Hill Bks. AWL from 1415 hrs 12-9-41 till apprehended at 1400 hrs 27-9-41. Cost of apprehension £2.4.10. (4) Escaped at about 1400 hrs 3-10-41 when in confinement. AA Sec 22					

No. B67450 Name DIETTE D. Sqn, Battery, or Company — Corps CIC — Date of enlistment 2-2-40 — GC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 128) 60/F&S/134(1943)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 2 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				(5) AWL from 1900 hrs 3-10-41 to 1430 hrs 8-10-41. Cost of apprehension £4.6.6. AA Sec 15(1) (6) Conduct to the prej. etc., aided B 37354 Pte. McMillan, C.S. in attempting to escape. AA Sec 40. Guilty on all Charges		150 days detn Under stoppages of pay in the amount of £14.8.11 cost of apprehension	24-10-41	F.C.C.M.	Forf 28 days pay FR&I 149 (1)(c) 25 days pay FR&I 149(1)(a). 33 days pay FR&I 149 (1)(A).
	Released from Detention 7 Feb 42. 43 days Remission.								
Field	28-5-42	Pte		AWL 50 Min. AA Sec 15.	Sgt Preston	1 days C.B.	29-5-42	Capt McLean	Forf 150 days pay FR&I 149 1. Total forf 236 days pay.

(P70)

3/17 MFM 6 (AFB 121)

No. B 67450 Name DIETTE D. | Sqn, Battery, or Company | Corps CIC | Date of enlistment 2-4-40 | GC Badges | Service or Proficiency Pay | Character

Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc

Date of last entry in Company Conduct Sheet: Place	Date of offence	Rank	Cause of detention/arrest	No. and date of last drunk: OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30 Aug 42	Pte		AA Sec 15 Failing to appear at place of parade appointed by his C.O.	Cpl Strom Cpl Tait L/Cpl Pollard	7 days CB	1 Sep 42	Capt F.E.R. Wright	
Field	2 Oct 42			A.A. Sec 15(1) WOAS was AWL from 0815 hrs 2-10-42 till 2345 hrs 24-10-42 Surrendered to MP at Larkhall Scotland	Cpl S. Procopec P.C.McDonald	Forf 22 days pay and cost of return 27 dys F.P.	28-10-42	Lt.Nichols Major	
Field	28 Dec 42	Pte		AA Sec 40 Neglect to Etc. Untidy Kit layout.	CSM Blackett	5 days C.B.	28 Dec 42	Maj F.E. Wright	
Field	24 Feb 43	Pte		AA Sec 15(1) AWL from Kitchen fatigue from approx. 1720 hrs 24 Feb 43.	L/Cpl Russell	5 days C.B.	26 Feb 43	Capt J.C.H. Anderson MC	
Field		Pte		AA Sec 15(1) 4 Charges AA Sec 40 tried by F.G.C.M. AWL 111 days		12 months detn	1 Sep 43	FGCM	Forfeits 506 days pay

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26 Feb 43	Pte		AA Sec 15(1) AWL from 1800 hrs 26 Feb 43 till 1400 hrs 31 Mar 43 when apprehended by CMP (32 days 20 hrs) Cost of apprehension and return £9 14 3	Sgt Williams Documentary	Cost of apprehension in amount of £2 4 7	1 Sep 43	FGCM	
	1 Mar 43	Pte		(2) AA Sec 40 Conduct to prej. etc. not in possession of MBM I	Documentary	12 Months detention.		Conf By Brig. J.E. Sager Comd. 4 CIB	
	7 Apr 43	Pte		(3) AA Sec 15(1) AWL from 0015 hrs 7 Apr 43 till 0750 hrs 1 May 43 when apprehended by Civil Police in London (24 days 7 hrs 15 min)	Documentary Sgt Lyod L/Cpl Warmington				
Field	10 May 43	Pte		(4) AA Sec 15(1) AWL from 0600 hrs 10 May 43 till 1215 hrs 24 May 43 when apprehended by Civil Police. Cost of apprehension and return 15 shillings and 2 pence. (14 days 6 hrs 15 mins)	Documentary				

No. B67450 Name DIETTE D. | Sqn, Battery, or Company | Corps CIC | Date of enlistment 2-4-40 | GC Badge: | Service or Proficiency Pay | 1/17 MFM 6 (APR 122) 40/F&S/136 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 4 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of cause corresponding with MML	By whom awarded	Remarks
Field	19 Jul 43	Pte		(5) AA Sec 15(1) AWL from 0500 hrs 19 Jul 43 till 0930 hrs 25 Aug 43. Cost of apprehension and return to unit being 15 shillings and 2 pence. (37 days 4 hrs 30 mins)	L/Cpl Warmington Documentary				
			Released	from Detention Barracks 27 May 44	93 days Remission.				
Field	31 Aug 44	Pte		AA Sec 15(1) WOAS AWL from 1730 hrs 31 Aug 44 till 1000 hrs 7 Sep 44 Total 6 days 16 hrs 30 mins	A 88001 Cpl L B Edgeworth	28 days FF	9 Sep 41	Lt-Col W J Bingham	7 days pay FR&I 149(1)(a) 28 days pay FR&I 149(1)(b).

Place	Date of offence	Rank	Cause of detention	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9 Sep 44	Pte		AA Sec 15(1) WOAS A&L from 1230 hrs 9 Sep 44 till arrested at London by C.P.C. at 1600 hrs 16 Jan 45. Absent 129 days 3 hrs 30 mins.	FGCM	90 days detention	31 Jan 45	FGCM	Released from D Bks 31 Mar 45. Sentence having expired. Remission under rules for Det Bks and Mil Prisons 30 days. (Sgnd)
Civil	29-Jun 45	Pte		Larceny		1 Month's Imprisonment	19 Jun 45		

Certified True Copy consisting of Four pages.

Date...24.VII.45.....

.....
Officer having custody of Regtl Documents.

LIST OF WITNESSES

In the case of B.67450, Pte. Diette, D., CIC, on strength of 2 Cdn. Inf. Trng. Regt. a soldier of the Cdn. Army Overseas.

(For Prosecution)

1. Lieut. A.W. Geddes, RHQ., 2 CITR.

(For Defence)

NIL.

LIST OF EXHIBITS.

(Prosecution)

Exhibit "A": Certif. True Extract of 2 CITR D.O. No. 87, 4/12 Apr 45, showing accused AWL from 2359 hrs. 8 Apr 45.

Exhibit "B": Certif. in accord. with P.C. 2797, showing B.67450, Pte. Diette, D., the accused, was arrested at London by the Cdn. Prov. Corps at 1530 hrs. 30 Apr. 45.

Exhibit "C":- Certif. True Extract of Pt. II D.O. No. 110 of 11 May 45, showing accused AWL from 1900 hrs 6 May 45.

Exhibit "D":- Certif. in accord with P.C. 2797, showing accused was arrested at London at 1230 hrs. 8 June 45.

(Defence)

NIL.

REQUEST FOR DEFENDING OFFICER

I, B.67450, Pte, DIETTE, D. hereby request that the Convening Officer appoint ~~any available officer~~ W A Cooper to represent me at my forthcoming trial by Court-Martial.

In the Field.

25 Jul 45.

D. Diette
(D. Diette) B.67450. Pte.

Receipt for Documents.

I, B.67450, Pte. Diette, D. hereby acknowledge that I have received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial, and I further acknowledge receipt of a true copy of the Charge Sheet under which I am being brought to Court-Martial.

In the Field,

23 Jul 45.

D. Diette
(D. Diette) B.67450. Pte.

PEL CORPS AT CMHQ IN 38 160. STR 33

HELD GENERAL COURT-MARTIAL

CFAR6 (to lieu of AFAR) 40-P & S-1668 (40-01) 4/38B

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd 13 CITB dated 31 Jul 45

RECEIVED 21 AUG 1945 JAG BRANCH

ACCUSED.

(a) and (b) as to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-67450	Pte		Donald	DIETTE	CIC 4 CITR

PROCEEDINGS REVIEWED WITHOUT

K Livermore Capt

22 Aug 45

REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date*) 14 AUG 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, ~~if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AF5, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(1)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to _____ as interpreter? Ans _____

~~The Interpreter is sworn.~~(1) Do you object to ~~C.S.M. I. of Evidence as~~ the shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO, SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D. L REDMAN	HQ CRU
Member	CAPT	C.M.H PRIEUR	4 CITR
Member	LIEUT	G.A.G PEAT	9 C.A.E.R.D.
~~Judge Advocate~~			
Prosecutor	CAPT	N.H SHAW	4 C.I.T.R.
Defending Offr	LIEUT	H.W GEDDIS	4 C.I.T.R.

Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See QJ p 3.)

A8. The accused _____ before arraignment make(s) (no) (a) plea _____ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(2), 108), or as to the jurisdiction of the Court (RP 24, 25(6), 112), or in bar of trial (RP 26), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AF6 to record proceedings. 2. RP 32. RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B-67450 Pte Donald DIETTE - CIC - 4 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd AA Sec 15(1)	GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 19 days, of which NIL days were spent in hospital. (2)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for a period of six (6) months.

(Sgd) ..... 1 Aug/45 .....
Judge Advocate, if any. Date of trial. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) (a 6,46(A), 51-56, 122, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~Subject to the amount to be remitted by~~ ..... (1)
(1. AA 57A. Delete if not used.)

Date 2 Aug 45 (Sgd) W.G. BLACKADER Brig
Commanding Cond-IS Cdn Inf Bde Gp

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. B 67450 Pte DIETTE D. Date. 4 Aug 45 Signature of Offr. Majors RC

ENTERED W.O.F.A.M. 186
DATE 8 Aug 45
BY W.J.R.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. Nº, SIR.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part 3 of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B)1. If any plea(s) is (are) changed, see Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 'A', initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (C).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114*, *115*.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. ..... Do you intend to call witnesses on your behalf?
Ans. ..... Are they witnesses as to character only? Ans. .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 84(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 102(A).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier of having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 'B' and Ex 'C' respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFB 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Nº, SIR. I HAVE A WIFE AND CHILD.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 320, 563-566, Geneva RO 304, 1313, MML p 162, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

LLL-42
SPR DIGGINS WIE

CHARGE SHEET

F.44635

The accused ~~xxxxxxx~~ Spr DIGGINS, William, Edward, Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:-

FIRST CHARGE
A.A. 15 (1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from No. 1 CERU from 2359 hrs 12 Mar 44 until surrendering at 2150 hrs 29 Apr 44 at Durham, thereby incurring cost of returning him to his unit in the amount of £3-13-8

(Absent 47 days 21 hrs 51 mins)

In the field
29 Apr 44

(H.G.J. WOODS) Lt. Col.,
A/Commanding Officer,
No. 1 Cdn Engr Rft Unit,
Canadian Army (Overseas)

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

14 May 44

(P.R. Shields) Brigadier
Comd "B" Gp
Cdn Rft Units

801.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA83)
40/FA83/1697 (2603)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F-44635	Spr		William Edward	DIGGINS	1 CBRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (date) 14 May 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt-Col (Rank.)	F.D. Tweedie (Must be named. RP 106.)	HQ CRU (Unit.)

MEMBERS.

Captain	to be detailed by	2 CACRU
Lieutenant (Rank.)	to be detailed by (Named or detailed. RP 106.)	1 CACRU (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 14 May 44

(Signed personally. RP 105 fn 2.)

(Rank.)

Commanding "B" Gp CRU (P.R. Shields) Brigadier

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

R.A.F. (C.A.) Form 557

I certify that I have this morning examined

No. F 44635 Sgt. Diggins W. E.

of H.Q. E.R.U. and in my opinion he

is fit to undergo Trial by Court Martial.

Station Field

Date May 16 1944

C. A. Benjamin Capt
Medical Officer.

PLEA OF MITIGATION

Plea of Mitigation in the case of F 44635 Spr DIGGINS, W.E., of No 1 C.E.R.U., Canadian Army Overseas.

Spr DIGGINS has pleaded guilty to the charge of being A.W.L. for 47 days, after surrendering himself to the Military Police. In his case there are certain facts on his behalf which I would like to bring before the Court.

(1) He joined the Army on the 3rd of September, 1939, seven days before Canada officially declared war and as he has stated he joined to fight or to work in the Canadian Army and not to sit around a Holding Unit.

(2) He transferred from the West Nova Scotia Infantry Regiment to the 1st Tunnelling Company, when he heard that there was a call for experienced miners at Gibraltar. He worked there for 20 months without a crime.

(3) He returned to England and worked in the Iron Mines for 3 months until this work was completed, and since that time he has been in the Reinforcement Unit, being A.W.L. for short periods.

(4) He has had the unfortunate experience of receiving word that his wife has been living with another man and this has been an influencing factor upon his mind, aggravated by being held in a Holding Unit doing Basic Training.

(5) He has requested posting to the field and has been paraded before his O.C. without obtaining results.

(6) I had Spr DIGGINS in my Platoon for five weeks here in the Holding Unit and found him reliable and a willing worker, and his one request was to be allowed to proceed to the Field.

I ask the Court to consider the above mentioned facts before passing sentence. I recommend that the Court be as lenient as possible with accused.

Officer appointed for the Defence: J.F. Sutherland Lt.

Signed (J.F. Sutherland) Lieut.

887.

F.G.C.M. IN THE CASE OF

F 44635 Spr DIGGINS, W.E., 1 CERU

16 MAY 1944

STATEMENT BY THE ACCUSED

Sir,

I joined the Army in Sep 1939 and came overseas in that year in the infantry. I had no crimes in the infantry. Then I heard that men were needed in the RCE to go to Gibraltar I joined the 1 Canadian Tunnelling Coy and went along. During my time at Gibraltar I have no crimes, that was for a period of 20 months, and my only offence was being AWL or late, I missed three hours work as a result of a party that was leaving and I spent a little too much time with them before returning to work. On my return to England I worked in the iron mines for three months in Dover, my crimes here consisted of a few short AWLS, then I returned to the Holding Unit. I did not and still do not like Holding Units, I did not leave my home in Canada and come all the way over here to sit around Holding units. I pleaded with my CO to send me back to the field, or put me on a draft overseas, I never received any satisfaction.

I have a skin disease and that was one reason I wished to go abroad, it might cure it, nothing that any specialists here can do seems to help it any. However I was put on basic training and did six weeks of it. Then I received a letter from my wife in Canada, she was living with another man, word came that my mother died, between those two things and my skin disease that couldn't be cured I went AWL, I don't believe I was in my right mind, because after about 10 days AWL I realized what I was doing and I came back and I surrendered.

When I was in the field, I worked on all sorts of jobs, I was busy and felt I was doing something, but here I've been sloping arms and parade square drill, I am an engineer, actually I am a miner by trade and I like to work and like that sort of work. Had the major sent me to the field and allowed me to keep on working I would not be here today. I was supposed to be happy in the AU sloping arms by numbers, but I wasn't, in the end I contracted VD to make matter worse.

That is all I have to say Sir.

EVIDENCE AS TO CHARACTER

1st WITNESS FOR THE DEFENCE

No 2345 L/Cpl LACHANCE, J.L., on strength 1 C.E.R.U. having been duly sworn states:

I met Spr DIGGINS in 1940 after joining No 1 Canadian Tunnelling Company. I have been with Spr Diggins from then on, for 22 months we were in Gibraltar I spent working with him as a miner. I have six years mining experience mining in Canada in nickel mines. Spr Diggins is a coal miner. We moved several thousands of tons of rock down there and I am sure that Spr Diggins helped a good deal in doing it. I can verify his statements regarding a skin disease. Four or five skin specialists down there tried to cure him, but could do nothing. On the suggestion that he be sent home for treatment, he requested to stay and be with the rest of the company and keep working with us, doing this he turned down the chance

to come back to England for treatment. With all his trouble I think that Spr Diggins should be in Basingstoke or No 2 Special Hospital. I have been looking after him as M.P. and have had no trouble whatsoever with him, he is a model prisoner.

PROSECUTOR DECLINES TO CROSS-EXAMINE THIS WITNESS

In the opinion of the Court it is unnecessary to comply with RP 83(B)

PLEA IN MITIGATION OF PUNISHMENT read by the Defending Officer and is attached.

RECORD of the Declaration of a Court of Inquiry assembled at No.1.C.E.R.U. on the 5th day of April 1944 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. F-44635 Spr Diggins W.E.

D E C L A R A T I O N

The Court declares that F-44635 Spr Diggins, W.E. illegally absented himself without leave from No.1.C.E.R.U. at 2359 hrs on the 12th day of March 1944, that he is still so absent, and that on the 5th day of April 1944 he was deficient, and that he is still deficient of the following articles to the value of £ 25.62 (75% of vocab rate. See list on reverse of this sheet)

Signed at No.1. C E R U this 5th day of April 1944

(S.G. Woolsey) Capt RE
No.1. C E R U

(S Laverty) Lieut RE
No.1. C E R U

(L.A. Holmes) Lieut RE
No.1. C E R U

Signature of Commanding Officer

Certified true copy

Signature of officer having custody of original record

Adjt
1 C. Engr R.U.

MUR for MFP 375
8/169

KIT DEFICIENCIES OF F-44635 SPR. DIGGINS W. April 5th 1944

Badge Cap	1	$0.09	$0.06
Badges Shoulder	2	0.10	0.06
B.D. Blouses Serge	1	6.18	4.64
B.D. Trousers Serge	1	6.24	4.68
Boots Ankle	1	4.81	3.61
Brasses Button	1	0.04	0.03
Brushes Button	1	0.15	0.10
" " Cloth	1	0.24	0.18
" " Hair	1	0.24	0.18
Comb Hair	1	0.04	0.03
Discs Identity & Cord	3	0.03	0.02
Drawers Woolen	1	1.17	0.88
Forks	1	0.09	0.06
Gloves Woolen	1	0.59	0.44
Jacket Sweater	1	1.51	1.13
Knife Clasp & Lanyard	1	1.16	1.16
Shirts Woolen	2	2.28	1.72
Socks prs	2	0.74	0.56
Eyeshields	3	0.51	0.39
Shorts Gym	2	0.88	0.66
Vests Gym.	1	0.34	0.25
Drawers Cellu.	2	0.92	0.70
Ration Bag	1	0.04	0.03
Pack W.E.	1	2.13	1.61
Straps W.E. Supporting	2	0.34	0.26
Blanket G.S.	1	2.91	2.18
		$ 33.85	$25.62
		100%	75%

Expense Voucher Re—:

Ref: K.R. & O. (Can) 539

Reg. No. F44635 Rank Spr. Name Liggins, H. Unit 1 C.E.R.U.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Durham

Date	Particulars	Amount		
3 Nov 44.	Escorts return fare from LONDON To Durham	1	19	0
	Prisoners single fare to LONDON From Durham		19	6
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		15	2
	Total £	3	13	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Officer Issuing Railway Warrant and Expense monies R. J. STINSON LIEUT.

No. 6 Area Provost Company, Canadian Provost Corps, ADDRESS OFFICER - D.P.W's &R. C.M.H.Q.

(2) 1000-43 (A455(320))

Certificate of Surrender under Sec. 1e3 (1) (j) A.A.

I, Maj. A.E. YATES ... Certify that No. F/44635

Rank ... SAPPER ... Name ... DIGGINS. W. ...

of No. 1 REINFORCEMENT UNIT, Corps ROYAL CANADIAN ENGINEERS ...

Surrendered himself to No. 769195 ... Rank CPL ...

Name E. THOMPSON ... of ... Police on

the 29th ... day of ... APRIL ... 19 44 ... at 2150 HRS as a deserter

(or absentee without leave).

Signature ... A. P. M. Northern Command, Maj.

Place ... TORONTO ... Date ... 30th April

No. 150 H.Q. Provost Company.

97

LIST OF EXHIBITS

List of Exhibits in the case of F-44635 Spr.
Diggens, W.E.

1. Record of the Declaration of a Court of Inquiry.
(Marked Exhibit "A")

2. Certificate of Surrender under Sec. 143 (1) (5)
(Marked Exhibit "B"

3. Expense Voucher - Ref. K.R. & O. (Can) 539
(Marked Exhibit "C")

LIST OF WITNESSES

List of Witnesses in the case of F-44635 Spr.
Diggins, W.E.

For the Prosecution

1. DOCUMENTARY

For the Defence

NIL

APPLICATION FOR DEFENDING OFFICER

I, F-44635 Spr. Diggins, W.E., desire to have Lieut. J.F. Sutherland defend me at my forthcoming Court Martial, or, if not available, another Officer appointed by my Commanding Officer.

Sgt.

W.E. Diggins
F-44635 Spr. Diggins, W.E.

I, F-44635 Spr. Diggins, W. E. certify that I have received a copy of the Charge Sheet and of the Summary of Evidence in my case

W. E. Diggins

F-44635 Spr DIGGins, W. E.

Summary of Evidence

Summary of Evidence in the case of F 44635 Spr. DIGGINS, William Edward, Royal Canadian Engineers, Reinforcement Unit a soldier of No 1 Canadian Reinforcement Unit the Canadian Army (Overseas)

By direction of the Commanding Officer the Summary of Evidence is taken in Bath.

FIRST WITNESS

For the prosecution

Lieut. T.I. Conn of No 1 C.E.R.U. having been duly sworn states:-

1. I, Lieut T.I. Conn, R.C.E. of No 1 C.E.R.U. present a record of the Declaration of ~~witness~~ Court of Inquiry assembled at No 1 C.E.R.U. on the 3rd Day of April 1944, for the purpose of investigating and recording the absence without leave, from his duty, and deficiency, if any in the Arms, Ammunition, Equipment, Instruments, Regimental Necessaries, and Clothing of F 44635 Spr. DIGGINS, William, Edward, when I was recognize as the accused (Marked Exhibit "A")

2. I, Lieut T.I. Conn, R.C.E. of No 1 C.E.R.U. present ~~by the M.P.~~ 0333, Certificate of Conviction by the M.P. of a deserter & absentee without leave relating to the accused, F 44635 Spr DIGGINS W.E., when I was recognize. (Marked Exhibit "B")

3. I, Lieut T.I. Conn, R.C.E. No 1 C.E.R.U. present Expense Voucher Ref. RR 10 (Can) 551, relating to the accused, F 44635 Spr. DIGGINS W.E. showing entitled cost of returning him to No 1 C.E.R.U. on 3 May 1944. (A 3.11.2) (Marked Exhibit "C")

T.I. Conn

The accused declines to cross examine the Witness.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence. The accused reserves his defence.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused, and that Rules of Procedure 44(c)(d)(e)(f) and (g) have been complied with.

In the field
8 May 44

W. accepts that
officer details to take
Summary of Evidence

SUMMARY OF EVIDENCE

Summary of evidence in the case of F-44635 Spr DIGGINS, William, Edward, Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS
for the prosecution

Lieut. T.I. CONN, of No. 1 CERU, having been duly sworn states:-

1. I, Lieut. T.I. CONN, RCE, of No. 1 CERU present a Record of the Declaration of a Court of Inquiry assembled at No. 1 CERU on the 5th day of April 1944, for the purpose of investigating and recording the absence without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipment, Instruments, Regimental Necessaries and clothing of F-44635 Spr DIGGINS, William, Edward, whom I now recognize as the accused. (Marked Exhibit "A").

2. I, Lieut. T.I. CONN, RCE, of No. 1 CERU, present Certificate of Surrender under Sec 163(1)(j) AA to the M.P., of a deserter or absentee without leave relating to the accused F-44635 Spr DIGGINS, William, Edward, whom I now recognize. (Marked Exhibit "B").

3. I, Lieut. T.I. CONN, RCE, of No. 1 CERU, present Expense Voucher ref K.R. & O.(Can) 539 relating to the accused F-44635 Spr DIGGINS, W.E., thereby certifying cost of returning him to No. 1 CERU on 3 May 1944 £3-13-8). (Marked Exhibit "C").

The accused declines to cross-examine this witness.

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence. The accused reserves his defence.

I certify that the foregoi ng Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(C)(D)(E)(F) and (G) have been complied with.

(F.W. ATTFIELD) Lieut., RCE
Officer detailed to take Summary of Evidence.

In the field
8 May 44

Certified true copy of the Original Summary of Evidence.

F.W. Attfield

(F.W. ATTFIELD) Lieut., RCE
Officer Detailed to take Summary of Evidence.

No. W-44635 Name Diggins, W.E. Sqn. Battery or Company N/A Corps R.C.E. Date of enlistment 3 Sept. 39 OC Badges

Date of last entry in Company Conduct Sheet N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No One Signature OC Company, etc Service or Proficiency Pay N/A

MFM 6. (AFB 122) 40/P&S/136 (3438)

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9-6-40	Spr.		AWL. from 2300 hrs. 9-6-40 to 2255 hrs. 11-640(47 hrs. 55 Min.)	Sgt. Nicholas	2 days pay 2 days C.B.	12-6-40		
Field	29-10-40	"		AWL. 0800 hrs. 29-10-40 to 2200 hrs. 31-10-40 (37 hrs. 30 Min.) A.A. 15(1)	C.S.M. Schofield	2 days pay plus cost	23-10-40	Maj. Campbell	
Field	2-10-40	"		Neglect to prej. etc. in that he failed to report for shift AA. 40	Cpl. Armstrong	2 days pay			
"	23-12-40	"		1 WOAS. AWL. 2359 hrs. 23-12-40 to 0945 hrs. 25-12-40, 2. WOAS. AWL. 2215 hrs. 27-12-40 to 1000 hrs 31-12-40,(4 days 21½ hrs.) AA sec. 15(1)	Sgt. McKinnon	1 days pay Forfiet 6 days pay fined 3 days pay total 7 days pay	2-11-40 4-1-41	" Campbell " Campbell	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1-2-41	Spr.		AWL. 2215 hrs. 1-2-41 to 1000 hrs. 2-2-41 (11 hrs 45 Min.) AA 15	Sgt. Porter Forf. 1 days pay		3-2-41	Maj. North	
Gibraltar	22-1-42	"		AWL. from shift duty 1600 hrs. 2130 hrs. (5½ Hrs.) AA. 15	Sgt. Macleod pay, 10 days C.B. to L/S McAuley Dep. 5 days pay L/C Caldwell		23-1-42	" North	
Field	8-2-42	"		AWL. 0200 hrs. 8-2-43, to 2330 hrs. 8-2-43 (9 hrs.. 30 Min.) AA. 15(1)	L/S Conner 7 days C.B. L/C Artis Dep. 2 days pay		9-2-43	" White	
Field	18-10-43	"		AWL from 1600 hrs. 17-10-43 to 1100 hrs. 18-10-43 (Total 19 hrs.) AA 15(1)	Sgt. Espelators, L. Cpl. Fordyce, J.	2 days pay	18-10-43	Col. Monhead	1 day Pay, 149(1) A
Field	22-11-43	"		AWL from 0200 hrs. 22-11-43 to 1000 hrs. 22-11-43 (Total 8 hrs.) AA 15(1)	C.S.M. Mallette	Forf. 1 days pay	22-10-43	Capt. Bryce	Pay F.R.I.
Field	17-10-43	"		AWL. from 1900 hrs. 17-10-43 to 1100 hrs 18-10-43 (Total 19 hrs.) AA.15(1)	C.S.M. Mallette	Forf. 2 days pay	18-10-43	Capt. Bryce	Forf. 1 days Forf. 10 days (1)
Field	7-12-43	"		AWL. from 2330 hrs. 27-11-43 to 2100 hrs. 7-12-43 (Total 9 days 22 hrs.)	C.S.M. Mallette, E.J.	Forf. 20 days pay	7-12-43	Capt. Grulman	pay under F.R.I. 149(1)A

No F-44651 Name Diggins, W.E. Sqn. Battery or Company N-A Corps R.C.E. Date of enlistment 3 Sep 39 OC Badges Service or Proficiency Pay N/A MFM 6 (AFB 1221) 40/705/136 (5438)

Date of last entry in Company Conduct Sheet N-A No and Date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No Two Signature OC Company, etc Character N/A

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award (if under open arrest)	By whom awarded	Remarks
Field	23-1-44	Spr.		A.A. 15(1) AWL from 2359 hrs. 23-1-44 to 1600 hrs. 30-1-44. (Absent 6 days 16 hrs. 1 Min.)	Doc.	14 days F.P. 1 Forf. 14 days pay. F.R.& I. 149(1) (b) D.O. No. 37 d/14 Feb 44.	1 Feb 44	Lt. Col. AG Rutherford	Forf. 7 days pay. F.R.&I. 149-1-(a)
				Granted 3 days remission of sentence wef 11 Feb. 44.					

CERTIFIED TRUE COPY [illegible] Regimental Books. 4 May 44

Officer having custody

OFFICER i/c RECS, [illegible] Highlands Holding Unit, C.A.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
[illegible]	Gnr.	[illegible] W.F.	No. 3 C.A.R.A.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. 15 (1) — 12 times.
For A.A. 40 — 1 times.
For [illegible] — times.
For [illegible] — times.

Date of first entry in Field Conduct Sheet 9 Jun 40

Date of last entry in Field Conduct Sheet 23 Jan 44

2. Previous convictions (if any) by court martial or civil court are set out in the Schedule overleaf.

*3. The accused was [illegible] for [illegible] days from the [illegible] day of [illegible]

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for [illegible] days in civil custody, and for 16 days in military custody, [illegible] days in open arrest, 16 days in close arrest; of which [illegible] days were spent in hospital.

5. The present age of the accused is 36 2/12

6. The date of his attestation is 3 Sep 39

7. The service which the accused is allowed to reckon is 4 7/12 Years

8. The accused is in possession of† C.V.S.M. and Clasp.

†State the military decorations (if any) held by accused.

9. *(If the accused is a warrant officer or N.C.O.)* The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of [illegible]	
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

[illegible] W1.2670/668 250,000 4/42 A.& E.W.Ltd. Gp.499
[illegible] W1.2946/1875 60,000 8/43 Forms/B.296(War)/2

RECEIVED 25 MAY 1944 JAG BRANCH CMHQ

RECORDED AT CMHQ IN AB 160 2 LL-42

FIELD GENERAL COURT-MARTIAL

CPA88 (In lieu of AF A32) 40/P & S/1608 (2nd)

Convened by Order of Brigadier P.R. Shields Comd "B" Gp C R U dated 14 May 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptnt, A/rank or A/apptnt, if any, see AA 182, 183, fns. KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptnt, A/R or A/Apptnt.	Full Christian Names.	Surname.	Unit.
F-44635	Spr	William Edward	DIGGINS	1 CERU

PROCEEDINGS REVIEWED 27 May 44

R. Deane Wills Capt

PROCEEDINGS OF TRIAL.

Held in ~~The Fd~~ in (country) England on (date(X)) 16 May 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1309 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~the Interpreter is sworn.(1)~~ ~~no interpreter~~ ? Ans ~~Do you object to~~ Sgt Shelly as shorthand writer ? Ans NO
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ? Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	F.D. Tweedie	HQ CRU
Member	Capt.	R.E. Buell	2 C A C R U
Member	Lieut	J.L. Bishop	1 C A C R U
Judge-Advocate			
Prosecutor	Lieut	F.W. Attofield	1 C E R U
Defending Offr	Lieut	J.T. Sutherland	1 C E R U.

Questions by President: Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See Dir p 3.)

A8. The accused before arraignment make(s) (no) ~~no~~ plea. F.D.T.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-44635 Spr DIGGINS, W.E. - 1 CERU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and on loss of kit see RP 44 fn 6.)

407.

At present under sentence for ~~(date)~~ beginning on ~~(date)~~ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which ~~days~~ days were spent in hospital. (2)
(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for sixty (60) days. The first under disposal of Records Unit made good the sum of £3.13.-d pay until he has

(Sgd) F.W. Lussedie Lt Col.

Judge-Advocate, if any. Date awarded. (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 44(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 171 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders. (1)
(1. AA 57A. Delete if not used.)

Date 18 May 44 (Sgd) R Dewe Brigadier
Commanding 'B' Force Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused Date Signature of Offr

635 Spr Diggins W.E. 19 May '44 J.W. Keeley Lt Col

ENTERED PART II ORDERS

20 May ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

ER in RECORDS
Unit, C.A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-44635 Spr DIGGINS, W.E. - 1 CERU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15 (1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

707.

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for sixty (60) days & be put under stoppages of pay until he has made good the sum of £3.13.-d & by returned to unit

(Sgd) ..... 16 May 44 (Sgd) F.D. Tweedie Lt Col.

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be attested before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is

Confirmed

~~I direct that the accused be not committed to prison or detention (period) until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) R. Dewe Brigadier

Date 18 May 44 Commanding "B" Gp C.R.U. Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F-44635 Spr Diggins W.E.	19 May '44	F.W.C. Kelly Lt Col

ENTERED PART II ORDERS

DATE 20 May 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECEIVED 26 MAY 1944 JAG BRANCH No 3

RECORDED AT CMHQ IN AB 160 LLL-42

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AF A23) 40/P.R.S./1606 (2854)

Convened by Order of Brigadier F.R. Shields Comd "B" Gp C R U dated 14 May 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F-44635	Spr		William Edward	DIGGINS	1 CERU

PROCEEDINGS REVIEWED 27 May 44

R. Dewe Lt Col

~~Convening~~ Officer. JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 16 May 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

707.

A1. The President, Members, ~~waiting Members, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Cautions do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

707. A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

707. A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1.30 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

707. A5. President to accused: Do you object to ..... as interpreter? Ans .....

~~The interpreter is sworn.~~(1) Do you object to Lt Hully as shorthand writer? Ans No

The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting members retires. RP 68(2). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

707. A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	F.D. Tweedie	HQ CRU
Member	Capt.	R.E. Beadle	2 CA C R U
Member	Lieut	F.L. Bishop	1 CA C R U
Judge-Advocate			
Prosecutor	Lieut	J.W. Attofield	1 CERU
Defending Offr	Lieut	J.T. Cuthbertson	1 CERU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) ~~no~~ plea. 707.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 24, 25(A), 113), or in bar of trial (RP 26), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

707. A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 30, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; where several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

707. A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans Yes (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on the charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. ~~As to the charges on which arraigned pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.~~(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, deal therein proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: ~~Do you wish to apply for an adjournment on the ground that any of the rules~~ relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. RP 40 fn 1. See MML p 73 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted per Notes. 3. RP 40 fn 1. See Notes on back of Convening Order, CF A95. Evidence for accused as to his on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans .....
Do you intend to call witnesses on your behalf?
Ans .....
Are they witnesses as to character only? Ans .....
(*1. RP 115. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E, below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans Yes.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or MFB 276. 2. MFM 6. 3. RP 46, KR Con 518. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes.
(*1. RP 37(C), 46(2). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if above.(2)
(*1. When several accused tried separately see RP 7(b). One sentence only, comprised of the punishment or punishments laid down in AA 47, 64 and its powers, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 68, 118, 119(A)(i), KR Con 308, 320, 563-564, Overseas RO 309, 2323, MOME, p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MOME, p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 560. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
[illegible]	Sgt.	[illegible] W.F.	No. 2 C.W.S.M.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, precedence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded in the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. 15 (1) ..... 12 times.
For A.A. 40 ..... 1 times.
For ..... times.
For ..... times.

Date of first entry in Field Conduct Sheet 9 Jun 40

Date of last entry in Field Conduct Sheet 23 Jun 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused was the person who on the [illegible] day of [illegible]

4. The accused has been awaiting trial on the present charges for [illegible] days in civil custody and for 16 days in military custody, viz., [illegible] days in open arrest, 26 days in close arrest; of which [illegible] days were spent in hospital.

5. The present age of the accused is 36 2/12

6. The date of his attestation is 3 Sep 39

7. The service which the accused is allowed to reckon is 4 7/12 Years

8. The accused is in possession of: C.V.S.M. and Clasp.

9. ~~(If the accused is a warrant officer or N.C.O.)~~ The accused has served continuously, without reduction, to the present date—

Date of Promotion.

In the substantive rank of [illegible]

In the war substantive rank of .....

~~In the acting rank of~~ .....

*Strike out if not applicable.

†State the military decorations (if any) held by accused.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(B1314) W1.8870/668 500,000 4/42 A. & E.W.Ltd. Gp.698
(B1420) W1.29220-1873 60,000 8/43 Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		Nil.		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 16th day of May 44.

H. Coates Pte

T.C. Regt. No.

4R-6

Spr. Diggins W.E.

CHARGE SHEET

The accused F-44635 Spr William Edward DIGGINS, Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:-

FIRST CHARGE
AA 41

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, LARCENY, CONTRARY TO SECTION 21 LARCENY ACT ~~1916~~ 1861

in that he

At Leatherhead, between 1700 hrs 12 Jan 45 and 0845 hrs 13 Jan 45 stole 2 chickens the property of Mrs John Young, Leatherhead, Surrey.

SECOND CHARGE
AA 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from No. 17 Canadian General Hospital from 1900 hrs 4 Oct 44 until he surrendered himself at 1700 hrs 13 Jan 45 to the Civilian Police at Leatherhead.

(Total time absent 102 days 22 hrs)
(Cost of apprehension 3 shillings and nine pence)

Approved Lieut
Dir JAG Can Army O
Imposed & Taken 500
and 1804756(3)
for DJA HQ CAA

(A.E. HENRY) Colonel
Commanding Officer
No. 1 Cdn Engr Rft Unit
Canadian Army (Overseas)

In the field
5 Feb 45

To be tried by Field General Court Martial.

(A.B. Connelly) Brig
Comd "B" Gp
Cdn Rft Units

In the field
6 Feb 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML, Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F 44635	Spr	William Edward	DIGGINS	1 CERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 6 Feb 45 endorsed by me, (~~or by an offr of my comd for~~ me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reasons for a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.M. Miller FD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by CO	1 CASCRU
Lieutenant	to be detailed by CO	1 CASCRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

Dat 6 Feb 45

(Signed personally. RP 105 fn 2.)

(A.B. Connelly) Brig
Commanding "B" Gp, Cdn Fft Units
(Rank.)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPA 80 (In lieu of AFA 3) 40, P & S 1697 (8143)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

R.R. (C.M.) Form 257

I certify that I have this morning examined

No. F.74695 ...SA... Diving... W.E.

of ...H.C.E.R.U.... and in my opinion he

is ~~unfit~~ fit to undergo Trial by Court Martial.

Station. Field.

Date. 8.2.45.

Medical Officer.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of F-44635 Spr William Edward DIGGINS, on strength of No.1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS
for the prosecution MISS VERA GOODRICH, 27 Bridge Street, Leatherhead, Surrey.

A written statement of this witness's evidence purporting to be signed by her has been read to the accused and is included in this Summary of Evidence, and is marked Exhibit "A".

Having regard to the expense involved, attendance of this witness cannot, in my opinion, be readily procured.

Officer detailed to take Summary of Evidence.

The accused does not demand the attendance of this witness for cross examination.

SECOND WITNESS
for the prosecution T/Sgt 243 RICHARD WILSON, Surrey Joint Police Force, Leatherhead.

A written statement of this witness's evidence purporting to be signed by him, has been read to the accused and is included in this Summary of Evidence and is marked Exhibit "B"

Officer detailed to take Summary of Evidence.

The accused does not demand the attendance of this witness for cross examination.

THIRD WITNESS
for the prosecution

Lt. D.L. SEYMOUR of No.1 Canadian Engineer Reinforcement Unit, having been duly sworn, states:

I am Lt. D.L. Seymour, Assistant Legal Officer at No.1 Canadian Engineer Reinforcement Unit. I produce a certificate of surrender persuant to A.A. 163 (1)(j) purporting to be signed by D/Sgt. Mothersill of Leatherhead, relating to the accused, whom I now recognize.

Certificate marked exhibit "C".

Also I produce, a statement purporting to be signed by F-44635 Spr Edward DIGGINS, to whom it relates.

Statement marked exhibit "D"

Also I present a Record of The Declaration of a Court of Inquiry, assembled at No. 17 Canadian General Hospital on the 26 day of October 1944, for the purpose of investigating and recording the absence without leave from his duty, and deficiency, if any, in the Arms, Ammunition, Equipment, Instruments, Regimental Necessaries or Clothing of F-44635 Spr. DIGGINS, W.E.

Declaration of Court Of Inquiry Marked Exhibit "E"

Also I present an expense voucher, purporting to be signed by Lt. J.A. THOMPSON, Administrative Officer, D.P.M.'s Branch, C.M.H.Q., for the cost of apprehension for the sum of three shillings and nine pence, relating to the accused F-44635 Spr DIGGINS, W.E.

Expense voucher marked exhibit "F"

The accused declines to cross examine the witness.

D.L. Seymour Lt

(D.L. SEYMOUR) Lt., RCE

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but, whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

EXHIBIT "A"

SURREY JOINT POLICE FORCE

S.C.7.

Station or Section Leatherhead. Division Leatherhead.

Date 16th. January 1945

SUBJECT MATTER

Name Vera GOODRICH
(In full—Block Letters)

Address 27 Bridge Street. Leatherhead.

Age 22 yrs. Occupation Womens Land Army.

Statement.

"I am a member of the Womens Land Army and employed doing gardening and poultry keeping at Mr John Young's "Chalgrove" St. Nicholas Hill. Leatherhead.

At about 6 pm on Friday 12th January 1945 I went to the chicken house to close up the hens for the night. I counted them to see if they were all in and they were mine. The chicken house door is secured by means of a push catch and a large wooden box placed in front of the door. I saw these were securely in place before I left.

At about 8.45 AM. Saturday January 13th 1945 I again went to the chicken run and found the chickens were already out, but that three were missing. The hen house was open and in a state of disorder, and on the ground around about there was a lot of white feathers. Part of the wire netting fence was on the ground and the trail of feathers led to the fence and to Highlands Road.

I then went to the house and told Mr Young that three hens were missing.

At about 10.30 AM Tuesday 16th January 1945 I was shown the heads of three chickens which appear identical with those stolen from Mr Young's hen house.

(Continued overleaf)

Signature of Person making statement Vera Goodrich

Witness to the above Norman L. Davies P.C. 182.

C.1576—7,000—1/1943.

EXHIBIT "B"

S.C.S.

SURREY JOINT POLICE FORCE

Division Leatherhead.

Station or Section Leatherhead *Date* 15th, January 1945.

C.13926—7,000—7/1/44.

SUBJECT MATTER

Name RICHARD WILSON
(In full—Block Letters)

Address Surrey Joint Police Force, Leatherhead

Age *Occupation* T/Sgt: 243.

States:

About 4-45P.M. on Monday 15th, January 1945 I called at the house 15. Highlands Road,Leatherhead,where I saw the accused in the kitchen, he was wearing civilian clothes.

I told him who I was,and that I had reason to believe that he was an absentee from the Canadian Army.

He replied "I am A.W.L." and "I will clear up the matter Of the chickens","I stole the chickens."

I immediately cautioned the accused,and conveyed him to Leatherhead Police Station.

On arrival at the Police Station accused said "I want you to understand that Mrs Grantham knows nothing about me stealing the Chicken or that I am A.W.L.

I asked accused if he wanted me to take a written statement, He replied "Yes, I will tell you all about it, but I will not tell you where the Chicken went to.

I then again cautioned accused and he made the statement attached and signed it.

I was present at Leatherhead Police at 8-5 P.M. on the 15th, January 1945, when the accused was cautioned and charged by Inspector Russell, He replied "I have told you all about it in the statement.

(Continued overleaf)

Signature of Person making statement Richard Wilson T/Sgt: 243

Witness to the above

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ..... Police in the case of No. .....

who surrendered to the Police at ..... on .....

Payable to .....

CERTIFIED that this statement of expenses is correct.

..... (Superintendent or Officer in charge of Police Station at .....

..... Date of Signature.

Exhibit C.

Army Form O.1617
R.A.F. Form 1617

I CERTIFY that the man whose personal description is given below surrendered himself to* T. Police Sergeant Richard WILSON No.243.

at Leatherhead at (hour) 17.00 hrs on the 15th day of January, 1945 as being No. F.44635.

(Rank and Name) Sapper William Edward DIGGINS

a deserter (or absentee without leave) from 17th General Hospital, Canadian Army.

and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 37 Height 5'10" Feet Inches

Complexion Fresh Hair light brown Eyes Hazel.

Marks Scar right forearm.

In uniform or plain clothes Hospital blue uniform.

Probable Date and Place of Attestation	3rd September, 1939. Stellarton, Nova Scotia.
Probable Date of Desertion or beginning of absence, and from what place	4th October, 1944, from 17th Canadian General Hospital.

Signature of Officer of Police in charge of [signature] Surrey Joint Police Force. Leatherhead Station.

22th January, 1945. Date of Signature.

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Police in the case of

No.

who surrendered to the Police at on

Payable to

CERTIFIED that this statement of expenses is correct.

(Superintendent or Officer in charge of Police Station (at

Date of Signature.

Exhibit C

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART 1.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit,* notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depôt in the case of a soldier and in the case of an airman to the O.C. R.A.F. Depôt, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

*Stations of Units and Depôts are shown in the Monthly Army and Air Force Lists.

[illegible] 655 P.A. Forms/O.1617/2

EXHIBIT "D"

SURREY JOINT POLICE FORCE

Station or Section Leatherhead Division Leatherhead S.C.I.

Date 10th Jan: 1945

Sapper L. 444636

SUBJECT MATTER

Name WILLIAM EDWARD DIGGINS
(In full—Block Letters)

Address 17 Canadian General Hospital, Wokingham

Age 34 years Occupation Serving Soldier

State:—

I have been cautioned that I am not obliged to say anything but whatever I do say will be taken down in writing, and may be given in evidence.

Spr. W. E. Wiggins

I am a soldier serving in the Canadian Army. I enlisted in Nelson County, Nova Scotia, at the outbreak of the present war. I came to Great Britain with the Canadian Infantry in 1939 and remained with the Infantry until 1942 when I transferred to No 1 Tunnelling Company, and later went to No 2 Tunnelling Company. These Tunnelling Companies were stationed at Brickham Surrey & while I was stationed there I made

Signature of Person making statement : Wm E Diggins (Continued overleaf)

Witness to the above Richard Wilson 4/Sgt RE

CONTINUATION.

many friends in the district, among them Mr & Mrs Grantham of 16. Highlands Road, Leatherhead.

On the 4th March 1941. I sailed with my Company for Gibraltar, where I was stationed 21 months.

While serving in Gibraltar I contracted a skin disease, and was in hospital frequently as a result.

I returned to England with my company in December 1943, and have been serving in various parts of England since.

I have spent occasional leave periods with Mrs Grantham at 16 Highlands Road, Leatherhead.

On August 20th 1944. I was given 9 days privilege leave, which I spent at Mrs Granthams, during this leave I was taken ill with Jaundice, and as a result of that I was admitted to 19th General Hospital, Wokingham about the 4th September 1944, where I remained until 4th Oct. 1944, when I left the Hospital on a day pass, and came to Mrs Granthams 16 Highlands Road, Leatherhead. I told Mrs Grantham I was on 14 days leave, and altered my pass to make it appear to be leave from the 4th to 17th October 1944.

I remained at Mrs Granthams for about 4 days and then went to Bishop Auckland, in County Durham I was then A.W.L. and by telling hard luck stories, I got people to

Wm. E. Digance

7V

EXHIBIT "F"

RECORD of the Declaration of a Court of Inquiry assembled at No.17 Cdn.Gen.Hosp. on the 26th day of October 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION

The Court declare that No. F-44635
Spr. Diggins, W.E. No.1 C.E.R.U.
illegally absented himself without leave
at 1900 hrs on the 4th day of October,
that he is still so absent, and that on the 26 October 1944 he was deficient, and
that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
	Vocabulary			75% of Vocabulary	
Jacket Hospital Blue	4	62		3	62
Trousers	3	50		2	63
Jacket Pyjamas	1	79		1	34
Trousers	1	47		1	10
Shirt Calico White	0	84		0	63
Tie Red	0	07		0	05
	12	29		9	37
75%	9	37			

P. Dessier, Capt. President
M.W. Leboldus, Capt. Member
Member

Signed at in the field
this 26th day of October 19 44

Signature of Commanding Officer C.F. Caboury, Colonel, RCAMC.,

Certified true copy H Stallas Major, RCAMC.,
(H.S.Talbot) Registrar
For:- O.C. No.17 Cdn.Gen.Hosp.

N.F.B. 173
A.F.B. 123
(Signature of Officer having custody of original record)

ENTERED PART II ORDERS
DATE 4/11/44 263
No. 1 Can Engineer Training Unit C.A.

EXHIBIT "F".

Expense Voucher Re— Ref: KR & O (Can) 539

Reg No. [illegible] Rank Spr Name Wiggins, VE Unit 176 Fd. Amn. Hosp

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London from Leatherhead

Date	Particulars	Amount		
16 Jan 45	Escorts return fare from LONDON To Leatherhead		2	6
	Prisoners single fare to LONDON From Leatherhead		1	3
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		3	9

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J A Thomson LIEUT.

J. A. THOMSON.
ADMIN. OFFICER—D.P.M's BR
C.M.H.Q.

Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-55
40/P & S/4B1 (6762)

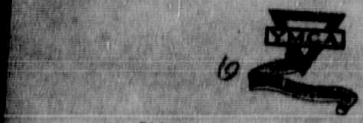
I ~~enlisted~~ joined
I joined the Army the 3rd
of September 1939. in the
Pictou Highlanders. and
left Canada the 22nd of
Dec 1939 for England in
the West nova Scotia Reg.
I volunteered to come over
there. I stayed in chantpanty
until may 15th 1940.
a call came for men
to volunteer for No. 1
Survelling Coy. I volunteered
from the 3rd of September
until may 16. 1940. I had
no crimes. (9 months).
I served all over England
first of all I volunteered
for France. but Dunkirk
happened. then returned
to coast and worked
very hard. I had a
few little crimes. such
such as a day or two
A. W. L.

Company was formed
to go to Egmondston. I
kept getting paraded for
two days to go on that
draft. I finally made
it. I was in Egmondston
almost 2 years. In all
that time there I only
missed 3 hours from
duty. so I had one
crime there. for missing
3 hours work. While I
was in Egm. I had
a letter from Canada
signed a friend. Telling
me my Wife was running
around and not taking
proper care of my child.
I showed this letter
to Capt. Wooster he
tried to help me. I got
no results. We came
back from Egmondston
to England. I rec
another letter. Telling

ing the same. I tried
through my mother to
tell her the truth. I knew
that she didnt want to
hurt my feelings. Being
so far away from home.
We done a lot of hard
work in various places
in England since coming
back from Egypt. While
I was on the rock I broke
out in a skin disease.
I suffered badly with boils
with remedies that
but I stayed until the
company came back.
Then I came back to
England we also worked
on the Iron mines
3 months) I never had
one there. Then the
skin disease was bothering
me, I went to a
Hospital and when I

came back. I was sent
to a the Hoosac tunnel.
I want to stop here,
for I like work. Talking
I worked hard in the coal
mines at home. I have
14 years experience in the
mines. I heard my
old company was going
abroad. I pleaded to
be sent with them. I
was with these boys
so long we were
all like brothers. It
broke my heart to leave
them. I was paraded four
times to find out if I could
go abroad. I never once
asked to go home. I
wanted to see the war
through. My mother was
proud of me. and I didn't
want to go home until
it was all over. Even
with the threats with

my work. I was working
at Chard. they put me on
the parade ground. I was
a good soldier on the parade
ground in the infantry in 1939.
but find working at my
old trade. I slipped a lot.
and besides I am getting
already 210. and I told them
I could do much soldiering
on the parade ground.
and any way I had this
skin disease. It would
bother me. when I went
to parade ground drill
I again asked to go to
Italy, the answer was
no. I went A.W.L.
all I was pleading for
was work. day turned
to down. I really was
desperate. I can back
from Yeadley. while
at Yeadley they took
to K. Calogg from me



PLEASE ADDRESS YOUR REPLY TO

No. Rank Name

Address

Date

and that really broke my heart they gave me 4 Hundred the P. it wasn't necessary to give me that. that nash never stop me from working they gave also H.S. 2. nm. I then knew they had me classed as no good. I hated to tell my mother. for she had great faith in me I pleaded with the S.P.D. on to really ~~stay~~ to leave my Colony but they would not. Then they asked me to take a job on the R.R. I was on it almost 3 months. no runs

I
I went to hospital from this
I sort gave up. no mail from
home. ~~my~~ my wife running
around & no mail from mother
after working so hard they
practically told me I was
no good. I went a. w. o. l
I kept in the hospital I
would be sent home. I
was ashamed to tell my
mother. after all the faith
she had. I am also charge
with stealing chicken. I
can get proof then I never
had a theft charge on
my life. but I did admit
guilt on this charge. I got
the a letter from Canada
telling me my mother
had an operation on her
eyes. it was a failure
she is blind. she is alone
at home. my brother is
in ~~France~~ France

CANADIAN LEGION WAR SERVICES Inc.
CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES
ON ACTIVE SERVICE
CANADIAN Y.M.C.A. OVERSEAS
THE SALVATION ARMY CANADIAN WAR SERVICES

while on the R.P.'s I was
told I would get a furlough
but the Colonel said I was
to be taking of the goo.
on account of my cannos but
I told him every time I was
working I never thought of
cannos. I was happy working
I talked for an hour and I
pleaded with him. He gave
one quick address down.
all I asks for is one chance
to prove my self and gain
my self respect again. and
to have my Catogry put back
A-1. for I [redacted] do want
to go aoroad.

17

I am sure there is a job
I can do overseas. When this
War ends. I dont ~~want~~ want
to be in ~~jail~~ Detention. I
want to do serving my country.
after all I am going on my
Sixth year over here. and
if I was put on a job overseas
and gain my self respect
back. I would feel better
when this War is over, and,
~~and~~ instead of laying in
Detention. you will find
No crimes I did have was
when I was laying around
doing nothing. When I am
working I am more satisfied
with

Statement Continued

to put me up but I brought my own food. I returned to Leatherhead 21st Dec: 1944. and went to Mrs Granthams. I told her I was on leave and that I had lost my Ration card Mrs Grantham believed me and put me up for occassional nights, as I used to go to Sutton and Epsom and Guildford and spent nights there with public house acquantances. I had plenty of money. which I had obtained by selling presents and playing "Craps". I bought all my food from shops and it was unrationed.

On Friday 12th January 1945. I was in Epsom and drinking heavily. I got into company with civilians and drank more than I could handle, I came to Leatherhead between 8 pm and 9 pm and drank a few more pints at The "Kings Head" and then went to Mrs Granthams house, I was very much under the influence of drink, and went into a coal shed in Mrs Granthams Garden and picked up a sack which was in the shed. I never saw Mrs Grantham and went to the garden opposite Mrs Granthams house in Highlands and entered the chicken house there, which was unlocked, I took three chickens and pulled their heads off and put them with the chickens into the sack. I took the sack and chickens away and disposed of the carcase of the birds. I then threw the sack which contained the heads, legs, and giblets into the Cemetery at the foot of Highlands Road.

Continued.

I would like to add that I am alone responsible for the theft of these chickens. I did not sell them, and have obtained no profit from the theft.

In my drunken state I conceived the idea that I would help some people who needed help and played Robin Hood. I therefore accept all responsibility, and will not disclose the names of the poor people to whom I gave the chickens.

I am sorry to have to admit telling lies to Mr. Grantham, she believed me to be on leave Wm E. Diggins

I have read the above statement and it is true. Wm E. Diggins

Richard Wilson
Sgt. 2nd

SELECTION OF PERSONNEL REPORT

To CO No.1 Cdn. Engr. RU. Type of Referral Salvage Report.

1. F-44635 (Regt No.) Spr. (Rank) DIGGINS, W.E. (Name (surname first)) No.1 Cdn. Engr. RU. (Unit)

Total "M"	Sub-tests								Sub-totals		
114	11	14	5	20	18	10	8	28	30	38	46
	1	2	3	4	5	6	7	8	1-3	4-5	6-8

A	English	YOB	P	U	L	H	E	M	S	Date
Form	English or French	08	4	1	1	1	1	2	4	21 Jun 44.
?										
Age	Medical Category									

2. Educational, occupational, military background and other relevant information and appraisal.

On release from detention in June 44 Spr. Diggins was returned to 1 CEMU. The SPO recommendation made at Headley was emplemented and he was employed on R.P. Duties. He was employed satisfactorily for 3 months and then hospitalized. During hospitalization he went A.W.L. His explanation for this is that he was told by a fellow patient that he (Diggins) was slated for return to Canada. Since he did not want to return he went AWL. At present sentenced to detention for AWL and theft. Diggins is rather a peculiar case. He insists on his desire to proceed O/S and is quite bitter over his lowered category. At the same time is erratic and impulsive and would certainly be no asset to a working unit in an operational theatre. He cannot be depended upon but appears to be the type that could return useful service if handled sympathetically. Accustomed in civil life to hard labor, he appears, with the exception of skin disease to be in good shape physically and if retained C/S could be employed usefully on manual labour if it were impressed on him that he was fulfilling a useful purpose. This mans trade is of very little use in a Base Unit RCE and it is doubtful if further useful employment can be found for him in the Corps.

Recommendation: Posting to S.E. Coy on release from detention.

1 C.E.R.U. (Station) 11 Feb 45 (Date) (J.A. Clarkson)-Capt. (SPO)

7/62A CPA 253
40/P & S/2460 (7033)

APPLICATION FOR TRANSFER AND/OR POSTING OF ORs IN THE CANADIAN ARMY

(To be prepared in duplicate)

.....
(Date)

To .....
(OIC 2nd Echelon, OIC Records, etc)

1. Application is hereby made for (Regt No.) ..... (Rank) .....

(Name) ..... (Present Unit) .....

to be posted / transferred to .....

2. I am the above-named soldier and desire this transfer/posting effected for the following reasons: .....

.....

.....

.....
(Signature)

---

3. *Training Officer's Assessment*

Indicate military qualifications, courses taken and grading attained, trades training and present trades qualifications, present employment, etc.

.....
(Date)

.....
(Training Officer)

---

4. *Medical Officer's Assessment & Recommendation, if applicable*

Complete PULHEMS Profile overleaf if established.

.....
(Date)

.....
(Unit Medical Officer)

---

5. This is to certify that the reason for submitting this application is as stated. There is no known disciplinary action pending against the above individual. Certified copy of MFM 6 attached. The above Training Officer's Assessment duly completed. In my opinion this application should be granted for reasons indicated.

.....
(CO)

.....
(Unit)

---

6. *Disposal* For use at OIC 2nd Echelon, OIC Records, HQ CRU, or CMEQ, wherever applicable.

Posted and/or transferred to .....

wef .....

.....

.....
(Date)

SUB FOR ARMY FORM B.-96 (WAR).

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank	Name	~~Regiment (or as the case may be)~~ UNIT
F-44635	Spr.	DIGGINS W.E.	No.1.C.E.R.U.

NOTE:- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entry for drunkenness or absence, as the case may be, should be stated seperately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

Strike out if not applicable.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :--

For..A.W.L. (A.A. 16)(1)..... ....1.... times.

For..A.A.40..... ....1 times.

For..... ~~0~~ .... times.

For..... ..... times.

Date of first entry in Field Conduct Sheet..12 Jun 40.

Date of last entry in Field Conduct Sheet..... 12 Mar 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3. ~~The accused at the present time is under sentence for.)~~.....
~~beginning on the..... day of .....)~~

4. The accused has been awaiting trial on the present charges for.....3.....
days in civil custody; and for.....20.....days in military custody, i.e., ...0.....days in open arrest,.....20.....days in close arrest; of which.....0.....days were spent in hospital.

5. The present age of the accused is.....36.10/12.7/

6. The date of his ~~attestation~~.....is.....3 Sep 39
~~(joining up for military service.)~~

7. The service which the accused is allowed to reckon is .....4 Yrs.....

8. The accused is in possession of.....C.V.S.M. AND CLASP

9. ~~(If the accused is a warrant officer or N.C.O.)~~
The accused has served continuously, without reduction, to the present date - Date of Promotion.

~~In the substantive rank of .....~~
~~If not substantive rank of .....~~
~~In the acting rank of .....~~

*State the military decorations (if any) held by accused.

INSTRUCTION.- If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

EXTRACT OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which held.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court	Punishment remitted or sentence suspended.
R.C.C.M.	16 May 44 Field	A.A. 18(1) A.W.L. from 2359 hrs 12 Mar 44 to 2150 hrs 29 Apr 44 (Absent 47 days 21 hrs 51 mins.)	60 days Det'n	29 days

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 5th day of Feb '45

W.R.P. Bradley Major.
Administration Officer.
No 1 C.R.U.
Canadian Army Overseas.

No. F44653 Name Diggins, W E Sqn., Battery, or Company Corps R C E Date of enlistment 3 Sep 39 G.C. Badges

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. TWO | Signature O.C. Company, etc. | Service or Proficiency Pay | Character

M.F.M. 6
(A.F.R. 122)
40/P & R/156 (262)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	9-8-40	Spr	-	A.T.C. from 2300 hrs 9-8-40 to 0251 hrs 11-8-40 (47 hrs 55 mins) AA.15	Sgt. Nicholas	2 dys pay	12-8-40		
Field	21-10-40	"	-	AWL. 0800 hrs 20-10-40 to 2000 hrs 21-10-40 (37 hrs. 30 min) AA 15 (1)	G.C.M. Schofield	2 dys CB. plus 28 dys pay	27-10-40	Maj. Campbell	
Field	2-10-40	"	✓	Neglect to pref. etc. in that he CPL. failed to report for shift AA. 40	Armstrong	1 dys pay	2-11-40	" Campbell	
Field	23-12-40		-	1 WLAS AWL. 2359 hrs 23-12-40 to 0945 hrs 25-12-40.					
			-	2 AWOL. 2215 hrs 27-12-40 to 1000 hrs 31-12-40 (4 dys 21½ hrs)) A.A. 15(1)	Sgt McKinnon	Forfeit 5 dys pay fined 3 dys pay total 9 days pay	4-1-41	" Campbell	
Field	1-2-41	Spr	-	AWL. 2215 hrs. 1-2-41 to 1000 hrs 2-2-41 (11hrs 45 min.) AA.15	Sgt Porter Sgt MacLeod	Forf 1 dys pay 10 days CB.	3-2-41	Maj North	

1930

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Gibraltar	2[illegible]-1-42	Spr	-	AWL. from Shift duty 1600 hrs to 2130 hrs. (5½ hrs) AA.15	L/C McAsley L/C Caldwell	Dep. 5 days	23-1-42	Maj. North	
Field	8-2-43	Spr	-	AWL. 0200 hrs 8-2-43- to 2330 hrs 8-2-43 (9 hrs 30 min) AA. 15	L/C Connor L/C Artis	7 days C.B. dep. 2 days pay	9-2-43	Maj. White	149 (1) a
Field	18-10-43		-	AWL.from 1600 hrs. 17-10-43 to 1100 hrs 18-10-43 (Total 19 hrs	Sgt Espeletors M. Cpl Fordyce W	2 Dys pay	18-10-43	Col. Morehead	1 days pay
Field	22-11-43	Spr	-	AWL. from 0200 hrs 22 Nov 43 to 1000 hrs 22 Nov 43 (Total) (8 Hrs) AA. 15	CSM Mallette	Forf 1 Days pay	22-10-43	Capt Hrvod	
Field	7-12-43	Spr	-	AWL. from 2300 hrs 27 Nov 43 to 2100 hrs 7 Dec 43 (Absent 9 dys 22 hrs)	CSM Mallette E.J.	Forf 20 days pay	7-12-43	Capt Creel man	Forf 10 dys pay under F.R.&I 149 (1) a
Field	23 Jan 44	Spr	-	A.A. 15 (1) AWL from 2359 hrs 23 Jan 44 to 1600 hrs 30 Jan 44 (Absent 6 days 16 hrs 1 Min.(	Doc.	14 days F.P. Forf. 14 days pay FR&I 149 (1) (b)	1Feb 44	Lt. Gola Rutherford	S. Forf 7 dys pay FR&I 149 (1) (a)

M.F.M. 6
(A.F. B.152)
40/F & S/150 (1945)

No. F 44653 Name Diggins, W E | Sqn., Battery, or Company | Corps R.C.E. | Date of enlistment 3 Sep 39 | Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Granted 3 days remission of sentence wef 11 Feb 44 D.O. No. 37 4/14 Feb 44					
Field	12 Mar 44 Spr	-		A.A. 15(1) A/WL. from 2359 hrs 12 Mar 44 to 2150 hrs 29 Apr 44 (Absent 47 dys 21 hrs 51 mins.)		60 Dys Detn Stoppages to amount of $3-11-6 FR&I 173(8)	16 May 44	F.G.C.M.	Forfts 48 dys pay FR&I 149(1) (a) 60 dys Pay FR&I 149 (1)(b) 17 dys Pay FR&I 149 (1) (c) (1) Tot Forf 125 dys Pay

Certified True Copy of Original Document in my Custody

Lt. R.C.E.

(R. F. Quigley) Major
Officer having Custody of Regimental Books
No 1 Cdn. Engr. Rft. Unit, Canadian Army Overseas.

(F.T.O.)

LIST OF WITNESSES

List of witnesses in the case of F-44635 Spr DIGGINS, W.E. Royal Canadian Engineers, No 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas)

For the Prosecution

Miss Vera	Goodrich	27 Bridge St., Leatherhead.
T/Sgt 243	Richard Wilson	Surrey Joint Police, Leatherhead.
Lt. D L	Seymour	No 1 C.E.R.U.

For the Defence

NIL

LIST OF EXHIBITS

For the Prosecution

(1)	Original statement of Vera Goodrich	Exhibit A
(2)	Original statement of T/Sgt Richard Wilson	Exhibit B
(3)	Certificate of surrender	Exhibit C
(4)	Original statement of Spr William Edward DIGGINS	Exhibit D
(5)	Declaration of Court of Inquiry	Exhibit E
(6)	Expense voucher	Exhibit F

RECEIPT FOR DOCUMENTS

I, F-44635 Spr DIGGINS W.E. Hereby acknowledge receipt of one copy each of the charge sheet, and Summary of Evidence in my case.

Wm. Diggins
F-44635 Spr DIGGINS W.E.

APPLICATION FOR DEFENDING OFFICER

I desire to have Lieut. J D SIDDONDS, if available, to represent me in the event of a Court Martial.

Wm. Diggins
F-44635 Spr DIGGINS, W. E.

Medical Inspection Room
No. 1 C.E.R.U.

IN REPLY PLEASE QUOTE
ERUM-5-4-0-0
14 Feb 45

Commanding Officer,
No. 1 C.E.R.U.

F-44635 Sus. Diggins, W.E.

1. The m/n Sus. was examined by me 14 Feb 45.

2. He was found to still have Psoriasis of a considerable extent. However, I do not feel that it constitutes a disability which would interfere with his performance of military duties. It was noted that the specialist who examined him in May 44 recommended P-3 and this was not concurred in by the Standing Medical Board, who on 21 Jun 44 categorized him P-4.

3. At the time of the above board he was examined by Capt. A.M. Johnson the regional psychiatrist and diagnosed as having Mental Retardation and Psychopathic Personality, Inadequate Type, fit for base duties, and on the strength of this was given Category M-2, S-4. It has been the opinion of his officers that this man's psychic disability is of such a degree that he is unfit for further service. On interview he appeared co-operative and anxious to serve in an operational area. However, I do not feel that this could be recommended in view of his past record, nor do I feel that his present condition cause for down-grading under the S. Any further investigation would require examination by the regional psychiatrist who is resident at Cdn Detn Bks and I feel that this could be advantageously undertaken while serving his sentence.

GRBy hmf
Copy To:
O.C.
Cdn Detn Bks.

(G.R.Bourne) Capt. RCAMC
Medical Officer,
No. 1 C.E.R.U.

RECORD AD 160 4R-6

FIELD GENERAL COURT-MARTIAL

CPA86 (In lieu of APA81) 40/P & S/1698 (6144) 4/38B

Convened by Order of Brig A.B. Connelly Comd "B" Gp, CRU dated 6 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F 44635		William Edward	DIGGINS	1 CERU

PROCEEDINGS REVIEWED
2 MAR 45
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 8 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1020 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) ~~Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.M. Miller ED	HQ CRU
Member	Captain	[illegible]	[illegible]
Member	Lieutenant	[illegible]	[illegible]
~~Judge-Advocate~~			
Prosecutor	Lieut	J.R. Padden	1 CERU
Defending Offr	Lieut	J.S. Waterfield	1 CERU

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (*)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (two) (a) plea .....

..... (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 25(A), 113), or in bar of trial (RP 26), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(*) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : F 44635 Spr William Edward DIGGINS 1 CERU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. 41	Guilty	Guilty	
2nd A.A.15(1)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for: Not beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

2 Years for one charge and 1 year for the other charge to run concurrently

(Sgd) ..... (Sgd) .....

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) Nil

(1. AA 57A. Delete if not used.)

(Sgd) A.H.Conneely Brig

Date 9 Feb 45 Commanding B Comp CERU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
Wm. E. Diggins	10.2.45	V.G. McCallum Capt.

F 44635

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN ORDERS DATE 12 Feb 45 ORDER No. 31 OFFICER i/c RECORDS No. 1 Cdn Engineers Holding Unit, C.A.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3. MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B4 to B6 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission was made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....Do you intend to call witnesses on your behalf? Ans.....Are they witnesses as to character only? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statements, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 43, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans.....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46(C) fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(*1. MFR 355 or MFR 296. 2. MFR 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried concurrently see RP 71 (2)b. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas 80 RSF 1943, MML p 66, 737-739. As to sentences imposed for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3), 98(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

BK-24

Pk. Dujeat, V.G.

gas

MEDICAL CERTIFICATE

I certify that I have this morning examined F.77711 Pte. DIGOUT, V. J. (N.N.S.Highrs), and in my opinion he is fit or unfit to undergo Trial by Court-Martial.

STATION:- In the Field
DATE :- 1 May 1945.

K. A. Campbell Capt

(K. A. Campbell (Capt),
Medical Officer,
North Nova Scotia Highlanders.

gas

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(b).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
F-77711	Pte	-	Vincent George	DIGOUT	Nth NS Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 25 Apr 45 endorsed by me, ~~or by an offr of my staff (or reg)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint as three Offrs to form the Court (b) a Sr Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj (Rank.)	J A Ferguson (Must be named. RP 106.)	HLI of C (Unit.)

MEMBERS.

Capt	S P La Fontaine	SD & G Highrs
Lt (Rank.)	R P Power (Named or detailed. RP 106.)	Nth NS Highrs (Unit.)

WAITING MEMBER.

Lt (Rank.)	W P Gregory (Named or detailed, if any. RP 106.)	HQ 9 C I B (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	R B Bull (Must be named, if any. RP 106.)	3 Cdn Inf Div (Unit.)

On Active Service in the Fd

in Holland (Country.)

Jell Rockingham (Signed personally. RP 105 fn 2.)
(J M Rockingham)

Brig (Rank.)

Date 25 Apr 45

Commanding 9 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFA 98 (In Duplicate) 60-7 A & E/1601 (H1a))

(See overleaf for oaths and notes for use on trial.)

dall

CHARGE SHEET

The accused, No. F77711 Private Vincent George DIGOUT, "D" Company, North Nova Scotia Highlanders, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Section 3(7)
Army Act

WHEN ON ACTIVE SERVICE, MISBEHAVING BEFORE THE ENEMY IN SUCH MANNER AS TO SHOW COWARDICE

in that he

In the Field, on 8 April 1945, during an attack across the canal at Bathmen, Holland, and when under enemy fire, did not proceed into an attack when ordered to do so by his superior officer.

SECOND CHARGE
(Alternative)
Section 9(2)
Army Act

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the Field, at Bathmen, Holland, on 8 April 1945, did not proceed into an attack when ordered to do so by his superior officer.

T.A. Sparks

In the Field
20 April 45.

(F.A. Sparks) Major,
Acting Officer Commanding,
North Nova Scotia Highlanders

To be tried by Field General Court Martial.

Jeff Rockingham

(J.M. Rockingham) Brig
Comd 9 Cdn Inf Bde

In the Field
25 Apr 45

dall

gath

First Witness for the Prosecution

Lt Gordon Douglas Cochrane, 14th H.L.I. Highrs.
16 Pl & Coy, duly sworn, states,

An afternoon 5 Apr 45 I Coy was ordered to attack across a canal at Lathum Holland and then to clear part of the town on the other side. My pl was to lead the attack. After being briefed by my coy comd I briefed my pl. and ordered no 1 sec to cross the canal first and act as fire sec. while the remainder cleared the houses. I recognise the accused. He was a member of my pl at this time in no 1 sec. He was present when I briefed the pl. We moved from our L.U.P down to the S.L which was in a fairly thick wooded 100 yds from the canal. I lined up the pl ready to cross. The accused was to my left and I was on right flank of his sec. Shortly after we moved fwd from across the canal on our left flank. It was harassing fire with odd shots hitting the trees above our heads. They could not see us. On my comds engineers not prepared to move fwd as the sec (he) started crawling fwd I noticed the accused was not keeping up to the rest of the men but was 30 yds behind. I yelled at him to get going and catch up with the rest. He replied "I can't do it, sir!" I told him again to get going and he started to crawl fwd. I then ran around on the left flank of that sec to make sure they were all going fwd. When I came back behind the sec. The accused was again behind the rest of the sec by about 10-15 yds. The sec was nearing the canal but the accused was stopped. He had moved ahead 35-50 yds further than last

time I had told him to move fwd. I was very near the accused at the time and I again told him to catch up to the others as we had to get across. He replied "I can't go fwd any further." He seemed to be very nervous and shaky at the time I was talking to him. The rest of the sec hit the water and then found it was too deep to get across the men swam over but the rest had to return into the woods. Pte Sargent did not go into the water with the sec. The boy was ordered now to return later on to the RAP. There I told him what had happened. I then laid a charge against the accused and sent him to our MO for med inspection. Accused was LOBd the next day and has been LOS ever since.

Cross-exam

Q Did the accused reach the canal bank
A No, he did not.
Q Did he come out of the woods at all
A No, he was not out of the woods but the woods ran almost to the canal bank - within 4 or 5 yds.

By Pte Sargent

Q When did you last see the accused
A The second time I told him to move fwd. He then ran fwd with the rest of the sec after they went into the water and out again I ran back to the accused and he was still in the same spot by a big log. This was two or three minutes later.
Q How far was the accused from the edge of the canal the last time you ordered him

J. a. n

Q Did you notice whether Pte D'gout was acting normal before we opened up.
A I didn't notice him because I was at the edge of the woods watching for the coy comds signal for us to cross and 8.

Order P.T.O. complied with.

Second Witness for the Prosecution

F76552 Pte PERRY V. Nth N.S. Highrs. duly sworn states:

Identified accused

On 6 Oct we were on pl comd 14 told we were supposed to cross a canal We moved fwd 400 yds and waited. Then we were ordered by Lt Cochrane to advance and we moved up to the canal. We went part way across but it was too deep Pte D'gout was not there We came back and next time I saw accused was back where we had been briefed

Cross Exn

Q When did you last see accused
A At the F.U.P. where we were awaiting the order to advance. This was just before our final dash of 50 yds.
Q Do you know of any of his actions after that time
A No. I know nothing of that.

RD & Q

A I was in 1 Sec and so was accused. I last saw accused about 50 feet from edge of canal From there we made a short dash into the canal,
Q You cannot say that accused did not make part of that dash
A No but I do not know
A How long were you in the water

ford.
A Between 15-20 yds
Q I suppose there were other soldiers who were shaky and went ford
A I didn't notice any others who were shaky and went ford.
Q When the sec came out of the water and went back into the woods, how far back did they go in ref to the accused.
A About 5 yds behind him. The accused moved back to join them.
Q When you spoke to the accused the last time what words did you use
A I said "Get going and catch up with the others"
Q And he ran up
A Yes sir he did
Q How was he lying
A On his side facing the canal.
Q Did he ~~know who~~ you tell him who you were?
A He would know who I was. I was the only one giving orders.
Q How long had he been under your command
A Approx two weeks
Q Had you given him orders before.
A Yes I had given him orders before, and he knew me.

By the Pres
Q Was the enemy firing at you before you started to move up
A Yes the harassing fire had been going on before we moved ford. It was firing all the time. ~~Before I left I compelled each~~.

A Not over 5 mins at the most. We then dashed back a little further than where we had started. I did not see the accused in the water when I was in it.

Pres.

Q How many days had you known Mr Cochrane to be your pal and before the Inquest

A I couldn't say exactly - would be at least seven days.

Q Had he been with you long enough so that you could recognize his voice giving an order if you couldn't see him

A I don't think so sir.

Court

Q How far did you crawl before the final dash

A About fifty yards.

R.P.T.B. complied with.

Summing up by Pros Offr

Words were lawful and were given by a superior offr. Therefore when accused did not obey the comd of the pl comd he disobeyed the lawful comd of a superior offr and is guilty of the charge.

The words used were a comd. Different methods of giving comds are used in the fd and his words undoubtedly were a comd to accused to catch up to the rest.

Summing up by Def Offr

A A 7, note 1 - disobedience must be immediate to the comd and actual non-compliance must be proved. Accused did carry out the comd He was slower moving fwd but he did move fwd. - There is no evidence of an actual order What Mr Cochrane said were in the nature of words of encouragement He said 'I yelled to him to get going and to catch up'.

Summing up by J.A.

8 a.m.

(1) Function of J.A - advice on law - facts solely for Ct.

(2) Any expression of opinion on facts to be ignored - a matter for Ct alone.

(3) Discussion of 2nd charge under AA 9(2) and ingredients necessary of proof - reads M ML p 434 & fns. M ML p 17 also read.

(4) Evidence summarized.

(5) Credibility of witnesses - who & what evidence Ct can believe & disbelieve.

(6) Ct must pay particular attention to remarks of Def. Offr.

(7) Presumption of innocence - "golden thread" - burden of proof on prosecution - Guilty beyond a reasonable doubt - Meaning & definition of "reasonable doubt" - business man test.

(8) Ct must try accused on evidence before the Court alone.

(9) Mr. President, are there any further matters upon which you wish me to advise the Ct? Ans No

Mr. Prosecutor, are there any further matters upon which you wish me to advise the Ct. Ans No Sir

Mr. Def. Offr, are there any further matters upon which you wish me to advise the Ct Ans No Sir

Summary of Evidence FULL NAME Lamont George in the case of F 77711 Pte Legout, (V. G.) D Coy, North Nova Scotia Highlanders, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken on oath.

First Witness

Lieut. G. D. Cochrane, D Coy, North Nova Scotia Highlanders, sworn, states -

On the afternoon of 8 Apr 45 D Coy North Nova Scotia Highlanders was ordered to attack across a canal near the town of Zutphen. I'm 16 platoon of which I was the platoon commander was to make the initial crossing. I briefed my platoon prior to the attack and ordered No 1 section of which Pte Legout was a member to go across first and become fire section. We moved to a wood on the near side of the canal awaiting the company commander's orders to go across. At 4 hr I told No 1 section to start moving. I noticed that Pte Legout who was immediately to my left was not moving with the rest of the section. I told him to get going and he replied "I can't do it, sir." I told him again to crawl along with the rest of the section he started to do so. I moved then to the left of the section to straighten out the line before entering the water. At the time there was enemy M G fire from the right flank coming in our general direction. After straightening the line I crawled to the right flank of the section and noticed Pte Legout some distance behind the rest of the men. Again told him to move on and keep up

with the rest and he replied "I just can't go across". Shortly after he again crawled forward toward the canal bank behind the rest of the section but he stopped before reaching the bank and did not enter the water with the rest of the men. The water was too deep for us to wade so our coy commander ordered us back. Pte Dagout remained in the wood when the section tried to assault across the canal. We moved back finally to our starting point. I informed the company commander of Pte Dagouts actions and he told me to put him on charge and R.O.B. him at the first opportunity. After some time we crossed the canal in another place behind A Coy. We took up a defensive position for the night. The next day we moved to a new locality and I informed Pte Dagout that he would be up on charge and I sent him back to our rear coy HQ where he has remained ever since. The night of the attack I sent Pte Dagout to the M.O. to be examined I saw the M.O. the next day and he told me Pte Dagout should see a psychiatrist. I got the particulars of his case history and turned them in to the M.O. two days later.

G.H. Cochrane Lt

The accused declines to cross-examine this witness

Second Witness #96552 Pte Perry, V. O Coy. North Nova Scotia Highlanders, sworn, states: On ~~the~~ an afternoon somewhere between 7 and 14 days ~~ago~~ Mr Cochrane ~~was~~ briefed the platoon for an attack across

a canal in Holland. Cpl Rose was my section leader at the time and Pte Degout was a member of the section. After the platoon briefing we moved up to a woods some 200 yds away and waited for the order to attack. I can't say whether or not Pte Degout moved off towards the bank with us. I know he was in the wood with us. All I can say is that he wasn't in the water at the time that I was in. I remember the boys who were in the water and Pte Degout wasn't one of them. The next time I saw him was at the creamery where we had been briefed. I didn't see him after we left the creamery. Pers V

The accused declines to cross-examine this witness.

The accused was cautioned as follows:-
Q Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be used in evidence.
A. I wish to give evidence on oath.
The accused, sworn, states:-
Just before the attack something seemed to tell me I just couldn't cross the canal. I was shaking all over so I stayed behind the section. When Mr Cochrane told me to go with the section I tried but just couldn't bring myself to cross the canal with

them. vs Dizzi
The accused does not call any witnesses.
Rules of procedure 4(c), (d), (e), (f) and (g)
have been complied with.
I certify that the foregoing summary
of evidence, consisting of four pages was
taken down in writing, by me, in the
presence of the accused on this 19th
day of April, 1945.

In the Field
19 April 45

Ethelstein Capt
Offr Taking Summary.

Summary of Evidence in the case of F77711 Pte Vincent George Digout, "D" Company, North Nova Scotia Highlanders, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for the Prosecution Lieut G.D. Cochrane, "D" Coy, North Nova Scotia Highlanders, sworn, states:

On the afternoon of 8 Apr 45 "D" Coy, North Nova Scotia Highlanders, was ordered to attack across a canal near the town of Bathmen. No 16 Platoon, of which I was platoon commander, was to make the initial crossing. I briefed my platoon prior to the attack and ordered No 1 section, of which Pte Digout was a member, to go across first and become fire section. We moved to a wood on the near side of the canal awaiting the company commander's orders to go across. At H hour I told No 1 Section to start moving. I noticed that Pte Digout who was immediately to my left, was not moving with the rest of the section. I told him to get going and he replied " I can't do it, sir." I told him again to crawl along with the rest of the section. He started to do so. I moved then to the left of the section to straighten out the line before entering the water. At the time there was enemy M.G. fire from the right flank coming in our general direction. After straightening out the line I ran around to the right flank of the section and noticed Pte Digout some distance behind the rest of the men. I again told him to move on and keep up with the rest and he replied, "I just can't go across." Shortly after he again crawled forward toward the canal bank behind the rest of the section but he stopped before reaching the bank and did not enter the water with the rest of the men. The water was too deep for us to wade so our coy commander ordered us back. Pte Digout remained in the wood when the section tried to assault across the canal. We moved back finally to our starting point. I informed the company commander of Pte Digout's actions and he told me to put him on charge and L.O.B. him at the first opportunity. After some time we crossed the canal in another place behind "A" Company. We took up a defensive for the night. The next day we moved to a new locality and I informed Pte Digout that he would be up on charge and I sent him back to our rear Coy HQ where he has remained ever since. The night of the attack I sent Pte Digout to the M.O. to be examined. I saw the M.O. the next day and he told me Pte Digout should see a Psychiatrist. I got the particulars of his case history and turned them in to the M.O. two days later.

(Sgd) G.D. Cochrane, Lieut.

The accused declines to cross-examine this witness.

Second Witness for the Prosecution F96352 Pte Perry, V., "D" Coy, North Nova Scotia Highlanders, sworn, states:

On an afternoon somewhere between 7 and 14 days ago, Mr. Cochrane briefed the platoon for an attack across a canal in Holland. Cpl Ross was my section leader at the time and Pte Digout was a member of the section. After the platoon briefing we moved up to a woods some 400 yards away and waited for the order to attack. I can't say whether or not Pte Digout moved off towards the bank with us. I know he was in the wood with us. All I can say is that he wasn't in the water at the time that I was in. I remember the boys who were in the water and Pte Digout wasn't one of them. The next time I saw him was at the creamery where we had been briefed. I didn't see him after we left the creamery.

(Sgd) V. Perry

The accused declines to cross-examine this witness.

...../2

3 a.fh

The accused was cautioned as follows:-

Q. Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be used in evidence.

A. I wish to give evidence on oath.

The accused, sworn, states:

Just before the attack something seemed to tell me I just couldn't cross the canal. I was shaking all over so I stayed behind the section. When Mr. Cochrane told me to go with the section I tried but just couldn't bring myself to cross the canal with them.

(Sgd) V.G. Digout.

The accused does not call any witnesses.

Rules of procedure 4 (c), (d), (e), (f) and (g) have been complied with.

I certify that the foregoing summary of evidence, consisting of four pages, was taken down in writing, by me, in the presence of the accused on this 19th day of April, 1945.

In the Field
19 April 45

(Sgd) C. Hutchins, Capt.
Officer Taking Summary

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F 77711 Pte Vincent George Argoust Nfld. Nfld. Highrs

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st S (7)	Not guilty	Not guilty	
2nd Y (2)	Not guilty	Not guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1) 2a ff

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial: a total of (days, of which days were spent in hospital.~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

~~Sentence Awarded by the Court~~:

(Sgd) E R Bruce Capt — Judge-Advocate, if any. 1 May 45 — Date awarded. (Sgd) J. A. Ferguson Maj — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be entered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally, AA 172 fn 1.)

~~My decision on the finding(s) and sentence set forth in Part I is~~

Noted

~~I direct that the accused be not committed to prison or detention barracks until further orders~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) Jal Rockingham.

(J M Rockingham) Brig

Date 1 May 45 — Commanding Board 9 Cdn Inf Bde — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED AT CHQHN AD 180. 5 R 24

DEPUTY JUDGE ADVOCATE GENERAL

HELD GENERAL COURT-MARTIAL

CPA86 (In Header "PART" 40/P & B/1860 (6144) A/388

Convened by Order of Brig J M Rockingham Comd 9 Cdn Inf Bde dated 25 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F 77711	Pte		Vincent George	Argoust	Nfld. Nfld. Highrs

PROCEEDINGS REVIEWED
1 June 45
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Germany on (date(s)) 1 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 3/13

A1. The President, Members, waiting Member, JA, if any, ~~and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for paths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 561(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to as interpreter? Ans~~

~~The Interpreter is sworn.~~(1) ~~Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, ~~and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	J A Ferguson	H L I of C
Member	Capt	W P La Fontaine	1 D.S.O. Highrs
Member	Lt	W P Gregory	Nfld. 9 Cdn Inf Bde
Judge-Advocate	Capt	C R Bull	Edmonton Alta
Prosecutor	Lt	G W McAllister	Nfld. Nfld. Highrs
Defending Offr	Lt	G H Paul	Nfld. Nfld. Highrs

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 81 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused F 77711 Pte Vincent George Argoust before arraignment makes (no) (a) plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A2 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

* D1 & 2 Forms were not available due to operational commitments and the waiting member took his place.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be dealt see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87,*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 25 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (C).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (any) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the two charge(s).(2) The Court is re-opened, and the President announces that the submission is disallowed on the second charge(s), and allowed on the first charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(3)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. neither. Do you intend to call witnesses on your behalf ?
Ans. No. ~~Are they witnesses as to character only ? Ans.....~~
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf A95. Evidence for accused as to his character should, if of no interest, be given before the finding. See RP 46(A) fn 1, 84(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later, and~~
or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)
(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses cannot be sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(*1. MFB 255 or MFB 294. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and the provisos, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 42. As to sentences see AA 44, 138, 142, RP 46-50, 69, 118, 179(B), KR Con 208, DRE 563-566, Overseas RD 309, 1323, MML p 661, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

5R-128

Tpl. Dillsburgh, P.A.

MESSAGE FORM

QVR 2

041450A

CIPHER

From: CANMILITRY
To: CANFOR (EXFOR REAR)
Info: HQ FIRST CDN ARMY

A 9859 RESTRICTED

FGCM PROCEEDINGS B110127 TPR DILLABOUGH RW SERIAL 2684/1
ENDORSED BY MGA 4 AUG 45 QUOTE I CONFIRM THE FINDINGS AND I
COMMUTE THE SENTENCE SO THAT IT SHALL READ QUOTE TO BE IMPRISONED
WITH HARD LABOUR FOR TWO YEARS UNQUOTE AND I CONFIRM THE SENTENCE
AS SO COMMUTED UNQUOTE
WDDN/CIPHER

No. B110427 Name DILLABOUGH H.F. Regt., Battery, or Company Corps CAC Date of enlistment 1 Mar 42 Badges

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra duty | Sheet No | Signature OC Company, etc | Service or Proficiency Pay | Character

3/17 MFM 6 (AFP 122) en/F&R/538 (5412)

Place	Date of offence	Rank	Cause of documentation	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Tpr		AA 9(2) and AA 8(2)		14 days FP & 2 Oct44 14 days FP 2 Oct44 139(1)(b)			

Duplicate created from MFM 6 2 Apr 45. Record of conduct in Canada prior to 203 Cdn Army (Overseas) 12 Dec 42 not available.

"HM PRESIDIO" Dept Officer in Records C Cdn Sec 2 Feb MC 21 A Gp

Certified true copy of original MFM 6 in my custody

(H A Cooke) Capt & Adjt

Army Form B 296 (War)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martials only)

Number	Rank	Name	Regiment (or as the case may be)
B110427	Pte	DYLLABOUGH Rw	HQ 2 Cdn Armd Bde CAC

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court-martial or a civil court:-

For 9(2)	1	1 times
For 8(2)	1	1 times
For		times
For		times

Date of first entry in Field Conduct Sheet 2 Oct 44

Date of last entry in Field Conduct Sheet ----

2. ~~Previous convictions of the accused by a Court-Martial or a civil court are set out in the Schedule overleaf.~~ Nil

3. The accused at the present time is under sentence for NIL beginning on the N/A day of N/A.

4. The accused has been awaiting trial on the present charges for ---- days in civil custody and for ---- days in military custody, i.e. ---- days in Open Arrest ---- days in Close Arrest, of which ---- days were spent in hospital.

5. The present age of the accused is 22 years 9 months 26.

6. The date of his Attestation is 13 Mar 42.

7. The service which the accused is allowed to reckon ----.

8. The accused is in possession of C/S M with Clasp.

9. (If the accused is a warrant officer or NCO). The accused has served continuously without reduction, to the present date:-

	Date of Promotion
In the substansive rank of ////	
In the war substansive rank of ////	
In the acting rank of ////	

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT OF SUMMARY JURISDICTION UNDER KING'S REG 47 AA AND OF CASES IN WHICH TRIAL HAS BEEN DISPENSED WITH OF ACCUSED

No record of convictions by Court Martial or Civil Court on NFN 6

I hereby certify that the foregoing particulars which have been extracted from the regimental books in my custody are correct to the best of my knowledge and belief

Signed this day of Jun 45

(RA Cooke) Capt & Adjt
Officer in Regimental Books
i/c Cdn Disciplinary Records

Ex.1 Accused gives evidence on oath for character

The accused is sworn

I am 22 years old. I enlisted on 13th March 42 at Kirkland Lake Ont coming overseas Dec 18th 42. I arrived in France on D Day with Sherbrook Fus. I served with them continuously until Nov 28th. The unit was them at Breda when I was wounded in the head. I went back to the unit on 6 jan 45. I served with the unit until 12 March 45. We got as far as Wessel on the Rhine. I am willing to continue in the army. I have not had a chance as yet to volunteer. If I can I should like to go to the South Pacific. The reason that I went A.W.L. was that my nerves were getting bad and my eyes bleery.

R P 83 (b) complied with.

Plea in Mitigation Ex "E" "GBC"

The Court has found the accused guilty of two offences, but justice involves also mercy for a boy whose nerves got the better of him after a long long period of service under fire. Remember that he landed on D-day on the beaches of Normandy and that he served continuously while his unit - the Sherbrooke Fusiliers, fought its way accross France and Belgium and into Holland. Near Breda his service was broken, but in the most honourable way possible. He was taken to hospital with wounds in the head. When able to return to his unit he did so, and fought with the unit to the banks of the Rhine at Wessel. His unit had been withdrawn for regrouping at the time he went absent. Please remember thathe has only public school education, that he dnlisted at 19, that his conduct sheet is good up to now in spite of three years service. He has told us of his head wounds, of his nerves cracking under shell fire, and of his eyes getting blurred. Under these conditio he "beat it" to get away from all this. While AWL he was rather unfortunately handled by three English soldiers, and committed a second offence. It may have been the head wounds, maybe, just battle nerves.
He wants to volunteer for the far east force, but has not had a chance yet to do so. He realized the errors he has committed hopes to redeem himself as a soldier, and get back to the Sherman Tanks with which he served so long and well.

"D B MacKenzie" Capt

PART II ORDER EXTRACT FORM

TO: DISCIPLINE & PAY SECTION 99/20/HQ 2 CAB/1(A51)

2 Apr 1945

EXTRACTS FROM: UNIT HQ 2 CDN ARMOURED BRIGADE

Part II Order No 13 dated 31 Mar 45

INCR "A"

18 ABSENT WITHOUT LEAVE

(a) AWL from 2230 hrs 12 Mar 45 Still absent 2230 hrs 20 Mar 45 (8t
B110127 Tpr DILLABOUGH R W day)

Certified to be a true extract from the regimental books and documents in my custody.

"M FERRELON" Capt
Officer IC Records "C"
Cdn Sec 2 Mch HQ 21 A Gp

Certified true copy of Exhibit "A"

M Ferrelon Capt

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT SECTION 163 (1)(

I certify that No B110127 Rank Tpr Name Dillabough R W
of 2nd Cdn Armoured Brigade HQ (Unit) was arrested at Antwerp (place)
at 0100 hours on 31st May 1945 (date). He was dressed in uniform.

Date May 31st 45

"SIGNATURE" Capt
OC 73 Coy CMP (FC)

Certified true copy of Exhibit "B"

M. Rousseau Capt

"GBC"

Case of B110127 Tpr Dillabough, R W F

Summing up of Judge Advocate

Intent - Archbold p. 936

Alternative finding of wounding MML p 135 - Archbold p 1499

Intent - Arch. p. 936

Malice - Arch. p. 935

Wound - Arch. p. 935

Grievous bodily harm Arch 937

Self Defence - Arch. p. 931

Provocation -

Onus of proof - Benefit of reasonable doubt to accused. Reasonable doubt defined. Circumstantial evidence Ref MML p 80 para 42. Drunkenness as defence Ref MML p 106 para 9 Archbold p. 17 & 18.

"R P Milligan" Capt

J A

Remarks by J A on submission of Def Officer D 4 of Proceedings.

Court does not now decide innocence or guilt. Only questions for court is: Is there any evidence which points to guilt of accused on which court may (not necessarily will) find accused guilty of charge. If there is such evidence then court should disallow submission. If court decides there is no such evidence then court should allow submission and find accused not guilty of that charge.

"R P Milligan" Capt

J A

"GBC"

Pros Summing up

1st Charge - Facts proven by documentary evidence.

2nd Charge - No attempt to site law as JA will do this. Facts disclose that acc & 2 men Tawton & Titley were outside cafe. That Acc struck Tawton in area of lower part of body. Tawton felt pain but thought it was merely caused by blow - tried to run and on feeling his groin found his scrotum cut & bleeding. Only answer is that acc must have caused it. Medical evidence sets out that it was a bad wound. Even though acc may have been brought out of cafe by illegal force, his action can't be considered as justified as it was apparent far more force was used by him than would have b en required to repel Tawton & Titley. Why did he run away. Support accused by his failure to return to cafe after this incident indicates guilty knowledge. The accused is in my opinion guilty of this charge.

Submission by Defending Officer

1. With respect to the first charge no submission is being made.

2. With respect to the second charge it is submitted that the accused was so drunk as to be unable to have the intention necessary for the offence charged. The prosecution witnesses establish that he had been drinking, and he has himself swornboth as to the drinking and the "black-out" condition which resulted.

3. It is also submitted that there was great provocation for an assault. The accused was paying a visit to a woman he knew, in her bedroom which he had visited before. He was causing her no concern and she had not asked him to go. Three English soldiers ejected him by what I submit was an unlawful act of violence. Not much force was used but it was available if the accused resisted too much. They took his weapon from him, took him outside, and then proceeded to take him someplace else. Then he did resist, possibly with unnecessary means, but he undoubtedly had the right to resist. They were two - formerly three - to one against him. In the scuffle, a soldier was hurt, we're not sure how. If the accused had not been in a stupor, we might today have discovered that it was self-defence. Whether it was self-defence or not, the provocation of the unlawful abduction certainly exists.

4. If the accused is found guilty of an offence, it should be one much less serious that that alleged in the charge sheet.

"D B MacKenzie" Capt

Pros states that his case is complete "GBC"

Def: Submits that prima facie case in the second charge has not been made.

Pros states that Dvr Tawton states that he was wounded and that a case has been made out.

Submission dis-allowed

The accused elects to give evidence on oath, sworn, states:

"I spent most of my time while AWL around the Cafe Molenstun, Edegern. I stayed there over night. I stayed nearly every night there. I stayed in a small room downstairs. I had some equipment there, including battle dress, shaving kit, socks, and a rifle. My shaving kit was left in the wash room and rifle and clothing in the small room where I slept. Julia was my special friend at the cafe. I was upstairs 5 or 6 times as I sometimes slept up there with Julia. I remember Sunday 27th May 45. I remember drinking in Cafes and I went to the Cafe Molenstun at about 1100 hrs. I don't remember having but I remember being in another cafe drinking at about 1900 or 2000 hrs. I am not certain if I saw Julia that day but think that I saw that her that morning. I remember that someone had told me during the afternoon that she was sick in bed. The last thing that I remember that day was drinking in a Cafe across the street from the Cafe Molenstun.

By Pros

Julias Mother did not object to me being there and no one else seemed to object. Sometimes I paid for my board. Sometimes I paid 100 francs. I cant say how much I money I spent while AWL. I had 3000 frs when I went AWL. It was drawn from my paybook, in December. I went AWL from someplace on the border of Germany and Holland. The unit was not in action at the time. I had saved up my money. The paymaster paid me 2000 francs and sometimes 1000. I only paid Julia about twice. I dont think that I hit Dvr Tawton. If I had hit him I would have hit him with my hands. I dont know how I got the cut on my thumb. I carry a small knife in a leather case. I also carried a nail file. I did not carry a razor. As far as I could see it was just a skin cut on my right thumb but there was some blood on my hands. I don't think that it was there the night before. I dont know where I spent the night but I woke up in a park in Antwerp. I did not return to Julias that day nor since I was in Antwerp. I shaved in a barber shop. I stayed in the Max Hotel. paying 35 frs. I ate in the Y.M.C.A. I don't think that I was afraid to go back to Julia's.

By A.D.J.A.

I don't remember being taken out of the cafe. I didn't remember anything until the following morning when I woke at 0600 hrs inst., as it was raining.

By Court

I don't remember Tawton at all. I don't remember how much I had to drink that day but I had been drinking pretty steady. I spent my money in other cafes because I just liked to go around talking to people.

R.P. 81 B complied with. "GBC"

Pros sums up

See page 13th

Def Sums up

See page 14.

Fourth Witness Julia Elisabeth Anthoni, sworn, states:

I recognise Ronny. (The accused is identified). I recall 27th May 45. I was sick in bed that day. I saw the accused at 2245 hours that day. I saw him in my room. He was sitting on the side of my bed. He spoke to me. I did not speak to him. Three or four English soldiers took him away. I dont know why they took him away. I did not ask them to take him away. I saw the English soldiers again when one of the soldiers was wounded. I saw them when they brought the wounded soldier upstairs. I did not see the wound. The wounded soldier was in my room. I could see that he was wounded. A doctor came. his name is Dr VOUGHT. I did not see what he did. I dont know the wounded sddiers name nor had I seen him before.

By Def

The accused called me Julia and I call him Ronny. He came into the Cafe many many times. He did not have his rifle there most of the time. He did not stay in the rooms over the cafe at night. Only sometimes when he was drunk he slept on the sofa or chair. The sofa is in the little room downstairs. There is none of his kit or clothing at the cafe. He came after during the daytime. He did not tell me why he was not at work. He was only a customer the same as the other ones. It did not bother me when he came into my room that night. It did not bother the child either. I don't know if he had his arm around me, he was sitting quietly on the bed. He had been drinking. I did not ask him to leave. He did not object to leaving but asked why.

By Court

The accused had not been up to my room before. No one, other than the soldiers, asked him to leave. He was only in my room one minute. I did not invite the accused into my room. I don't know why he was in my room he just walked in. He asked me if I was sick. I cannot think of any reason why he would ask if I was sick.

R P 81 B complied with "GBC"

Fifth Witness Dr Fr. De VOOGT, sworn, states,

"I hold the degree of Medical Doctor. I got in in Lauvain University in 1938. I practice medicine now. I recall the 27 May 45. I was called to Molenstuns Cafe at about 2245 hrs or a little later, more like midnight. I saw soldiers and the mother and the last witness. A soldier and a civilian called me to go over. I saw soldiers in the cafe and one upstairs He was injured in a bed. I examined him. He was wounded in the scrotum 10 centemeters long and one centemeter deep. I closed the wound by using clips and used an antiseptic. I dont know if the wound was one minute or one hour old. It was a cut wound. His clothes were all torn in the place of the wound. I have seen that soldier today I dont know his name. I think it was caused by a knife or could be caused by a piece of glass.

By A D J A

A nerve might have been touched and an artery. I could not examine him very closely. So I could not say if it was a serious wound.

R P 81 B complied with "GBC"

and while Sgt Chapman and I were inspecting the rifle Dvr Titley re-entered the Cafe supporting Dvr Tawnton who was bleeding badly from between the legs. He was taken upstairs and I went outside the cafe to look for the accused: After having been away some 20 minutes I returned to the cafe and found that Dvr Tawton was being attended to and I returned to billets. There was no conversation while I was in the bedroom by the accused or the woman. The woman is the daughter of the Cafe owner. She is here today.

Cross Examination by Def

I do not know if the accused was drinking. I went to the cafe at 2000 hrs. I had about 3 half pint glasses of Belgian beer. As far as I could see the woman was not objecting to the accused having his arm around her. The child was not crying or showing distress. I do not know who owned the rifle I assumed that the rifle belonged to the accused that was the reason I removed it. The accused did not show any signes of drunkenness. I did not give him his rifle when he went outside the cafe because I did not take him outside the cafe. I was the senior soldier present. I did not take charge because the accused was removed from the Cafe and showed no resistance whatever and there was no damage or further trouble so I did not have to take charge. I did not give the soldier his rifle because I had not examined his rifle. We did not Hi-jack the accused out of the cafe.

By Court

I did not go outside the cafe. The rifle along with the trousers and jacket were handed to the C.M.P.

R.P. 83 (B) complaid with "GBC"

Third Witness 288820 Sgt Chapman J.W., sworn, states:

I recall the 27th May 45. I recognize the accused. At 2230 hours I was in the Cafe Molenstun in Edegem. I went into the Cafe with some men of our unit, and there were several in the Cafe at the time. Dvr Titley and Dvr Tauton went upstairs and came down again with a Canadian Soldier the accused. Sgt Thurwood came down after with a rifle. I saw the accused outside the Cafe when I looked out the door. That was the last time that I saw the accused. Dvr Titley and Dvr Tawton came back into the cafe. As Tawton put his hand to the door at the back of the Cafe I noticed that there was blood on his hand. I followed him upstairs and laid Tawton on the bed. I removed his trousers and found that he had been stabbed in the right side of the scrotum. The wound was about 2½ to 3 inches long. The wound was on the side starting at the top and crossing the bottom towards the left. A civilian Doctor was sent for. I don't know his name. It was dark outside but light from the door lit up the pavement in immediate vicinity. I did not speak to the accused.

By Def

We kept the rifle because we thought that there might be some trouble. When you see a chap being taken out of a Cafe you don't want any arms around. The accused did not look as if he would cause trouble. I did not know that he had been living in that Cafe off and on. He walked out of the cafe quite readily enough. I only saw the three together outside talking. I did not see any fight.

By Court

They were upstairs about 3 minutes. They were outside about 2 or 3 minutes. I did not see any fight going on, they were only talking.

R P 83 B complied with. "GBC"

B 110127 Tpr Dillabough R.W. "GBC"

Court Sworn

Interpreter Sworn

Pros presents Part II Extract showing AWL from 2230 hrs 12 March Exhibit "A"

Certificate of Arrest showing arrest at 0100 31 May 45 marked Exhibit "B"

First Witness 262453 Dvr Tawton A.E., sworn, states:

"I recall Sunday evening 27th March 45. I was in a Cafe in Edegern with Dvr Titley. That evening we went to this Cafe and went up to a room in which the accused was. (Accused identified). The room was upstairs in the Cafe. I saw a women in bed and a child. The accused was sitting on the bed. Dvr Titley and Sgt Thumwood was in the room with me. We Titley and I asked the accused to leave and he refused. We asked him again and he refused again. We then took him, one on either side, outside. After we got him outside we asked him to leave the vicinity of the cafe and he refused. We started walking away with him. We had him by the arms. We broke free and turned to face us. I thought he spoke but am not sure and then I felt a blow in the lower part of my body. The accused turned and ran away. I saw his hand come towards me. I started to run after him and had to stop because of the pain. I put my hands to my groin and felt a wound to the right of the scrotum. I then turned and walked back towards the cafe. I was helped upstairs by Dvr Titley and there laid on a couch, awaiting the doctor. The doctor then came and dressed my wound. I never carry a knife. There is none in my pocket. I did not see a knife in the hands of the accused.

Cross Examination by Def

I would say that the accused was drinking I had two glasses of beer, along with Titley. I had never seen him in that room where I found the accused before.

By A D J A

There were only three of us together outside. Titley was alongside of me. No one else was close enough to strike a blow.

By Court

I had never seen the accused before. It was 2245 hours and dark. When we were taking the accused down stairs he hung back but then went on as if he was going to go along willingly. There was no fight or scuffle prior to the time we went outside. I was in Hosp 34 days. The wound is still open about ¼ in. I was discharged yesterday at 1400 hrs. I was wounded in the scrotum on the right side.

R P 83 (b) complied with "GBC"

Second Witness T/6009991 Sgt Thumwood O, sworn, states:

Accused identified, I recall the evening of 27 May 45, when I was in a cafe in Edegen from 2000 hrs, for the rest of the evening. About 2230 hours Sgt Chapman and Dvr Tawnton Dvr Titley and one or two other men, soldiers came into the cafe. There were two women in the cafe. The woman and hyr daughter. As a result of a conversation I, Dvr Taunton, Dvr Titley went upstairs to a bedroom, where I found, sitting on a bed, the accused. In the bed was a woman and a young child. His right arm was around the woman and close to his left hand was a rifle. I removed the rifle and was followed downstairs by Dvr's Tawnton and Titley with the accused. The accused was taken outside the Cafe by the

CHARGE SHEET "GBC"

The accused, H-110127 Tpr Ronald Waldren WILLAMSON, No 2 Cdn Armoured Brigade, attached to 1 Cdn Pipeline Centre, a soldier of the Canadian Army Overseas, is charged with:-

CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 2230 hrs 12 Mar 45 until apprehended in ANTWERP, Belgium at 0100 hrs 31 May 45.

(Total absence: 79 days 2 hrs 30 minutes)

SECOND CHARGE
Sec 24
Army Act

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, MURDERING WITH INTENT CONTRARY TO SECTION 12 OF THE OFFENCES AGAINST THE PERSON ACT, 1861

in that he

in the Field, at approximately 2245 hrs 27 May 45 murdered 0620453 Driver Thomas A E, 404 Coy Army Troops Amt, RASC, with intent to do him grievous bodily harm.

In the Field
29 Jun 45

(W S Wadmond) Lt Col
Commanding
1 Cdn Pipeline Centre

To be tried by Field General Court-Martial

In the Field
26 JUN 45

"J S Lind"
(J S H LIND) Brigadier
Commanding
3 Cdn Base Sub Ap

"GBC"

CFA 95 (In lieu of AFAS 40/Pam/1697 (2nd))

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B110127	Tpr	Ronald Waldren	DILLABOUGH	HQ 2 Armd Bde att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 26 JUN 45 endorsed by me, (~~are~~) To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ([redacted])

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

[redacted]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	GBH	COX (Must be named. RP 106.)	CAC	Cdn C M Centre (Unit.)

MEMBERS.

Capt	GT	CLARK	RCA	Cdn C M Centre
Capt (Rank.)	PE	DOWLER (Named or detailed. RP 106.)		Cdn C M Centre (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)		(Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	EP	Milligan (Must be named, if any. RP 106.)	ADJ A, HQ 2 CBEG	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 26 JUN 45

"J S Lind" (Signed personally. RP 105 fn 2.)
(J S H LIND)
Commanding 3 Cdn Base Rft Gp Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE (A7(Can) Para 557)

I certify that I have this day examined B110127

Tpr DILLABOUGH R W and in my opinion he is Fit/~~Unfit~~ to undergo

trial by Court Martial.

Station Field

Date 2 - 7 - 45

"A A Toms" Capt (Sgd)
Medical Officer

1 Cdn Disciplinary Centre
Unit

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B 110127 Tpr Ronald Waldren DILLABOUGH HQ 2 Armd Bde att 1 Cdn Discipline Centre

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15 (1)	Not Guilty	Guilty	
2nd	AA 41	Not Guilty	Not Guilty	But Guilty of wounding contrary to sec 20 of the offences against the person act 1861.
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 713, and in loss of kit see RP 44 fn 6.)

As ~~at present under sentence for~~ ..... beginning on (date) ..... (1) GBC

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To suffer penal servitude for a period of three years

(Sgd) ..... Judge-Advocate, if any. Date awarded: **2 JUL 45** (Sgd): **"George BH Cox" Major** President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation. "JSL"

Date **5 JUL 45** (Sgd) **"J S Lind"** Commanding **3 CDN BASE RPT GP**
(J S H Lind) Brigadier

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(2). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Queashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the findings and I commute the sentence so that it shall read to be imprisoned with hard labour for two years and I confirm the sentence as so commuted.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (*)
(*. AA 57A. Delete if not used.)

(Sgd) "E D Mutch" Major Gen
Date 4 Aug 45 Commanding ~~Canadian Reinforcement Units~~ Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B110127 Tpr Dillabough Ronald Waldren	17 Aug 45	"WD Cain" Major Commandant 1 Can Det Y Pen Camp. On Per Camps.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

5 R-128

FIELD GENERAL COURT-MARTIAL

CPASH (In lieu of AFA31) 40/P & S/1608 (40701) 4/38B

Convened by Order of **Brig JSH Lind DSO** Comd **3 CBRG** dated **26 JUN 45**

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B110127	Tpr	Ronald Waldren	DILLABOUGH	HQ 2 Armd Bde att 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) **BELGIUM** on (*date*) **2 JUL 45**

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 36/129

A1. The President, Members, ~~waiting Member,~~ JA, if any, ~~and Offrs under instr,~~ if any, assemble, and the Court is closed. GBC

(PRINTED MATTER. NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet[1] ~~attached thereto.~~ GBC The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) GBC ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to K74433 Cpl Heink D as interpreter ? Ans **No** GBC

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....
GBC ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans **No** (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc : GBC

President	**Major**	**GBM**	**Cox**	**CAC**	**Cdn C M Centre**
Member	**Capt**	**JT**	**Clark**	**RCA**	**Cdn C M Centre**
Member	**Capt**	**PE**	**Dowler**	**CAC**	**Cdn C M Centre**
Judge-Advocate	**Capt**	**RP**	**Milligan**	**ADJA**	**HQ 3 C B R G**
Prosecutor	**Capt**	**DE**	**Rose**	**RCA**	**Cdn C M Centre**
Defending Offr	**Capt**	**DB**	**MacKenzie**	**CIC**	**Cdn C M Centre**

Questions by President : Is the Prosecutor a lawyer ? Ans **Yes** Is the Defending Offr a lawyer ? Ans **Yes** (*)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused **B 110127 Tpr DILLABOUGH R W** before arraignment make(s) (no) ~~[illegible]~~ plea. (1)

Copied 9 Aug 45

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to this clause. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~do~~ GBC not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 36, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet, see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A84 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is advised as to~~) considers the Instrs on Procedure after Arraignment at top of p 3. The pro- GBC ceedings are continued on Record Form **D**

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 80, 87(*C*), 92(*B*), *and of witnesses and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty in ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 2 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (not) (no) opening address.(1) Nil
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1) Proceedings attached
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the second charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the second charge(s) and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on charge(s), and that, accordingly, the trial will proceed on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans accused gives evidence (1) Do you intend to call witnesses on your behalf ? Ans. .....
Are they witnesses as to character only ? Ans. N/a .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A85. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 65(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), ~~if any, of Not Guilty~~, and states to the accused that the finding(s) of the Court on the first & second charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. *AA* 54(2) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, *117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans accused gives evidence on oath as to character
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (ix), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex (2) and Ex ..... respectively.(3)
(1. *AFB* 255 *or AFB* 256. 2. *MFM* 6. 3. *RP* 44, *KR Can* 158. *If above documents not produced, see RP* 44 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement and Conduct Sheet(s) and in mitigation of punishment ?(1) Ans. I so plea on mitigation (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges or all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, *CFA*(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CERTIFICATE OF PROMULGATION

FGCM - 2 Jul 45: B-110127 Tpr DILLABOUGH RW
HQ 2 Armd Bde
att 1 Cdn Dis Centre

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he
In the Field, absented himself without leave from 2230 hrs 12 Mar 45 until apprehended in ANTWERP, Belgium at 0100 hrs 31 May 45.
(Total absence: 79 days 2 hrs 30 mins)

SECOND CHARGE
Sec 41
Army Act

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, WOUNDING WITH INTENT CONTRARY TO SECTION 18 OF THE OFFENCES AGAINST THE PERSON ACT, 1861

in that he
In the Field, at approximately 2245 hrs 27 May 45 wounded 262453 Driver TAWTON AE, 404 Coy Army Transport, RASC, with intent to do him grievous bodily harm.

Plea	Finding	Sentence
Not Guilty	Guilty	To suffer penal servitude for a period of three years
Not Guilty	Not Guilty	

Confirmation

I confirm the findings and I commute the sentence so that it shall read "To be imprisoned with hard labour for two years" and I confirm the sentence as so commuted.

(Sgd) EG Weeks" Maj-Gen
i/c Administration
Canadian Military Headquarters
HOLLAND

4 Aug 45

Promulgation and extracts taken in the field in [redacted] this

17th day of AUGUST 1945.

[redacted] Major
COMMANDANT
1 CDN DETY W/PP SVS TRN PRO CORPS

CIPHER MESSAGE FORM

From: CANMILITRY
To: CANFOR (EXFOR REAR)
Info: HQ FIRST CDN ARMY

QVR 2

041450A

A 9859 RESTRICTED

FGCM PROCEEDINGS B110127 TPR DILLABOUGH RW SERIAL 2684/1 ENDORSED BY MGA 4 AUG 45 QUOTE I CONFIRM THE FINDINGS AND I COMMUTE THE SENTENCE SO THAT IT SHALL READ QUOTE TO BE IMPRISONED WITH HARD LABOUR FOR TWO YEARS UNQUOTE AND I CONFIRM THE SENTENCE AS SO COMMUTED UNQUOTE

WDDN/CIPHER

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 110127 Tpr Ronald Waldren DILLABOUGH HQ 2 Armd Bde att 1 Cdn Discipline Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (1)	Not Guilty	Guilty	
2nd AA 41	Not Guilty	Not Guilty	But Guilty of wounding contrary to sec 20 of the offences against the person act 1861.
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At ~~penal unit, detention barracks, military prison~~ [illegible] (1) GBC

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on AF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on AF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer penal servitude for a period of three years

(Sgd) .....
Judge-Advocate, if any.

2 JUL 45
Date awarded

(Sgd) "George EH Cox" Major
President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation. "JSL"

Date 5 JUL 45 (Sgd) "J S Lind"
(J S H Lind) Brigadier
Commanding 3 CDN BASE RPT GP

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 71(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Remedy of confirmation or non-confirmation may be obtained before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 574. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and I confirm the sentence subject to the remission of the period already spent in detention and I direct that the accused be ~~not committed to prison or detention barracks~~ until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 6 Aug 45 (Sgd) "JS Lind" Major
Commanding 1 Canadian Corps
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused. 110127 ABOUGH d Waldren

Date. 17 Aug-45

Signature of Offr. N S Clark, Major
COMMANDANT
1 CDN DETN - FP BKS
CDN CORPS

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

SR 128

FIELD GENERAL COURT-MARTIAL

CPA80 (In lieu of AFA3) 40/P & S/16mm (4050) 4/38B

Convened by Order of Brig JSH Lind DSO Comd 3 CBRG dated 26 JUN 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B110127	Tpr	Ronald Waldren	DILLABOUGH	HQ 2 Armd Bde att 1 Cdn Disciplinary Centre

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date) 2 JUL 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 30/139.

A1. The President, Members, ~~waiting Member~~, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed. GBC

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(or)~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3) GBC

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial (4) GBC ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the (O)C(4).~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to K74433 Cpl Heink D as interpreter? Ans No

The Interpreter is sworn.(1) ~~Do you object to ..... as shorthand writer? Ans .....~~ GBC
~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: GBC

President	Major	GBH	Cox	CAC	Cdn C M Centre
Member	Capt	JT	Clark	RCA	Cdn C M Centre
Member	Capt	FE	Dowler	CAC	Cdn C M Centre
Judge-Advocate	Capt	RP	Milligan	ADJA	HQ 3 C B R G
Prosecutor	Capt	DW	Rose	RCA	Cdn C M Centre
Defending Offr	Capt	DB	MacKenzie	CIC	Cdn C M Centre

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused B 110127 Tpr DILLABOUGH R W before arraignment makes(s) (no) ~~not~~ plea. (1)

Official Corr Typist

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. GBC

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is ~~court sure~~) considers the Instrs on Procedure after Arraignment at top of p 2. The pro- GBC ceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 110127 Tpr Ronald Waldren DILLABOUGH HQ 2 Armd Bde att 1 Cdn Discipline Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (1)	Not Guilty	Guilty	
2nd AA 41	Not Guilty	Not Guilty	But Guilty of wounding contrary to sec 20 of the offences against the person act 1861.
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn a.)

At present under the [redacted] (1) GBC

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer penal servitude for a period of three years

(Sgd) ..... Judge-Advocate, if any. 2 JUL 45 Date awarded. (Sgd) "George BH Cox" Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation. "JSL"

Date 5 JUL 45 (Sgd) "J S Lind" (J S H Lind) Brigadier Commanding 3 CDN BASE RPT GP

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and I commute the sentence so that instead of it being imprisonment with hard labour for two years and I confirm the sentence of [illegible]

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 4 Aug 45 (Sgd) [illegible] Major General Commanding [illegible] Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-110127 Tpr DILLABOUGH Ronald Waldren	17 Aug-45	[illegible] Major COMMANDANT 1 CDN DETN : PP REG CDN [illegible] CORPS

ALL DELETIONS AND ALTERATIONS WILL BE INITIALED

File here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1) See SOC

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1) and recorded as attached

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ~~charge(s)~~ second charge.(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the second charge(s), and ~~allowed~~ on the ~~charge(s)~~, and that, accordingly, the trial will proceed on the former, but the accused is ~~(are) found Not Guilty~~ on the latter charge(s).(4) SOC SOC

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans accused gives evidence and Do you intend to call witnesses on your behalf? Ans No, Are they witnesses as to character only? Ans N/A

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), ~~if any, of Not Guilty,~~ and states to the accused that the finding(s) of the Court on the last three charge(s), being subject to confirmation, will be promulgated later.(1)

~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~

(1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans accused gives evidence and ~~Counsel~~ states his character

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3) SOC

(1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans [illegible] Counsel.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 1.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 109, 1223, MML p 80, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*); *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement †? Ans _____(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 37(*B*) *fn* 5 *para* 2, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on _____ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on _____ charge(s). Part 1 of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part 1 of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ____, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form C on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*C*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea so changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

No. B110427 Name DILLABOUGH RW Regt, Battery, or Company | Corps CAC | Date of enlistment 17Mar42 | GC Badges | Service or Proficiency Pay | 3/17 MFM'S (AFB 12 46/PAS/125)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature OC Company, etc | Character

Page	Date of offence	Rank	Dates of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Tpr		AA 9(2) and AA 8(2)		14 days FP & 14 days pay 149(1)(b)	2 Oct44		

Duplicate created from NFM 6 2 Apr 45. Record of conduct in Canada prior to TOS Cdn Army (Overseas) 12 Dec 42 not available.

"RH FRENCH" Capt Officer ic Records 6 Cdn Sec 2 Ech HQ 21 A Gp

Certified true copy of original NFM 6 in my custody

(H A Cooke) Capt & Adjt
Officer ic Regtl Books
1 Cdn Discipline Centre
(FTO)

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT OF SUMMARY AWARD UNDER KRO 47 AA AND OF CASES IN WHICH TRIAL HAS BEEN DISPENSED WITH OF ACCUSED

No record of convictions by Court Martial or Civil Court on NFK 6

I hereby certify that the foregoing particulars which have been extracted from the regimental books in my custody are correct to the best of my knowledge and belief

Signed this day of Jun 45

(RA Cadre) Capt & Adjt
Officer in Regimental Books
1 Cdn Discipline Centre

Army Form B 296 (War)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martials only)

Number	Rank	Name	Regiment (or as the case may be)
B110427	Pte	DILLABOUGH RW	HQ 2 Can Armd Bde CAC

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court-martial or a civil court:-

For 9(2) 1 — 1 times

For 8(2) 1 — 1 times

For _____ — _____ times

For _____ — _____ times

Date of first entry in Field Conduct Sheet 2 Oct 44

Date of last entry in Field Conduct Sheet _____

2. ~~Previous convictions of the Accused by a Court-Martial or a civil court are set out in the Schedule overleaf.~~ Nil

3. The accused at the present time is under sentence for NIL

beginning on the N/A day of N/A.

4. The accused has been awaiting trial on the present charges for _____ days in civil custody and for _____ days in military custody, i.e. _____ days in Open Arrest _____ days in Close Arrest, of which _____ days were spent in hospital.

5. The present age of the accused is 22 years 9 months this dd.

6. The date of his Attestation is 17 Mar 42.

7. The service which the accused is allowed to reckon _____.

8. The accused is in possession of GVSM with Clasp.

9. (If the accused is a Warrant Officer or NCO). The accused has served continuously without reduction, to the present date:-

	Date of Promotion
In the substansive rank of IIII	
In the War substansive rank of IIII	
In the acting rank of IIIII	

E.1 Accused gives evidence on oath for character

The accused is sworn

I am 22 years old. I enlisted on 13th March 42 at Kirkland Lake Ont coming overseas Dec 18th 42. I arrived in France on D Day with Sherbrook Fus. I served with them continuously until Nov 28th. The unit was then at Breda when I was wounded in the head. I went back to the unit on 6 jan 45. I served with the unit until 12 March 45. We got as far as Wessel on the Rhine. I am willing to continue in the army. I have not had a chance as yet to volunteer. If I can I should like to go to the South Pacific. The reason that I went A.W.L. was that my nerves were getting bad and my eyes bleery.

R P 83 (b) complied with.

Plea in Mitigation Ex "E" "GBC"

The Court has found the accused guilty of two offences, but justice involves also mercy for a boy whose nerves got the better of him after a long long period of service under fire. Remember that he landed on D-day on the beaches of Normandy and that he served continuously while his unit - the Sherbrooke Fusiliers, fought its way accross France and Belgium and into Holland. Near Breda his service was broken, but in the most honourable way possible. He was taken to hospital with wounds in the head. When able to return to his unit he did so, and fought with the unit to the banks of the Rhine at Wessel. His unit had been withdrawn for regrouping at the time he went absent. Please remember thathe has only public school education, that he dnlisted at 19, that his conduct sheet is good up to now in spite of three years service. He has told us of his head wounds, of his nerves cracking under shell fire, and of his eyes getting blurred. Under these conditions he "beat it" to get away from all this. While AWL he was rather unfortunately handled by three English soldiers, and committed a second offence. It may have been the head wounds, maybe, just battle nerves.
He wants to volunteer for the far east force, but has not had a chance yet to do so. He realized the errors he has committed hopes to redeem himself as a soldier, and get back to the Sherman Tanks with which he served so long and well.

"D B MacKenzie" Capt

PART II ORDER EXTRACT FORM

TO: DISCIPLINE & PAY SECTION

99/20/HQ 2 CAB/1(A51)

2 Apr 1945

EXTRACTS FROM: UNIT HQ 2 CDN ARMOURED BRIGADE

Part II Order No 13 dated 31 Mar 45

INCR "A"

18 ABSENT WITHOUT LEAVE

(a) AWL from 2230 hrs 12 Mar 45 Still absent 2230 hrs 20 Mar 45 (8th day)
B110127 Tpr DILLABOUGH R W

Certified to be a true extract from the regimental books and documents in my custody.

"M FENELON" Capt
Officer IC Records "C"
Cdn Sec 2 Ech HQ 21 A Gp

Certified true copy of Exhibit "A"

M Fenelon Capt

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT SECTION 163 (1)(ii)

I certify that No B110127 Rank Tpr Name Dillabough R W
of 2nd Cdn Armoured Brigade HQ (Unit) was arrested at Antwerp (place)
at 0100 hours on 31st May 1945 (date). He was dressed in uniform.

Date May 31st 45

"SIGNATURE" Capt
OC 73 Coy CMP (TC)

Certified true copy of Exhibit "B"
M Rousseau Capt

"GBC"

Case of B110127 Tpr Dillabough, R W F

Summing up of Judge Advocate

Intent - Archbold p. 936

Alternative finding of wounding MML p 135 - Archbold p 1499

Intent - Arch. p. 936

Malice - Arch. p. 935

Wound - Arch. p. 935

Grievous bodily harm Arch 937

Self Defence - Arch. p. 931

Provocation -

Onus of proof - Benefit of reasonable doubt to accused. Reasonable doubt defined. Circumstantial evidence Ref MML p 80 para 42. Drunkenness as defence Ref MML p 106 para 9 Archbold p. 17 & 18.

"R P Milligan" Capt

J A

Remarks by J A on submission of Def Officer D 4 of Proceedings.

Court does not now decide innocence or guilt. Only questions for court is: Is there any evidence which points to guilt of accused on which court may (not necessarily will) find accused guilty of charge. If there is such evidence then court should disallow submission. If court decides there is no such evidence then court should allow submission and find accused not guilty of that charge.

"R P Milligan" Capt

J A

Pros Summing up

"GBC"

1st Charge - Facts proven by documentary evidence.

2nd Charge - No attempt to site law as JA will do this. Facts disclose that acc & 2 men Tawton & Titley were outside cafe. That Acc struck Tawton in area of lower part of body. Tawton felt pain but thought it was merely caused by blow - tried to run and on feeling his groin found his scrotum cut & bleeding. Only answer is that acc must have caused it. Medical evidence sets out that it was a bad wound. Even though acc may have been brought out of cafe by illegal force, his action can't be considered as justified as it was apparent far more force was used by him than would have be en required to repel Tawton & Titley. Why did he run away. Support accused by his failure to return to cafe after this incident indicates guilty knowledge. The accused is in my opinion guilty of this charge.

Submission by Defending Officer

1. With respect to the first charge no submission is being made.

2. With respect to the second charge it is submitted that the accused was so drunk as to be unable to have the intention necessary for the offence charged. The prosecution witnesses establish that he had been drinking, and he has himself swornboth as to the drinking and the "black-out" condition which resulted.

3. It is also submitted that there was great provocation for an assault. The accused was paying a visit to a woman he knew, in her bedroom which he had visited before. He was causing her no concern and she had not asked him to go. Three English soldiers ejected him by what I submit was an unlawful act of violence. Not much force was used but it was available if the accused resisted too much. They took his weapon from him, took him outside, and then proceeded to take him someplace else. Then he did resist, possibly with unnecessary means, but he undoubtedly had the right to resist. They were two - formerly three - to one against him. In the scuffle, a soldier was hurt, we're not sure how. If the accused had not been in a stupor, we might to- day have discovered that it was self-defence. Whether it was self- defence or not, the provocation of the unlawful abduction certainly exists.

4. If the accused is found guilty of an offence, it should be one much less serious that that alleged in the charge sheet.

"D B MacKenzie" Capt

Pros states that his case is complete "GBC"

Def: Submits that prima facie case in the second charge has not been made.

Pros states that Dvr Tawton states that he was wounded and that a case has been made out.

Submission dis-allowed

The accused elects to give evidence on oath, sworn, states:

"I spent most of my time while AWL around the Cafe Molenstun, Edegern. I stayed there over night. I stayed nearly every night there. I stayed in a small room downstairs. I had some equipment there, including battle dress, shaving kit, socks, and a rifle. My shaving kit was left in the wash room and rifle and clothing in the small room where I slept. Julia was my special friend at the cafe. I was upstairs 5 or 6 times as I sometimes slept up there with Julia. I remember Sunday 27th May 45. I remember drinking in Cafes and I went to the Cafe Molenstun at about 1100 hrs. I don't remember having but I remember being in another cafe drinking at about 1900 or 2000 hrs. I am not certain if I saw Julia that day but think that I saw ~~that~~ her that morning. I remember that someone had told me during the afternoon that she was sick in bed. The last thing that I remember that day was drinking in a Cafe across the street from the Cafe Molenstun.

By Pros

Julias Mother did not object to me being there and no one else seemed to object. Sometimes I paid for my board. Sometimes I paid 100 francs. I cant say how much I ~~paid~~ money I spent while AWL. I had 3000 frs when I went AWL. It was drawn from my paybook, in December. I went AWL from someplace on the border of Germany and Holland. The unit was not in action at the time. I had saved up my money. The paymaster paid me 2000 francs and sometimes 1000. I only paid Julia about twice. I dont think that I hit Dvr Tawton. If I had hit him I would have hit him with my hands. I dont know how I got the cut on my thumb. I carry a small knife in a leather case. I also carried a nail file. I did not carry a razor. As far as I could see it was just a skin cut on my right thumb but there was some blood on my hands. I don't think that it was there the night before. I dont know where I spent the night but I woke up in a park in Antwerp. I did not return to Julias that day nor since I was in Antwerp. I shaved in a barber shop. I stayed in the Max Hotel. paying 35 frs. I ate in the Y.M.C.A. I don't think that I was afraid to go back to Julia's.

By A.D.J.A.

I don't remember being taken out of the cafe. I didn't remember ~~anyxxi~~ anything until the following morning when I woke at 0600 hrs inst., as it was raining.

By Court

I don't remember Tawton at all. I don't remember how much I had to drink that day but I had been drinking pretty steady. I spent my money in other cafes because I just liked to go around talking to people.

R.P. 83 B complied with. "GBC"

Pros sums up

See page 13th

Def Sums up

See page 14.

Fourth Witness Julia Elisabeth Anthoni, sworn, states:

I recognize Ronny. (The accused is identified). I recall 27th May 45. I was sick in bed that day. I saw the accused at 2245 hours that day. I saw him in my room. He was sitting on the side of my bed. He spoke to me. I did not speak to him. Three or four English soldiers took him away. I dont know why they took him away. I did not ask them to take him away. I saw the English soldiers again when one of the soldiers was wounded. I saw them when they brought the wounded soldier upstairs. I did not see the wound. The wounded soldier was in my room. I could see that he was wounded. A doctor came. his name is Dr VOUGHT. I did not see what he did. I dont know the wounded sddiers name nor had I seen him before.

By Def

The accused called me Julia and I call him Ronny. He came into the Cafe many many times. He did not have his rifle there most of the time. He did not stay in the rooms over the cafe at night. Only sometimes when he was drunk he slept on the sofa or chair. The sofa is in the little room downstairs. There is none of his kit or clothing at the cafe. He came after during the daytime. He did not tell me why he was not at work. He was only a customer the same as the other ones. It did not bother me when he came into my room that night. It did not bother the child either. I don't know if he had his arm around me, he was sitting quietly on the bed. He had been drinking. I did not ask him to leave. He did not object to leaving but asked why.

By Court

The accused had not been up to my room before. No one, other than the soldiers, asked him to leave. He was only in my room one minute. I did not invite the accused into my room. I don't know why he was in my room he just walked in. He asked me if I was sick. I cannot think of any reason why he would ask if I was sick.

H P 83 B complied with "GBC"

Fifth Witness Dr Fr. De VOOGT, sworn, states,

"I hold the degree of Medical Doctor. I got in in Lauvain University in 1938. I practice medicine now. I recall the 27 May 45. I was called to Molenstuns Cafe at about 2245 hrs or a little later, more like midnight. I saw soldiers and the mother and the last witness. A soldier and a civilian called me to go over. I saw soldiers in the cafe and one upstairs He was injured in a bed. I examined him. He was wounded in the scrotum 10 centemeters long and one centemeter deep. I closed the wound by using clipps and used an antiseptic. I dont know if the wound was one minute or one hour old. It was a cut wound. His clothes were all torn in the place of the wound. I have seen that soldier todsy I dont know his name. I think it was caused by a knife or could he caused by a piece of glass.

By A D J A

A nerve might have been touched and an artery. I could not examine him very closely. So I could not say if it was a serious wound.

H P 83 B complied with "GBC"

and while Sgt Chapman and I were inspecting the rifle Dvr Titley re-entered the Cafe supporting Dvr Tawnton who was bleeding badly from between the legs. He was taken upstairs and I went outside the cafe to look for the accused: After having been away some 20 minutes I returned to the cafe and found that Dvr Tawton was being attended to and I returned to billets. There was no conversation while I was in the bedroom by the accused or the woman. The woman is the daughter of the Cafe owner. She is here today.

Cross Examination by Def

I do not know if the accused was drinking. I went to the cafe at 2000 hrs. I had about 3 half pint glasses of Belgian beer. As far as I could see the woman was not objecting to the accused having his arm around her. The child was not crying or showing distress. I do not know who owned the rifle I assumed that the rifle belonged to the accused that was the reason I removed it. The accused did not show any signes of drunkenness. I did not give him his rifle when he went outside the cafe because I did not take him outside the cafe. I was the senior soldier present. I did not take charge because the accused was removed from the Cafe and showed no resistance whatever and there was no damage or further trouble so I did not have to take charge. I did not give the soldier his rifle because I had not examined his rifle. We did not Hi-jack the accused out of the cafe.

By Court

I did not go outside the cafe. The rifle along with the trousers and jacket were handed to the C.M.P.

R.P. 83 (B) compleid with "GBC"

Third Witness 288820 Sgt Chapman J.W., sworn, states:

I recall the 27th May 45. I recognize the accused. At 2230 hours I was in the Cafe Molenstun in Edegem. I went into the Cafe with some men of our unit, and there were several in the Cafe at the time. Dvr Titley and Dvr Tauton went upstairs and came down again with a Canadian Soldier the accused. Sgt Thumwood came down after with a rifle. I saw the accused outside the Cafe when I looked out the door. That was the last time that I saw the accused. Dvr Titley and Dvr Tawton came back into the cafe. As Tawton put his hand to the door at the back of the Cafe I noticed that there was blood on his hand. I followed him upstairs and laid Tawton on the bed. I removed his trousers and found that he had been stabbed in the right side of the scrotum. The wound was about 2½ to 3 inches long. The wound was on the side starting at the top and crossing the bottom towards the left. A civilian Doctor was sent for. I don't know his name. It was dark outside but light from the door lit up the pavement in immediate vicinity. I did not speak to the accused.

By Def

We kept the rifle because we thought that there might be some trouble. When you see a chap being taken out of a Cafe you don't want any arms around. The accused did not look as if he would cause trouble. I did not know that he had been living in that Cafe off and on. He walked out of the cafe quite readily enough. I only saw the three together outside talking. I did not see any fight.

By Court

They were upstairs about 3 minutes. They were outside about 2 or 3 minutes. I did not see any fight going on, they were only talking.

R P 83 B complied with. "GBC"

B 110127 Tpr Dillabough R.W.

Court Sworn

Interpreter Sworn

Pros presents Part II Extract showing AWL from 2230 hrs 12 March Exhibit "A"

Certificate of Arrest showing arrest at 0100 31 May 45 marked Exhibit "B"

First Witness 262453 Dvr Tawton A.E., sworn, states:

"I recall Sunday evening 27th March 45. I was in a Cafe in Edegern with Dvr Titley. That evening we went to this Cafe and went up to a room in which the accused was. (Accused identified). The room was upstairs in the Cafe. I saw a women in bed and a child. The accused was sitting on the bed. Dvr Titley and Sgt Thumwood was in the room with me. We Titley and I asked the accused to leave and he refused. We asked him again and he refused again. We then took him, one on either side, outside. After we got him outside we asked him to leave the vicinity of the cafe and he refused. We started walking away with him. We had him by the arms. He broke free and turned to face us. I thought he spoke but am not sure and then I felt a blow in the lower part of my body. The accused turned and ran away. I saw his hand come towards me. I started to run after him and had to stop because of the pain. I put my hands to my groin and felt a wound to the right of the scrotum. I then turned and walked back towards the cafe. I was helped upstairs by Dvr Titley and there laid on a couch, awaiting the doctor. The doctor then came and dressed my wound. I never carry a knife. There is none in my pocket. I did not see a knife in the hands of the accused.

Cross Examination by Def

I would say that the accused was drinking I had two glasses of beer, along with Titley. I had never seen him in that room where I found the accused before.

By A D J A

There were only three of us together outside. Titley was alongside of me. No one else was close enough to strike a blow.

By Court

I had never seen the accused before. It was 2245 hours and dark. When we were taking the accused down stairs he hung back but then went on as if he was going to go along willingly. There was no fight or scuffle prior to the time we went outside. I was in Hosp 34 days. The wound is still open about ¾ in. I was discharged yesterday at 1400 hrs. I was wounded in the scrotum on the right side.

R P 83 (b) complied with "GBC"

Second Witness T/6009991 Sgt Thumwood O, sworn, states:

Accused identified. I recall the evening of 27 May 45, when I was in a cafe in Edegen from 2000 hrs, for the rest of the evening. About 2230 hours Sgt Chapman and Dvr Tawnton Dvr Titley and one or two other men, soldiers came into the cafe. There were two women in the cafe. The woman and her daughter. As a result of a conversation I, Dvr Taunton, Dvr Titley went upstairs to a bedroom, where I found, sitting on a bed, the accused. In the bed was a woman and a young child. His right arm was around the woman and close to his left hand was a rifle. I removed the rifle and was followed downstairs by Dvr's Tawnton and Titley with the accused. The accused was taken outside the Cafe by the

D.f. "GB6"

CHARGE SHEET

The accused, No.[illegible] Tpr R onnld Waldren DILLAMORE, RD 2 Cdn Armoured Brigade, attached to 1 Cdn Discipline Centre, a soldier of the Canadian Army Overseas, is charged with-

FIRST CHARGE — WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

Sec 12 (1) Army Act

in that he

in the Field, absented himself without leave from 1930 hrs 12 Mar 45 until apprehended in [illegible]RP, Belgium at 0100 hrs 31 May 45.

(Total absence: 79 days 2 hrs 30 minutes)

SECOND CHARGE — WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, DOMICILE WITH INTENT CONTRARY TO SECTION 18 OF THE OFFENCES AGAINST THE PERSON ACT, 1861

Sec 41 Army Act

in that he

in the Field, at approximately 2245 hrs 27 May 45 wounded [illegible]2245] Driver TAYLOR A E, 404 Coy Army Transport, RASC, with intent to do him grievous bodily harm.

(W S D Richmond) Lt Col
Commanding
1 Cdn Discipline Centre

In the Field
13 Jun 45

To be tried by Field General Court-Martial

"J S H Lind"
(J S H LIND) Brigadier
Commanding
3 Cdn Base Sub Op

In the Field
26 JUN 45

"GBC"

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3) 40/PAM/1697 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/ronk or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B110127	Tpr	Ronald Waldren	DILLABOUGH	HQ 2 Armd Bde att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet attached and on (date) 26 JUN 45 endorsed by me, (~~[illegible]~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[illegible]~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~[illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)			(Must be named. RP 106.)	(Unit.)
Major	GBH	COX	CAC	Cdn C M Centre

MEMBERS.

(Rank.)			(Unit.)
Capt	GT	CLARK	RCA Cdn C M Centre
Capt	PE	DOWLER	Cdn C M Centre

(Named or detailed. RP 106.)

WAITING MEMBER.

(Rank.)			(Unit.)

(Named or detailed, if any. RP 106.)

JUDGE-ADVOCATE.

(Rank.)			(Unit.)
Capt	RP	Milligan	ADJ A, HQ 2 CBRG

(Must be named, if any. RP 106.)

On Active Service in the Fd

In BELGIUM (Country.)

Date 26 JUN 45

"J S Lind" (Signed personally. RP 105 fn 2.)

(J S H LIND)

Brigadier (Rank.)

Commanding 3 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE (KR(Can) Para 557)

I certify that I have this day examined B110127

Tpr DILLABOUGH R W and in my opinion he is fit/~~xxxxx~~ to undergo trial by Court Martial.

Station Field

Date 2 - 7 - 45

"A A Toms" Capt (Sgd)
Medical Officer

1 Cdn Disciplinary Centre
Unit

5 B-3

Pla Dillon et al.

Ex 1.

C H A R G E S H E E T.

C-11750 A/Cpl GEORGE WESLEY DILLEN 6 Cdn Inf Bde Coy R.C.A.S.C. a,soldier of the Canadian Army Overseas,is charged with,while on active service.

First Charge
Sec.40
Army Act.

Neglect to the prejudice of good order and Military discipline in that he,

at approx 2215 hrs on 22 Nov 44 in Hoboken did drive C.M.V. # C.L.4264494 in such a negligent manner as to become envolved in an accidient and causing damage to said vehicle to the amount of Approx.£15-10-0 (Fifteen pounds and ten shillings)

Second Charge
Sec 40
Army Act.

Conduct to the prejudice of good order and Military discipline in that he,

at approx 2200 hrs on 22 Nov 44 did carry four civilians in C.M.V.#C.L.4264494 contrary to 21 Army Group Routine Order # 290 dated 8 Sep 44

.....
(W.M.Arnold)Major
O.C.6 Cdn Inf Bde Coy
R.C.A.S.C.
Cdn Army Overseas.

In the Field
11 Dec 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
10 Dec 44

(W.H.COLLING) Lt-Col
Comd
RCASC, 2 Cdn Inf Div

Owing to the Exigencies of the service, Lieut R T M Scott is unable to sit as a Member. He is therefore replaced on the Court by the Waiting Meber, Lieut D T Weir, HQ RCASC, 2 Cdn Inf Div.

a AT

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-11750	Pte	A/Cpl	George Wesley	DILLEN	6 Cdn Inf Bde Coy, RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 Dec 44 endorsed by me, (~~which~~) "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that the exigencies of the service do not permit of my convening an ordinary General Court-Martial~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. (~~I have received information that the Accused is in addition or has been guilty of the offences mentioned in the annexed statement~~)

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) A R TEDFORD, (Must be named. RP 106.) 2 Cdn Inf Div Tps Coy, RCASC (Unit.)

MEMBERS.

Capt J FRY, 4 Cdn Inf Bde Coy, RCASC

Lieut (Rank.) R T M SCOTT, (Named or detailed. RP 106.) HQ RCASC, 2 Cdn Inf Div (Unit.)

WAITING MEMBER.

Lieut (Rank.) D T WEIR, (Named or detailed, if any. RP 106.) HQ RCASC, 2 Cdn Inf Div (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.) E K McDOUGALL, (Must be named, if any. RP 106.) HQ 2 Cdn Inf Div (Unit.)

On Active Service in the Fd in HOLLAND (Country.)

Date 20 Dec 44

W H Colling (Signed personally. RP 105 fn 2.) Lt-Col (Rank.)

(W.H.Colling)
Commanding RCASC, 2 Cdn Inf Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPAMS (In lieu of AFAS 40/P & S/1307 (Amd.))

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

ART

K.R. (CAN) Para 552

I certify that I have this morning examined No C11750
A/Cpl Dillon C.W. of 6 Cdn Inf Bde Coy RCASC and in my opinion
he is fit/~~unfit~~ to undergo trial by court martial

Station
Date 22 Dec 44

Medical Officer

D-3 PAGE 1

TRANSCRIPT OF EVIDENCE IN THE TRIAL BY FGCM OF C-11750 PTE (A/CPL) DILLEN, G W, 6 CDN INF BDE COY, RCASC, HELD ON 22 DEC 44.

First Witness for the Prosecution, 7691998 L/Cpl Wright, A H, 244 HQ Pro Coy, CMP (Br), being duly sworn is examined by the prosecutor.

Q.1 - Will you give the Court your number, rank, name and unit?
A.1 - Yes, sir, 7691998 L/Cpl Wright, A H, 244 HQ Coy, CMP.
Q.2 - On 22 Nov 44 were you on duty?
A.2 - Yes, sir.
Q.3 - Where?
A.3 - At Coy HQ, sir.
Q.4 - Was there any happening that night that stays in your mind?
A.4 - Yes, sir.
Q.5 - Will you tell the Court about it in your own words?
A.5 - Upon receiving a message concerning an accident to 2 WD vehicles - from the civil police - I went down there to investigate. I went to the civil police station at Hoboken, in Antwerp, to find out the location of the accident. When I arrived on the scene I saw two WD vehicles parked on the footpath at the side of the road. There were civilians there and a civil policeman. I saw a civilian girl on the opposite side of the road who was injured and I took her to the civil hospital. I returned to the scene of the accident and took the particulars of the drivers concerned.
Q.6 - I show you this paper, are these the particulars you took? Is that your signature?
A.6 - Yes, and that is my signature.
Q.7 - Did you put these particulars into the report you made?
A.7 - Yes, on my return from the civil hospital with the civilian girl I took the particulars of the two drivers and asked them if they wanted to make statements. They did. I took them down.

JA

Q.8 - Did you give any warning when you asked about the statements?
A.8 - Well I said I would have to make a report of it.
Q.9 - You didn't warn them in the usual manner that anything they might say might be used in evidence?
A.9 - No, sir.
Q.10 - Can you remember the particulars of the vehicles involved?
A.10 - I can't remember, sir.
Q.11 - Do you remember the number of the vehicles?
A.11 - Well one was a 3-tonner and the other a 15-cwt.

Prosecutor

Q.12 - This was taken at the time of the accident. Do you now remember the particulars?
A.12 - Yes, sir, the 3-tonner was Cdn Military Vehicle No CL 4264494.

JA

Q.13 - Who was the driver of the Cdn Vehicle?
A.13 - Of the 3-tonner, sir, Cpl Dillen.
Q.14 - Is he here?
A.14 - No, sir, he is not here.
Q.15 - Did you see the accident yourself?
A.15 - No, sir.
Q.16 - Was the Cdn Vehicle damaged to any extent?
A.16 - It had the radiator smashed in.

Cross-examined by the Defending Officer.

M.

Q.17 - When you arrived at the scene of the accident where were the civilians?
A.17 - The civilians were on the opposite side of the street to where the two vehicles were parked.

No questions by the Court or JA.

The Prosecutor declines to re-examine the witness.

In the opinion of the Court and JA it is not necessary to comply with RP 83(3).

The witness withdraws.

Second Witness for the Prosecution, H-65085 Pte Lyndon, W G, 6 Cdn Inf Bde Coy, RCASC, being duly sworn, is examined by the Prosecutor.

Q.18 - Will you tell the Court your number, rank, name and unit?
A.18 - H-65085 Pte Lyndon, W G, 6 Cdn Inf Bde Coy, RCASC.
Q.19 - On 22 Nov 44 where were you?
A.19 - In Hoboken, sir.
Q.20 - What were you doing there?
A.20 - Just going up a main road in Hoboken.
Q.21 - Did anything happen that night?
A.21 - Yes, sir.
Q.22 - Will you tell the Court in your own words what happened?
A.22 - Yes, sir, we were going along the road and got lost. We stopped and asked some civilians the way. They said they were going that way and they would show us the way if we could take them along.
Q.23 - Who was "we"?
A.23 - Cpl Dillen and myself. After we got started we drowe along at about 20 miles an hour and there was a vehicle on the right side of the road. We didn't see it until we were right. The driver said he had lights on but he had none. It was a lorry and we hit the back of it.
Q.24 - Who was driving your vehicle?
A.24 - Cpl Dillen, sir.
Q.25 - How many people were sitting in the cab of your truck?
A.25 - Three.
Q.25 - Who were they?
A.25 - Myself, Cpl Dennis, and a girl.
Q.26 - Do you recognize Cpl Dillen in this Courtroom?
A.26 - Yes, sir.

Cross-examined by the Defending Officer.

Q.27 - You say three people were in the cab of the truck. Will you tell the Court exactly where this girl was sitting, in relation to the driver?
A.27 - On my knee, sir.
Q.28 - Could you see the road in front of you?
A.28 - I was watching the road as we were going along.
Q.29 - Did you see any lights on the vehicle when it was hit?
A.29 - No, there was definitely no lights on the vehicle, sir.

The Prosecutor declines to re-examine the witness.

Questioned by the Court and JA.

Q.30 - While you were proceeding along the road, the three people in the cab, with this girl on your knee, what were you doing? Were the three of you talking?
A.30 - No, sir, she was a stranger, I never seen her before.
Q.31 - Were you and the driver and this girl talking, carrying on a conversation as you were proceeding along the road?
A.31 - No, sir.
Q.32 - What we want to know is whether Cpl Dillen was driving the vehicle in a proper or in an improper manner?
A.32 - He was driving properly sir. I said a few words to the girl.

Q.33 - Cpl Millen didn't say anything at all to the girl?
A.33 - He said just what you greet any person with when she was getting on the truck, and after we got going he didn't say anything, sir.
Q.34 - What was the visibility?
A.34 - It was foggy, sir.
Q.35 - You know civilians are not allowed to ride in military vehicles?
A.35 - Yes, sir.

In the opinion of the Court and JA it is not necessary to comply with RP 83(B).

The witness withdraws.

D-4

The Defending Officer makes the following motion.

The first witness is unable to identify the accused. The second witness says the accused was driving the vehicle in the proper manner. The accused had nothing to do with the girl in the cab and was interested only in properly operating his vehicle. You are all familiar with the inside of a 3-tonner. It is almost impossible for a third person to sit between the driver and spare driver. You have also heard evidence that the driver was proceeding at 20 miles an hour and there were no lights on the vehicle he struck. In view of this I submit the prosecution has failed to prove its case and has produced no evidence to support this charge of negligent driving in this case.

The Prosecutor declines to reply to the Defending Officer's motion

E-3

The Defending Officer makes the following plea in mitigation.

Cpl Dillen enlisted in Jan 40 and was subsequenrly,drafter Overseas one month later, in Feb 40. Apart from one or two minor infractions of the Army Act he has since proven himself a good soldier and a good NCO. While he followed the rules, the mistake he made in carrying these civilians was done on the spur of the moment and it was a gesture of friendliness towards Belgian civilians rather than any effort with intention of offending against the Army Act. There was no intention. He stopped to inquire the way. And these people said we can show you and are going that way if you can take us. So he said alright jump in. He merely followed the line of least resistance. It was not like taking a civilian friend one journey, knowing what he was doing was wrong. There was no intent in this case. In view of these facts I submit an earnest plea in mitigation of sentence.

SUMMARY OF EVIDENCE IN THE CASE OF NO.C-11750 A/Cpl.GEORGE WESLEY DILLEN 6 Cdn Inf Bde Coy R.C.A.S.C., a soldier of the Canadian Army Overseas.

The accused is warned of his rights.
The C.C.directs that the evidence be taken on Oath.

First Witness for the Prosecution. 7691998 L/Cpl Wright,A.H. 244 H.Q. Provost Coy (British) A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is includedin this summary (att as exhibit 'a) having regard to the exigencies of the service the attendance of this witness cannot,in my opinion,be readily procured.

The accused does not demand the attendance of this witness for t the purpose of cross-examination.

W.D.S.Careless Capt
(W.D.S.Careless)Capt.
Officer taking summary.

Second Witness for the Prosecution. Capt.J.Grieves 6 Cdn Inf Bde Coy R.C.A.S.C. having been duly sworn states. I am workshops Officer of 6 Cdn Inf Bde Coy RCASC and in that capacity I examined Cdn Army vehicle No. C.L.-4264494 Ford 3-tonner and found damage to said vehicle to be the following..

	Radiator Replacement required	
	R.H.F. Spring	"
	6 Rad.Hoses	"
	1 Glass Dash	"
	1 Steering Gear complete	"
	Front frame cross member	"
	Bumper	"
To cost of..Materials	(approx)	£12-10-0
Labour		£ 3- 0-0
Total cost of material & Labour		£15-10-0

Question to the accused.Do you wish to cross-examine this witness ?
Answer. No Sir.

J.Grieves
(J.Grieves)Capt.

The accused having been duly cautioned in accordance with R.P. 4(e) says. I want to make a statement,on Oath. Accused duly sworn states In the evidence of L/Cpl Wright that was read to me he states that I told him that I did not know that there were any civilians in the back of the lorry,this I deny.I did state to him that I had picked them up,coming back from old unit lines Hoboken.I had been there to pick up a stray lorry which had been lost in route frompresent unit lines to Antwerp.I had given instructions to all drivers, that if they became los ton route they were to report to the old unit lines at Hoboken,and there I would pick them up and direct them to 167 D.I.D. That is why I was in Hoboken at that time of night.I had stopped in the old unit lines for over an hour and as the lost lorry did not show up I was returning to 167 D.I.D. I was driving C.L.4264494 as the driver was tired and we had no spare drivers. As far as the accident it was caused because the vehicle I ran into was stationary and did not have any rear lights or any traffic control the driver was sitting in the cab. After the smash I checked the rear lights of the other vehicle and found that the switch inside the cab was on but the one under the tail gate was off and when I switched the latter on the tail lights went on.

G.W.Dillen
(.G.W.Dillen)A/Cpl.

CERTIFIED THAT RP 4 COMPLIED WITH
in the field 4 Dec 44

W.D.S.Careless Capt
(W.D.S.Careless)Capt
Officer detailed to take summary

[redacted]lementary Summary of Evidence in the case of C-11750 A/Cpl GEORGE WESLEY DILLEN 6 Cdn Inf Bde Coy RCASC a soldier of the Cdn Army Overseas.

The accused is warned of his rights

The C.C. directs that the evidence be taken on Oath.

First Witness for the Prosecution. H-65085 Pte.Lyndon,W.G. 6 Cdn Inf Bde Coy RCASC. having been duly sworn states. On 22 Nov 44 at approx 2215 while riding in lorry # C.L.-4264494 which was driven by Cpl.Dillen We were in Hoboken and just near the railway tracks we stopped and asked some civilians for the direction to the coal depot. They told us that they where going that way and said that they would show us the way. We gave them a lift. One girl got in the cab (the front seat) with Cpl Dillen and myself. One girl, one man,and his son got in the back of the lorry. We then drove off. On our way we ran into the back of a Cdn Lorry that was parked on the side of the road. I saw the lorry just before we hit but I am certain that there were no lights on it and in my opinion Cpl Dillen had no chance to avoid the accident. The girl in the front seat with Cpl Dillen and myself was injured in the accident her face was cut. The man in the back had a slight cut on his head but the girl and the boy were not hurt at all.

Question to the accused . Do you wish to cross-examine this witness

Answer. No Sir.

.....
W.G.Lyndon

[redacted]

Accused is warned under R.P.4 and declines to make a statement at this time.

Certified that R.P. 4 c d e & f Complied with

In the Field
9 Dec 44

.....
W.D.S.Careless Capt.
Officer detailed to take Summary.

Army Form B 252
(See King's Regulations)

The Royal Canadian Army Service Corps
6th Can. Inf. Bde. Company. (Regiment)
(C.A.A.F) (Battery / Squadron / Troop or Company)

CHARGE against No. C 11750 Rank C/Sgt.

Name G. V. DILLEN

Place ANTWERP Date of Offence 22 Nov. 1944.

OFFENCE V.O.A.S. When N.C.O. i/c of V.D. Vehicle Ford 3 Ton No C.L. 42644 94 permitting non-authorized civilians to ride in the vehicle and not for Military purposes, in St. Genoveche Eleening about 2230 hrs (21 A.G. Sig Order A.G. Branch Sec XII Para 22 refers.)

Names of Witnesses:— 4/c A.H. WRIGHT C.M.P. Det
244 H.Q. Provost Coy (Brussels)

Signature of O.C. Battery, Squadron, Troop or Company

Punishment awarded

Signature of Officer awarding punishment

Adjutant.

P.T.O.

280

STATEMENT OF **EVIDENCE** IN THE CASE OF

No. C 11750

CPL. J.W. DILLEN

6TH CANADIAN INFANTRY BRIGADE COMPANY

R.C.A.S.C. C.A.S.F

Sir.

AT ANTWERP on the 22ND NOVEMBER 1944 about 2300 HRS I was on duty in the ST BERNARD YARD STEENWEG were there had been an accident between two W.D vehicles. There I ascertained that two civilians, HUYBRANS SERAFIN LOUIS 1 LEOPOLDSTRAAT HOBOKEN and OOMS MARIA 8 KIOSK PLAATS had been injured while travelling in CHARABANC 1087 driven by one of the vehicles involved, driven by the above named N.C.O. CPL DILLEN STATED to me that he did not know that there were civilians in his truck, I obtained his particulars for report verifying the same from his A.B. 64

REMARKS

IN THE FIELD
22 NOVEMBER 1944

76/1681 A.S.M. [illegible]
for PROVOST COL, C.M.P. FORCE

(1) Ex "A"

Statement of Evidence in the Case of
C/11750 DOLLEN E.W. Corporal
"6th Canadian Infantry Brigade Company
R.C.R.S.C. C.A.S.F."

By 769198 Lieut A.H. WRIGHT 24th H.Q.
Provost Coy Corps Military Police, Who
having been duly sworn States:

From information received at Antwerp on 28th
4th NOVEMBER 1944 I proceeded to the scene
of an accident which had occurred
on the ST BERNARD SCHE STEENWEG
between two U.S. Vehicles. Here I found
U.S.A. C.I.42097740 (Ford 15 cwt) & C.W.126 44 94
(Ford 3 tonner) which had been moved from
the scene of the accident to the South side
of the road. There I found.

WOUTERS BANS, GERARD LOUISE.
1, LEOPOLDSLEI HOBOKEN. ANTWERP.
COOMS MARIA.
8 KLOSTERPLAATS. HOBOKEN ANTWERP.

who told me they had been travelling in
the 3 ton U.S. Vehicle. Both were injured
and COOMS was detained suffering from a
cut to the eye & NOSE.

I ascertained full particulars of the
military personnel involved in the accident
and

C/11750 Cpl DOLLEN E.W.

6th Canadian Infantry Brigade Coy
R.C.R. C.A.S.F.

was the driver of the 3 ton Vehicle
Ca. W126 44 94 Chevrolet Lorry

passengers. I questioned the N.C.O. as to why he was carrying civilian passengers and he replied that I did not know that one was a civilian in the vehicle, adding that he was under orders from the A.P.M. 46, and signed. Statements were taken from the N.C.O. and passengers in my presence. The civilians were not authorised to be carried in W.D. Transport.

A.H. Wright A/Lt/Col.
24th H.Q. Provost Corps
Corps of Military Police

Certified that the subscribed affidavit was taken on oath and written by my hand this Fifth Day of December 1918.

L.T. Hallows Lt.
24th H.Q. Provost Co
C.M.P.

Y.

ART

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C11750	A/Cpl	Dillen,George Wesley	6 Cdn Inf Bde Coy RCASC

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.		*Since Enlistment.	
For Sec 40 A.A.	2	times	4	times.
For AWL Sec 15(1) A.A.	1	times	2	times.
For		times		times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for _____ beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for _____ days in civil custody, and nil days in military custody, making a total of nil days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 26 years 5 months

6. The date of his ~~enlistment~~ attestation specified in his ~~attestation paper~~ record of service is 14 Jan 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is _____

8. The accused is entitled to deferred pay or gratuity in respect of _____ service.

9. The accused is entitled to reckon _____ service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or award*)) Cdn Vol Service Medal and Clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of _____

12. (*In the case of an officer.*) The accused holds in the army the rank of _____ dated _____ and in his regiment (*or* corps *or* department) the rank of _____ dated _____

(Revised)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C11750 Rank A/Cpl Name Dillen G.W. of 8 Bde Inf Bde Coy, RCASC Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer dispensing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22 day of Dec 44

C.W.S. Graham Capt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion
In the rank of	A/Cpl	
In the rank of	years,	20 Oct 44
In the rank of	years,	
In the rank of	years,	

Instructions.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court martial the information may be collected from such sources as are available and the paragraph retained amended accordingly.)

No. C11750 Name Dillen, George Wesley | Sqn., Battery, or Company | 6 Cdn Inf Bde Coy RCASC | Date of enlistment | 14 Jan 40 | Corps Badges | Service or Proficiency Pay | S.F.M. 6

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Count of charge(s)	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order (Corresponding with trial)	By whom awarded	Remarks
Field	6 Mar 43	Pte		CHARGE: AA40		5 days pay			
"				CHARGE: AA40		REPRIMAND	13 Sep 43		
"		L/Cpl		AWL from 0600 hrs 25 Sep 43 to		7 days pay	30 Sep 43		
"				0830 hrs 29 Sep 43		reverts to Pte			
"	1 Dec 43	Pte		CHARGE: AA40		15 dys pay	1 Dec 43		
"	15 Dec 43	Pte		CHARGE: AA40		14 dys pay	15 Nov 43		8 dys pay
"	12 Jan 44	Pte		AWL (15 (1))		7 dys CB	12 Jan 44		7 dys pay

Certified true copy

(G.E. Britton) Lt & Adm Offr
6 Cdn Inf Bde Coy RCASC

A.R.

(F.T.O.)

RECEIVED AT CMHQ IN AB 160 5B-3

RECEIVED 19 DEC 45 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CF A96 (In lieu of AFAS) (C.P.A.C. Illus. 1944)

Convened by Order of Lt Col W H Collins Comdt 2 Cdn Inf Div dated 30 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names	Surname	Unit
C 11750	Pte (A/Cpl)	George Wesley	Dillon	6 CIB Coy RCASC

PROCEEDINGS REVIEWED 21 Nov 45 Asst Judge Advocate

REVIEWING OFFICER, JAG BRANCH C.M.H.Q. PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Holland on (*date(s)*) 22 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 17|20

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0945 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to as interpreter?~~ Ans

The Interpreter is sworn.(1) Do you object to D16570 S/Sgt Parks A.V. 1 Cdn Inf Div as shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Mjr	A.R. Ilsley	2 Cdn Inf Div Thr Coy RCASC
Member	Capt	J. Fry	4 " " Base Coy RCASC
Member	Lt	R.M. Scott D.T.Wain	1 Hy RCASC 2 Cdn Inf Div
Judge-Advocate	Capt	E.L.M. Driscoll	1 Hy 2 Cdn Inf Div.
Prosecutor	Capt	W.D.S. Cavalieri	6 CIB Coy RCASC
Defending Offr	Lt	B.A. Martin	6 CIB Coy RCASC

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 60 (8) and fn 2 were not followed. See Dr p 23)

A8. The accused C 11750 Pte Dillon, G.W. before arraignment makes(s) (his) (its) plea Not Guilty

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the witnesses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in (1) to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, 113. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B C D E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

Vol III, Fol 52

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C 11750 Pte (A/Cpl) Dillon, S. W.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 40	Not Guilty	Not Guilty	
2nd 40	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

Still at present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 0 days, of which 0 days were spent in hospital. (1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer Field Punishment for Seventy (90) days and to forfeit all ordinary pay for a period of seventy (90)

(Sgd) Trevor Mills Donnell Capt 22 Dec 44 (Sgd) A. R. Tafford Major
Judge-Advocate, if any. Date sentence awarded. President. (AA 41, 52.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 66. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks, & that further orders be held~~ (1. AA 57A. Delete if not used.)

(Sgd) W H Halliday

Date 29 Dec 44 Commanding Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 570, 571.)

Accused.	Date.	Signature of Offr.
C 11750 Pte (A/Cpl) George Wesley Dillon	15 Jan 45	A Pte.

CAPT & ADJT
2 BN 2 C.S.R. (GP.)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(1).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p* 3.

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 2, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on the charge(s). Part 1 of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part 1 of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing on Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof as a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir (1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1) Yes

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and allowed on the 1st charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (~~are~~) found Not Guilty on the ~~latter~~ charge(s).(4) The submission is disallowed on the 2nd charge(s).

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans _____

Do you intend to call witnesses on your behalf ?

Ans _____ Are they witnesses as to character only ? Ans _____

(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 154, 115, 116. For procedure see Notes.* 2. *Convening Offr, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding.* 3. *RP 40(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 42, 117(A). See Notes re Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and Notes to the accused that the finding(s) of the Court on the charge(s), briefly subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (5), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) No Sir

Ans _____

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 4 and Ex 2 respectively.(3)

(1. *AFB 355 or AFB 256.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Shewing my Proper Conduct (2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or vary anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part 1 of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 71(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 40. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 558, 226, 563-566, Overseas AO 3/XP, 2323, MML p 66, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(18), 68(7), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

348 c.
Gen Defence S A

O. H. M. S.

7

33

Correspondence to be PINNED here.

1

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this Twenty-fourth day of January, 1942.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery 2 Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit as not applicable

*[I am unable to appoint :—

*(1. ~~Three Officers to form the Court;~~)

*(2. ~~A Field Officer as President;~~)

*(3. ~~Three Officers having more than one year's service;~~)

for the following reasons, namely :—]

In my opinion, military exigencies, namely the dispersion of units, and difficulties of communication, and other difficulties, render it inexpedient to observe the provisions of those rules inconsistent with appendix "A" to D.R.O. 772 on the trial of the person named in the annexed schedule.

PROCEEDINGS REVIEWED.

President.

Rank.	Name.	Regiment.
Major	J.D. Ross	2 Cdn A Tk Regt.

Members.

Rank.	Name.	Regiment.
Capt.	G.D. Mitchell	5 Cdn Fd Regt.
Capt.	T.C. Richardson	4 Cdn Fd Regt.
Lieut. (Waiting Number)	A.B. Smith	6 Cdn A Fd Regt.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed R.A. Fraser Col A.A.G.
for [R.A.Fraser] Brigadier,
Commanding R.C.A. 2 Cdn Div.
Convening Officer.

2

SCHEDULE.

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C.19549 Gunner DILLON, S.A. 4 Cdn Fd Regt, RCA.	FIRST CHARGE: A.A. Sec. 41(5) Committing a civil offence, stealing. (See charge sheet att.)	G.	Guilty J.D.R.	
	SECOND CHARGE: A.A. Sec. 41(5) Committing a civil offence, stealing. (See charge sheet att.)	N.G.	Guilty. 27 days detention	Confirmed

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :— No.

(Signed) for (R.A.Fraser) Brigadier, A.D.C. (Signed) J. D. Ross, Major, R.C.A.
Commanding R.C.A. 2 Cdn Div. Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

31

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 29th day of January 1942 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~ J.D.R.
4. ~~The officers under instruction~~) J.D.R.

* Omit if not applicable.

were duly sworn.

Signed this 30th day of January 1942.

J. D. Ross, Major, R.C.A.
President of the Court Martial

C. Certificate in case of death sentence.

* See footnote (c) on page 764 M.M.L. 1939.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to remit to prison, or having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison until further orders.~~

Signed this second day of February 1942

for Commanding Officer Dep. A.D.C.

Promulgated and extracts taken in the case of C 19549 Gnr Dillon SA.

(a) (Dated) 7 Feb 42 (Signed) for Adjutant 4th Fd Regt., R.C.A., C.A.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

10/Dillon, S.A./1 (JAG Rev Cts)

25 Feb 42

Memorandum

F.G.C.M. - 29 Jan 42
C.19549 Gnr Dillon, S.A.
4 Cdn Fd Regt., R.C.A.

Irregularities

1. Sentence not dated - Green Book 59B.

2. Christian names of accused do not appear - R.P.12 and N.M.L.714.

3. Unauthorized abreviations are used in recording pleas.

4. Endorsement on the charge sheet, the convening order, etc., signed "for" Convening Officer contrary to R.P.105, footnote 2.

5. Medical certificates and other exhibits not signed by President - N.M.L.769, para 25.

6. Offences in the charge sheet allegedly committed 4 Dec 41. Charge sheet signed 27 Dec 41, endorsed by Convening Officer 24 Jan 42 and trial 29 Jan 42. No reason appears for delay.

7. Charge sheet not signed by unit C.O. - R.P.11.

8. On application by the Defending Officer under R.P.62(E) charges were tried separately. The Court in complying evidently did not note R.P.62(F). As a result trial proceeded on the first charge to which the plea was "Guilty", contrary to R.P.37(B) and (C). As this involved reading the Summary of Evidence, the accused was thereby prejudiced.

9. A.F.B.296 and M.F.M.6 were produced but not on oath and not properly certified - A.A.163(h) and footnote 1. This also was prejudicial to the accused on subsequent trial of the second charge.

10. Trial on the second charge then proceeded. The second witness identified certain stolen articles which the transcript describes as exhibits "P.2 and P.3". According to the record those exhibits are A.F.B.296 and M.F.M.6.

11. A.F.B.296 and M.F.M.6 were again produced, but not on oath and not properly certified - A.A.163(h) and footnote 1. Having once been in the custody of the Court on the first charge, the Prosecutor could not file them again as stated.

12. A great deal of hearsay was admitted by the Court in trial of the second charge and in the Summary of Evidence on the first charge, but both are sufficiently proven by admissible evidence.

13. Although some of the above irregularities are serious, it is not considered that any prejudice suffered by the accused was sufficient to warrant quashing.

14. Passed.

15. Return for recording please.

G.M. Graham

(G.M. Graham) Captain
JAG Rev Cts
Canadian Military Headquarters

P.O.R.

(Ottawa) Pd Bty | Squadron / Battery / Company / Detachment | 4 Cdn Fd Regt R.C.A. | Unit or Battalion

30 Jan 42 19 43

MORNING SICK REPORT

Regt'l No	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner or defaulter	Date of Sickness	DISEASE	Medical Officer's Remarks and Initial
C12549	Gnr Dillon, S.A.	29	RC	Prisoner W		Fit to be dealt with by Adj't.	

C. G. Robertson Capt
Medical Officer

Sgt Williams C.W.
Orderly N.C.O.

(OVER)

M. F. H. 392
Cons M-3-41 (3626-3-38)
M.G. 1572-29-248

5

CHARGE SHEET

The accused, No. C19549 Gnr DILLON, S.A., of the 2 Cdn Fd Bty, 4 Cdn Fd Regt, R.C.A., a soldier of the Canadian Army Overseas, is charged with:--

First Charge
Sec 41 (5)
Army Act

"Committing a civil offence" that is to say stealing

in that he,

in the field at 1715 hrs on 4 Dec 41 stole a bottle of wine from a delivery van, the property of Spain and Albury, merchants of Eastbourne, valued at 11s.

Second Charge
Sec 41 (5)
Army Act

"Committing a civil offence" that is to say stealing

in that he,

in the field, between 2140 and 2210 hrs on 4 Dec 41, stole medical appliances to wit an anaesthetic mask, mouth gag and note book, valued at £0:15:0, from a parked car, belonging to Dr. Hartley, High Street, Rye, Sussex.

N.L. Lochman
C.O. 4 Cdn Fd Regt, R.C.A.
C.O. being A.O.D.

Signed in the field
this 27th day of Dec 41

To be Tried by F.G.C.M.
In the Field
This 2nd day of Jan 42.

N.E.A. Rowley-Conwy
for (R.A. Fraser) Brigadier,
C.R.A., 2 Cdn Div.

I, No. C19549 Gnr Dillon, S.A., 2 Cdn Fd Bty, 4 Cdn Fd Regt, R.C.A., desire ~~do not desire~~ to have an officer assigned to represtn me at my trial by court-martial.

Major A.G. Young.

I desire the service of
if he is available.

L. Dallos

Dated in the field
this day of 23
January 1942.

...ject with the
...a put about 9.45.
...e proceeded
...ench when we
...ch. He was drunken
...ed the car Dillon
...hold it knew what
...was drunk and
... I asked Dillon
...he said from the
... I replaced the
...tack I should think
...minutes. He had
...watched tack.

...the car when I

...time stated
...Lieut, Rgt.

...
...2 12088 Gnr
...clerk sworn

...4th Bde and I
...turning to their
...they came in.
...someone fell
...and found it.
...this and put

Record of Proceedings of a Field General Court Martial

1. Unit of No. C 19549 Gnr Dillon, S.A. 4 Coln Fd Regt. held at H.Q. 4 Coln Fd Regt on Friday, the 30th day of January 1942.

2. Actual Court

Major J.D. Ross	2 Coln R.Tk Regt.
Capt. S.J. Richardson.	4 Coln Fd Regt.
Lieut. A.B. Smith.	8 Coln A.Fd Regt.

3. Prosecutor Lieut. J.A. Levine. 4 Coln Fd Regt.
Def Offr. Major Mag Jones 4 Coln Fd Regt.
The Def Offr is a qualified lawyer.

Medical Antipicate (Exhibit P1) put in by Prosecutor

~~4. The accused was arraigned and pleaded~~"
The defending offr applied under R.P 62(E) for the 2 charges to be tried separately and on consideration the Court granted the application.

4. The accused was arraigned and pleaded "guilty" to the following charge:- 1st charge.

5. Rule of Procedure 35(B) was complied with.

6. The summary of Evidence was read.

7. The prosecutor plus AF.B 296 (Exhibit P2) and Certified Copy of M.F.M 6 (Exhibit P3).

8. The ~~Defendant~~ Accused made the following statement in mitigation of sentence
"I had been drinking prior to commencing

pub. We got drunk and had a joint with the Scottish about 9.30. We left the pub about 9.45. We had to leave the pub. We proceeded Lunaty home. I was very drunk when we left the hotel. Dillon was drunk. He was drunker than I was. When we passed the car Dillon asked me to assist pr him I did not know what he was going to do - I knew he was drunk and told him to come home with me. I asked Dillon where he got the satchel and he said from the car. I told him to take it back. I replaced the articles and took the satchel back I don't think he intended to keep any of the articles. He had no objection to my taking the satchel back.

Re-examined by Prosecutor

I was about 150 yds from the car when I left Dillon.

Questioned by Court

Dillon and I were at this time billeted together in a room at 27 Hyde Street, Ryl.

Defence.

The next witness for the defence No 6 120 88 Gnr Gardiner P.W. 4 Coln Fd Regt duly sworn states:-

I recall the morning of the 4th Dec and I recall Gnrs Brunn and Dillon returning to their billets. I was in the lavatory when they came in. When I went to my room I heard someone fall down the stairs. I came down and found it was Dillon. I carried him upstairs and put him to bed. He was very drunk

Record of Proceedings of a Field General Court Martial

1. Unit of No. C 19549 Gnr Dillon, S.A. 4 Coln Fd Regt. Held at H.Q. 4 Coln Fd Regt on Friday, the 30th day of January 1942.

2. Actual Court.

Major J. D. Ross	2 Coln A.Tk Regt.
Capt. T. J. Richardson.	4 Coln Fd Regt.
Lieut. A. B. Smith.	8 Coln A. Fd Regt.

3. Prosecutor: Lieut. J. A. Moore. 4 Coln Fd Regt.
Def Off: Major Maj Jones 4 Coln Fd Regt.
The Def Officer is a qualified lawyer.

Medical Certificate (Exhibit P_1) put in by Prosecutor

4. ~~The accused was arraigned and pleaded~~"
The defending officer applied under R.P 62(E) for the charges to be tried separately and on consideration the Court granted the application.

4. The accused was arraigned and pleaded "Guilty" to the following charge:- 1st charge.

5. Rule of Procedure 35(B) was complied with.

6. The summary of Evidence was read.

7. The prosecutor put in A.F.B 296 (Exhibit P_2) and Certified Copy of M.F.M 6 (Exhibit P_3)

8. The ~~Defendant~~ Accused made the following statement in mitigation of sentence
"I had been drinking prior to commencing

the offence in question. I had drunk 2 bottles of wine that afternoon. The idea of taking the toilets just occurred to me when we were standing at the door of our toilets. It was not premeditated and was caused by drinking

9. The accused declined to call any witness as to character.

Certified a true Record of this trial, 30th day of January 1942. J. D. Ross. Major R.C.A. President

1. Trial of No C 19649 Gnr Dillon Bennette J.G. A.A. 4 Coln Fd Regt. on Second Charge.

2. Return Count } as for trial of first charge
3. Prosecutrix & Def Officers }

4. The accused was arraigned and pleaded "Not Guilty" to the Second charge.

5. The accused was asked the question at the foot of page 2 of A.F.A.3. and his answer was "No" and was recorded by the President.

6. Prosecution Evidence

The first witness No. Thomas Upton, Police War Reserve, of Eastbrough Laundry, Rye, Sussex being duly sworn stated.

On the night of December 4 I saw Dr Hartley at 1030. As a result of a conversation I had with him I went into a military toilet and found 3 articles which were missing from Dr Hartley's car. I identify the two articles now produced as two of them. The articles produced being an anaesthetic mask and a mouth gag. Two soldiers were in the room. Gnr Dillon whom I recognize as the accused and Gnr Brown. I questioned Gnr Dillon but he was too drunk under the influence of drink to give intelligent answers. Dr Hartley identified possession of the articles

Cross-Examined by Defending Officer

There were other people in the toilets but not in that room. I understood from Dr Hartley that articles were missing from the car. We searched the toilets and found them. There is no reason to connect Dillon rather than Brown with the articles except that Brown assisted in search. Gnr Dillon was drunk. They were both drunk.

Re-examined by Prosecutor

Brown was not as drunk as Dillon as he could help search and did his best to find missing articles.

The Second Witness No D114798 Gnr Brown. E. 4 Coln Fd Regt being duly sworn stated.

I remember the night of Dec 4 1941. I left Railway Pub with Gnr Dillon whom I identify as the accused. We passed near a car at which he stopped. When he arrived at our room he had a satchel. He unpacked the satchel and put some things on the mantelpiece. I identify the two articles shown to me (exhibits P2 and P3) as being articles taken out of the satchel by Gnr Dillon.

Cross-Examined by Defending Officer

I first saw Dillon when they came home at 0230 hrs and asked him to have a drink of a

(5) 11 8

Cross-Examined by Prosecutor.

When I came out of the lavatory, Brown and Bellin were both upstairs. I don't know whether they came in together.

Questioned by Court.

This happened around 10 o'clock in the morning.

The accused duly warned elected to give evidence on oath, was duly sworn and stated.

On the night of Dec 4 1941, Gnr Brown and I were in a pub drinking. I don't remember how much I drank. I don't recall any trouble with other soldiers. I don't remember coming home from the pub. I first heard of the ~~[illegible]~~ of medical appliances the following afternoon. Next morning I was taken to Brigade. I knew nothing of the matter and I was very surprised. I can think of no reason why I would want to take the articles. As far as I am concerned I don't know who took them. I had started drinking about pub-closing on the afternoon of Dec 4.

Cross-examined by prosecutor.

I had drunk half a bottle of wine before 5.15 that afternoon. Walker had the other half. I then had another bottle which I split with Gnr Brown. We finished this a short time before going to the pub. I remember drinking in the pub but that is all.

The Def Officer declined to re-examine

6. The Defending Officer adjourned the Court.

12 The prosecutor adjourned the Court

7. The Court is closed for finding.

8. The Court is re-opened.

9. The prosecutor filed R.F.B. 296 and Certified Copy of M.F.M. 6 which were admitted by defending Officer.

10. The defending Officer ~~addressed~~ made the following statement in mitigation of punishment.

The accused was drunk.

11. The accused declined to call character evidence.

The Court is closed for consideration of sentence.

Certified that the foregoing pages Nos 1 to 6 is a true record of this trial

30th day of January 1942.

J. D. Rees, Major. R.C.A.
President.

No. 619549 Name DILLON. S. A. Sqn., Battery, or Company 2nd Fd. Corps R.C.A. (C.A.S.F.) Date of enlistment 4/9/39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. C.R. WELSH Major Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 22 Feb 44	5/3/40		No cases of drunkenness - Nil.	on completion of six months service from date of attestation. Sgt					
OTTAWA	12/6/40	CMR	NIL	A.A. 10(4) BREAKING OUT OF BARRACKS. APPREHENDED BY CMR. PROV. POLICE AT 1630 HRS.	C/1BVR BRADLEY	168 HRS DETENTION	19/6/40	CAPT. STEWART	JAMES
PETAWAWA	29/7/40	C		A.A. 15 (1) AWOL FROM 0815 HRS 27/7/40 UNTIL 1600 HRS 2-8-40	USGT. MURRAY 2DR. BAKER	7 DAYS C.B. FORFEITS 5 DAYS PAY A.A. 46(2) d	3/8/40	H.M. BERRY CAPT.	FORFEITS 5 DAYS PAY FOR RECS
ALDERSHOT	29/11/40	C		A.A. 40. CARRIER OUT AN ORDER IN A SURLY MANNER WHILE REFUSING TO GIVE HIS NAME + NUMBER	L/BDR. KINNEAMOUTH PTE. EDWARDS	7 DAYS C.B. Confirmed	30 NOV. 40	C.R. BEAMENT MAJOR	

P3 O.R.

(P.T.O.)

P2 G.S.R

(Substitute for AFB 296)
or MFS 395

15

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No C19549 NAME Stephen Ambrose DILLON UNIT 4 Cdn Fd Regt, RCA

AGE 29 yrs MARRIED OR SINGLE Married NO. OF DEPENDENTS Nil

DATE OF ATTESTATION 4 Sep 1939

NO. OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL _____ MILITARY 41 days HOSPITAL _____ TOTAL 41 days

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY

A CERTIFIED TRUE COPY OF THE N.J.P.V. 6 MUST ACCOMPANY THIS FORM

Administrative

(Officer i/c Records)

4th Fd. Regt. R.C.A. Unit.

Dated at

This 30 day of Jul. 1942

(To be dated and signed as of date of trial)

Abstract of Evidence 17
in the case of
C19549 Gnr Dillon S.A., 2nd (Ottawa) Fd Bty, 4th Can Fd Regt R.C.A. 1st charge, Sec 41(5) A.A.

Taken by Capt A.J. Hicks, 2nd (Ottawa) Fd Bty, 4th Can Fd Regt, R.C.A., as directed by the C.O., 4th Can Fd Regt, R.C.A. in pursuance of provisions of D.R.O. No 772, Appx A.

No 1

C19549 Gnr Dillon, S.A., having been duly warned by Capt A.J. Hicks states under oath:

About five o'clock in the afternoon of Thursday 4th Dec 41 Gnr Wallis and I were standing at the door of our billet next to 77 High St, Rye and we noticed a wine truck with liquor in it drawn up in front. Wallis walked over to the truck, looked in it and came back. He said "It's only beer", and then he looked again and said, "No it's wine". He grabbed a bottle and handed it to me. I went upstairs with it and hid it in the coal bin. He came after me with another bottle and hid it in the coal bin. We

came downstairs and went out the back way through the archway into the street ~~that runs~~ off off High St, then on to High St. Walles went back into 97 High St and I went into Forgi's Tea Shop. From there I went down to the M.T. garage on Cinque Ports St. Walles came down there after a while. I left the garage and went to the billet. I told Gnr Brown S. I had a bottle of wine and asked him if he would like a drink. He said "Yes." We had a cup apiece. I phoned Walles at the garage and asked him what he was going to do with the other bottle of wine. He said "Bring it down to the garage." I brought it to him. He took it into the garage and I don't know what he did with it. I went up to the house and then Brown and I went into the Railway Hotel. We stayed in drink there. I was questioned about the wine by a detective the next day.

S Dillon

Billon - out

No 2.

C18533 Pte Walter M.L. having been duly warned by Capt A.S. Hicks states on oath:

I had been drinking on Thursday, 4 Dec'ber. At about 1730 hours Pte Billon and I were standing together in the doorway of our quarters next to 97 High St. when we saw a wine lorry parked out in front. The driver and his assistant came out of the store at 97 High St. He said to the assistant, "Don't miss the fall with the empty ones". They walked down the street to another liquor store about four doors down. Billon and I each reached out and took a bottle of wine. We went upstairs and put them under the steps. Billon went out and I went up to the third floor to get my greatcoat. When I got back downstairs Mrs Schofield came in and said, ~~Billon is stealing the scoundrel just stole two bottles of wine from the wine lorry~~ something. I continued downstairs and went to the M.T. garage on Cinque Ports St. I met Billon there and told him what Mrs Schofield had said. He went back to our quarters on High St. I went out to the street and was talking to two girls. I think I

phoned Billon; yes I guess I must have before I went out to the street. He came up and handed me a bottle of wine; then he went away. I placed the bottle in the front of a 30 cwt truck in the garage and went back out to talk to the girls. About 20.00 hrs that evening I walked past the truck, reached in to get the wine and it was gone. I heard nothing more about it until I was questioned by the detectives the following night.

Bnr Wm E Haller

No 3.

D114798 Gnr Brown, E. states:

I was given a drink of wine on Thursday evening 4 Dec. '41 at about 1800 hours. Gnr Billon gave it to me. After that we went to a few taverns. Later on that night I asked him where he got the wine. He said "I didn't take the wine, Waller took it and gave me one bottle, keeping another bottle for himself."

H. J. Dicks, Capt.
2nd (Ottawa) Fd Bty RCA

Witness: Mr. Charles Henry Ruffle of the town of Eastbourne in the county of Sussex states:

"I am 47 years of age, married and lieve at No. 154 Whitley Road, Eastbourne, my occupation being that of a lorry driver.

I am employed by Messrs. Spain & Albury Limited, Wine and Spirit Merchants, whose registered Office is at No. 36 Waterloo Street, Brighton. (Secretary Mr. E.W. Peacock).

About 5:15 p.m. Thursday 4th December, 1941, I stopped my lorry outside Venalls, High Street, Rye. On getting out of the driver's cabin, I noticed two soldiers standing on the pavement close to the shop window. I unloaded and took into the premises part of the order, and on returning to the lorry noticed that two bottles of Robertson's Old Ruby Port were missing from the vehicle, also that the two soldiers were no longer in the vicinity.

On returning to Eastbourne, I immediately reported this matter at my head office, No. 29 Terminus Road, Eastbourne.

The value of the missing Port is £1 (One Pound), and I identify it as the property of my employers, Messrs. Spain & Albury Limited".

(Sgnd) C.H. Ruffle

Witness: Mr. Harry Oswald Schofield M.C., F.G.I. of the town of Rye in the county of Sussex states:

"I am a master grocer, with business premises at 97 High Street, Rye. At 5:15 p.m. on the 4th December 1941, Messrs Spain & Albury's, van, of Eastbourne, called at my shop, 27 High Street, Rye, to deliver cases of goods. Whilst the driver was unloading the vehicle, he left it unattended for a few moments. On returning, he found that two bottles of Robertson's Old Ruby Port, valued at 10/- per bottle, had been stolen from the vehicle. When the van called at my shop, I was putting the shutters up and I saw Gunner Dillon with another Gunner in the doorway leading to the army billet over my shop. The door is at the side of the shop. These two soldiers were both sober. When the bottles of port were found missing, these two soldiers were not in sight. I went up in the billets at 97 High Street, Rye, but I could not find Dillon or the other soldier. I told the driver that I would report the facts to the police."

(sgnd) H.O. Schofield

Witness: Thomas Upton P.W.R. No. 422 of the town of Rye in the county of Sussex states:-

I beg to report that at 10;30 p.m. on the 4th of December, 1941, I was on duty in High Street, Rye, where I saw Doctor HARTLEY of the "Holloway House", High Street, Rye. He informed me that some soldiers had interfered with some of his instruments which were in his car, and that some parts of an outfit for administering an anaesthetic were missing, and that he suspected two soldiers who were billeted over Mr. Schofield's shop, at 97 High Street, Rye.

I went to this billet accompanied by Doctor HARTLEY, where we saw two drunken soldiers, whom I had previously seen being ejected from the Railway Hotel, Rye, by Military Police.

I questioned these men, but they were to much under the influence of drink to give inteligent answers.

I searched the room and found an anaesthetic mask, mouth gag and note book. These were the missing articles.

Doctor HARTLEY took possession of these, as they were his property.

(sgnd.) Thomas Upton

COUNTER NUMBER 550267

HOUR 1500

OPERATOR'S INITIALS GM

RELIEVING OPERATOR _____


4417

END

FIRST

SIDE

START

SECOND

SIDE


4417

5 K-71
Cpl. Dimauizio, J.

3/17 MFM 6
(AFB 122)

No. D 122735 Name Dimaurizio JA Sqn, Battery, or Company

Corps RCEME

Date of enlistment 30 Jul 40 Sheet No.

Service or Proficiency Pay W.T. Character Fair

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	18 Jan 41	Pte		AA Sec 40		Reprimand 14 days FP 14 days pay		J.M.	
	9 Nov 42	Pte		AA Sec 40					

CERTIFIED TRUE COPY MFM 6 18 Jul 45

Officer Having Custody of Regimental Books

(P1)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ *Rank* _____ *Name* _____ of _____ Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or statut. of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18 day of Jul 43

2/Lieut Staff

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion.
In the rank of Acting-Corporal	3 Mmmos 15 Apr 43
In the rank of Corporal (Confirmed)	2 years. 16 Jul 43
In the rank of	years.

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph entered amended accordingly.*)

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
D.122739	Cpl	DIMAURIZIO, J.A.	2 Cdn Repat Depot

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness, the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For	Offence under AA Sec 40 NIL times	2 times
For	times	times
For	times	times
For	times	times
For	times	times
~~Number of occasions of gallantry or distinguished conduct~~		
~~or~~		
~~There are no entries in the conduct sheets of the accused~~.		

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 75 of the Army Act, are set out in the schedule annexed to this statement.~~

3. ~~The accused is not under sentence at the present time. or The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for ~~RRS 22~~ nil days in civil custody, and 22 days in military custody, making a total of 22 days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 25 yrs

6. The date of his ~~attestation~~ specified in his ~~attestation paper~~ record of service is 30 Jun 1941

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs service.

9. ~~The accused is entitled to reckon~~ ~~service for the purpose of determining his gratuity, etc.~~

10. The accused is in possession of, or entitled to, no military decoration or military award *(or is in possession of or entitled to)* *(state any military decoration or reward)*. C.V.S.M. & Clasp

11.— ~~*(If the accused is a warrant officer.)* The accused before he was made a warrant officer was~~ ~~the regimental rank~~ of

12. *(In the case of an officer.)* The accused holds in the army the rank of dated

~~on his Regiment (or corps or department) the rank of dated~~

Ex H

No 2 CANADIAN REPATRIATION DEPOT

Date 17 July 45

This is to certify that I have received free of charge the following papers in connection with my forthcoming trial by FGCM.

1 Copy of Charge Sheet
1 Copy of Summary of Evidence
1 List of Witnesses
~~1 List of Exhibits~~
1 List of Exhibits

J.A. Dimaurizio
(signature)

(J.A. Dimaurizio) Cpl
D.122739

NO 2 CANADIAN REPATRIATION DEPOT

NO 2 CANADIAN REPATRIATION DEPOT

I, Joseph Anthony DIMAURIZIO Date 17 July 45

desire to have an officer to defend me at my forthcoming trial by FGCM.

I desire the services of N/A

if he is available.

(Signature)

(J.A. Dimaurizio) Cpl
D.122739

LIST OF WITNESSES FOR THE PROSECUTION & THE DEFENCE

IN THE CASE OF 17 Jul 45

D.122739 Cpl DIMAURIZIO, J.A.

For the Prosecution

B.136999 L/Cpl Melnyk, J. - 6 Det, 6 (Area) Prov Coy, Cdn Provost Corps.

F.50448 Cpl Ames, F.M. - 6 Det, 6 (Area) Prov Coy, Cdn Provost Corps.

For the Defence

C.101089 Pte Radke, J.F. - 2 Cdn Repatriation Depot

D.166321 Pte Ryall, A.K.G. - 4 Cdn Repatriation Depot

LIST OF EXHIBITS

In the Case of D 122739 Cpl Dimaurizio, JA, RCEME, att 2 Cdn Repat Depot.

N I L

Appendix B

ABJ

SECOND WITNESS

B 136999 L/Cpl. Melnyk, J. No. 6 Detachment, No. 6 (Ans) Transit Coy, Can. Provost Corps, having been duly sworn saith:

At Manchester on 30 Jun 45 at approx 2359 hours in Gardner's Restaurant, Piccadilly, while on duty with Cpl Ames I approached Cpl Dimanizio and asked him to let me see his pass. He replied "No, let me see your pass first." I then again asked to see his pass and he replied again with the same words. I then asked him to come with me. He came with me towards the door to where Cpl Ames was at the time. Cpl Ames asked what was going on and he said "Fuck off, you Canadian bastards," and at the same time took a swing at me. I grabbed him and took him out to the door where he braced himself and refused to go any further. While we were taking him through the door he struck me on the side of the head. We took him outside where he continued to struggle. We all three fell down to the pavement where he was eventually overpowered and handcuffed. He then refused to enter the truck and had to be lifted in. Once we got him in the truck he gave us no further trouble. We took him to the Ardwick [illegible]

Guardroom, and turned him over to the Guard Commander. At the time of this incident escorted Cpl. Dimaunigis was sober.

witness

R.A. Bairnson Capt.
Can. Guard Cpls.
5 Jul 45.

J.J. Melnyk L/Cpl.
B/136499
No. 6 (Can) Guard Coy.

Appendix A
AB7

Statements of evidence in the case of
D122739 Cpl. DIMAURIZIO, J.A. No 2 Can
Repatriation Depot. Can Army Overseas.

FIRST WITNESS

F50448 Cpl. Armes, F.M., No. 6 Detachment
No 6 (Can) Transit Camp, Can Inland Camps,
having been duly sworn saith:

At Manchester on 30 Jan 45 at about
2359 hrs. I was on duty in Gardners
Restaurant, Piccadilly, together with B136999
L/Cpl. Melnyk. I saw L/Cpl Melnyk check
a Canadian Corporal for his leave
pass. This Corporal who later proved to
be D122739 Cpl. DIMAURIZIO, J.A. of 2 Can. Repat.
Depot, was sitting at a table with
two american Soldiers. I did not hear
the conversation between L/Cpl Melnyk
and Cpl. Dimaurizio, but L/Cpl Melnyk
seemed to be having trouble. I went
over to see what I could do to help
L/Cpl. Melnyk and on the way over I
checked a Canadian Soldiers for his
leave pass. When I got [illegible] during
the [illegible], L/Cpl. Melnyk and Cpl.
Dimaurizio were standing in the centre
of the floor not far from the
main entrance to the restaurant. Cpl.
Dimaurizio had his tunic off and tucked
under his arm. I approached the
two N.C.O's and asked what the
trouble was. L/Cpl. Melnyk stated "His

man will not show me his leave pass or Pay book." I then ordered Cpl. Dimaniyio to produce his pass and pay book and to put on his tunic, to which he replied "Fuck you cease fire bastards, I'm not going to do anything for you." I then placed Cpl. Dimaniyio under arrest and while he was being escorted from the restaurant he became violent. He shoved L/Cpl. Mulingi on the side of the head with his fist. Then I took hold of him by the right arm and tried to get him out the door. He then braced his feet and his arms against the sides of the door and we had to use force to remove him from the premises. After getting outside he was still violent and then I had to put handcuffs on him. While trying to get the handcuffs on the three of us fell to the pavement where we forcibly restrained Cpl. Dimaniyio and prevented any further violence. We then escorted him to our lorry on a short distance away and when we got to the lorry he would not get onto it. We then lifted Cpl Dimaniyio bodily and put him in the truck and escorted him to the Admiral Keen Guardroom where he was handed over to the R.C.O. & I left to be detained. At the time I left Cpl Dimaniyio was sober.

witness:
R Mulingi Capt
Co. Iron Corps.
5 Jul 45.

F50448 J.M. Homer. Cpl
G(AR&R) PROVOST COMPANY.

RECORDED AT CMHQ IN AB 160 SR-71

FIELD GENERAL COURT-MARTIAL

CFA66 (In lieu of AFA3) 40-F & B/1000 (6144) 4/38B



Convened by Order of Brig A.B. Connelly, C.B.E. Comd "B" Gp., CRU dated 21 JUL 45.

ACCUSED.

(Re trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 122739	Cpl		Joseph Anthony	DIMAURIZIO	2 Cdn Repat Depot

PROCEEDINGS REVIEWED
24 Aug 45
REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ENGLAND on (*date(s)*) 23 JUL 45.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1215 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~President to accused~~: Do you object to ..... as interpreter ? Ans .....

The Interpreter is sworn.(1) Do you object to Capt [illegible] as shorthand writer ? Ans Nil
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.L., Redman, VD	HQ CRU
Member	Captain	R.S.J. SEALY	1 Cdn Reception Dep
Member	Lieutenant	J.S. SUTHERLAND	3 Cdn Repat Dep
~~Judge-Advocate~~			
Prosecutor	CAPT	R.R. DOUGLAS	2 CDN REPAT DEP
Defending Offr	CAPT	N.S. WADHAM	2 CDN REPAT DEP

Questions by President: Is the Prosecutor a lawyer ? Ans Nil Is the Defending Offr a lawyer ? Ans Nil (2)

(1. RP 16, 17, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment unless RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~no~~) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in full name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A84 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. DM #65

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 122739 Cpl Joseph Anthony DIMAURIZIO - 2 Cdn Repat Depot

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. 40	GUILTY	GUILTY	
2nd A.A. 10(2)	GUILTY	GUILTY	
3rd A.A. 10(3)	GUILTY	GUILTY	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

11. At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 2+2 days, of which NIL days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To forfeit all ordinary pay pra period of Thirty (30) Days.

(Sgd) ..... Judge-Advocate, if any. 23 JUL 45 Date awarded. (Sgd) [signature] President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be entered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

Date 25 Jul 45 (Sgd) [signature] Commanding B Group CAF Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D 122739 Cpl Dimaurizio JA	26 Jul 45	[signature] Lt-Col

Part II D.O. 65

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 78-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO STM (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 56 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) The Court decides (not) to advise accused to change his ~~(their) plea(s) of Guilty to Not Guilty on~~ charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) on~~ charge(s). ~~Part I of the Schedule is amended accordingly.~~
(1. *Court may be cleared to consider the statement.* *Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea starting as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*D*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. .....
Do you intend to call witnesses on your behalf? Ans. .....
Are they witnesses as to character only? Ans. .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 60(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*B*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(2) (*a*), *RP* 45, 120(*A*). 2. *AA* 54(2), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) NO - STM
Ans. .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para.* *RP* 17(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents relate to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MML* 355 *or AFB* 294. 2. *MFM* 6. 3. *RP* 46, *KR Con* 552. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. NIL (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment.* *RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(4), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, compliant of the punishment or punishments laid down in AA* 43, 44 *and its proviso, is to be awarded to cover all charges to all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 89, 118, 119(*A*), *KR Con* 308, 336, 563-566, *Overseas RO* 309, 2323, *MML p* 62, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(*f*), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to summary and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D 122739 Corporal Joseph Anthony DIMAURIZIO, Royal Canadian Electrical and Mechanical Engineers, on the strength of No 2 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE WHILE ON ACTIVE SERVICE, Conduct to the Prejudice of Good Order and Military Discipline,

Section 40 Army Act

in that he,

In Manchester, at 2359 hours 30 June 1945, when ordered by B 136999 L/Cpl Melnyk, J., of the Canadian Provost Corps, to hand over his pass, did not do so, stating, "I am not going to show you cease fire bastards my leave pass".

SECOND CHARGE WHILE ON ACTIVE SERVICE, Striking a person in whose custody he was placed,

Section 10(2) Army Act

in that he,

In Manchester, at 2359 hours 30 June 1945, did strike B 136999 L/Cpl Melnyk, J., an NCO of the Canadian Provost Corps, in whose custody he was placed.

THIRD CHARGE WHILE ON ACTIVE SERVICE, Resisting an escort whose duty it was to have him in charge,

Section 10(3) Army Act

in that he,

At Manchester, at 2359 hours 30 June 1945, while under escort of B 136999 L/Cpl Melnyk, J., and F 50448 Cpl Ames, F.M., of the Canadian Provost Corps, did resist by struggling.

W. T. Ibbott

(W.T. Ibbott) Lt-Col,
Commanding Officer,
2 Cdn Repat Depot.

BLACKDOWN CAMP
4 JULY 1945

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

A.B. Connelly

(A.B. Connelly) Brig,
Comd "B" Gp
Cdn Rft Units.

IN THE FIELD
21 JUL 45.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D 122739	Cpl		Joseph Anthony	DIMAURIZIO	- 2 Cdn Repat Depot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 21 Jul 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr;)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by CO	1 Cdn Reception Dep
Lieutenant	to be detailed by CO	3 Cdn Repat Dep

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

A.B. Connelly (A.B. Connelly) (Signed personally. RP 105 fn 2.)

Brig. (Rank.)

Dat 21 JUL 45.

Commanding "B" Gp., Cdn Rft Units.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (AFA 38 (In lieu of AFA 3) 40/P & E/1697 (8142)) (See overleaf for oaths and notes for use on trial.)

23 July 45.

Certified that D-122739 Cpl. Dimaurizio, J.A. is fit to undergo trial by Court Martial.

Medical Officer.

Plea of Mitigation - D-122739 Cpl DiMAURIZIO, J.A.

May it please the court:

We have here a case of a man who has pleaded guilty for two distinct reasons. First and foremost is the reason that the events of the night of 20 JUN 45, which resulted in his facing this court to-day, are a complete haze in his mind. He has no distinct recollection of what actually happened and thus is forced to accept the sworn testimony of two members of the Can Provost Corps. Secondly, his own two witnesses, for some unknown reason, have been allowed to return to Canada. Under a plea of not guilty, he would be allowed to have these witnesses present, under Chap X sec 27 of AWL. As he knows the hardship this would cause these men to be suddenly recalled from leave with their families, whom they have not seen for years, he has decided to rest his case on the evidence presented and the clemency of the court.

I should like to bring to the Court's attention a few facts in this case. Cpl DiMaurizio enlisted in the Army on June 30, 1941. He proceeded o/s on the 7 Oct 42 and went with his unit to the continent on 26 JUN 44. He has been on the continent through all the horrors and privations of that campaign until being returned to the UK on the 23 of last month. He returned for a very good reason. He had volunteered for the CFEF to fight the Japs in the Pacific theatre. Returning to England he was given his last leave in the UK. Naturally in view of all the circumstances he was out to have a good time and who deserved it more? Talking in with two chums they all started to drink and drank steadily from 1900 hrs to 2200 hrs, a matter of three hours. Under oath, Pte Rydall states that during this time they consumed at least 1 doz half pints of a mixture of beer called "Young Tom".

Gentlemen, also under oath two members of the Can Provost Corps stated that at the time of his arrest this soldier was sober. There is no doubt in my mind and cannot, in view of the circumstances, be any doubt in yours that this soldier was not sober. He himself is hazy as to what occurred, yet he is pronounced sober by his apprehenders. Are they competent to make such profound statements on sobriety?

Having been duly arrested, the Cpl was placed in the guard house until 4 JUL 45, 19 days ago, when a Summary of Evidence was taken. On 21 JUN 45 Cpl DiMaurizio was given an officer to defend him, after he had spent 17 days after the necessary awaiting his Defending Officer. Any hopes that he had of

finding witnesses of his own to the occurrence were of course
dashed after this length of time had been allowed to elapse.

As to his past conduct as recorded on his AF B 6, the
court will note that in 2½ yrs this soldier has only two entries,
both being charges under Sec 40 of the A.A. For one charge he was
awarded 14 days F.P. and for the other a mere reprimand. No entries
of drunkenness are recorded. To all intents and purposes we have
here a soldier who has served well and faithfully in his line
of duty and has only two very minor charges on his crime sheet. I am
sorry that I am unable to bring to this court a witness as to
the character of this man. Any such witnesses are still on the
continent and unable to be summoned. If they were available, I am
sure their remarks would show that Cpl DeMarigo has been
a good and faithful servant.

In summing up may I say that this man is sorry for
any disturbance that he has made. Had he been sober, his actions
would have been quite different. He has been held in custody
for 23 days already without trial and in all this time his heart
has been to be with his pals who are going to the Far East. He wants
to help finish the job. His record is good. He has already suffered
most unduly for some unknown reason. He begs that the Court
take all this into consideration and give justice, tempered with their
mercy.

Normand Wadham Capt.

F-3

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D.122739 Corporal Joseph Anthony DIMAURIZIO, RCEME, on the strength of No 135 Canada Draft, att to 2 Canadian Reputriation Depot, a soldier of the Canadian Army Overseas.

By Direction of the Commanding Officer, the Summary of Evidence is taken under oath.

FIRST WITNESS For the Prosecution

B.136999 L/Cpl Melnyk, J., No 6 Detachment, No 6 (Area) Provost Coy, Cdn Provost Corps, a soldier of the Canadian Army Overseas.

Pursuant to Overseas R.O. 957(4) and R.P. 4(G), a statement of this witness' evidence purporting to be signed by him has been read over and shown to the accused, and is included in this summary marked Appendix "A".

I certify that the attendance of this witness cannot be readily procured, owing to the exigencies of the service and the expense and loss of time involved.

The accused does not demand the attendance of this witness for cross-examination.

A B Thompson

(A.B. Thompson) Capt
Officer Detailed to Take Summary.

SECOND WITNESS For the Prosecution

F.50448 Cpl Ames, F.M., No 6 Detachment, No 6 (Area) Provost Coy, Cdn Provost Corps, a soldier of the Canadian Army Overseas.

Pursuant to Overseas R.O. 957(4) and R.P. 4(G), a statement of this witness' evidence purporting to be signed by him has been read over and shown to the accused, and is included in this summary marked Appendix "B".

I certify that the attendance of this witness cannot be readily procured, owing to the exigencies of the service and the expense and loss of time involved.

The accused does not demand the attendance of this witness for cross-examination.

A B Thompson

(A.B. Thompson) Capt
Officer Detailed to Take Summary

17

FIRST WITNESS

For the defence

C.101089 Pte Radke, J.F., R.C.A.S[illegible]., on the strength of C.D. 135, att to 2 Cdn Repat Depot, a soldier of the Canadian Army Overseas, having been duly sworn, states:

I am C.101089 Pte Radke, J.F., and was in Manchester on leave on 30 Jun 45. At about 1900 hrs that date I was in the bar at the Castle House in company with the accused, D.122739 Cpl Dimaurizio, J.A., whom I now recognize. We were drinking a mixture of beer which the house called "Young Tom". We stayed there until closing time, approximately 2200 hrs. During the evening we consumed several of these "Young Tom" mixtures. When we left the Castle House at closing time, I was not in a sober condition nor do I believe that the accused was in a sober condition. We separated at the entrance after leaving the Castle House and I do not know where the accused went.

The Witness was cross-examined by the accused.

Q1 Was there anyone else with us drinking at the Castle House Bar?
A1 Yes; there was.

Q2 Can you tell me his name, unit and location?
A2 Yes; he was D.166321 Pte RYALL, Albert Kenneth George. He is on a Canada Draft at 4 Cdn Repat Depot (Whitley).

J.F. Radke

(J.F. Radke) Pte C.101089

SECOND WITNESS

For the Defence

D.166321 Pte Ryall, A.K.G., RCAS Corps, on strength of CD 105, att to 4 Cdn Repat Depot, a soldier of the Cdn Army Overseas, having been duly sworn, states:

I am D.166321 Pte Ryall, A.K.G. On 30 Jun 45, I was on leave in Manchester. At about 1800 hrs that date I was in the bar at the Castle House in company with the accused, Cpl Dimaurizio, J.A., whom I now recognize, and C.101089 Pte Radke, J. We were drinking beer. We stayed until closing time; approximately 2200 hrs. During the evening, we consumed at least one dozen half pint glasses of beer. When we left the hotel at closing time I was not entirely sober and Cpl Dimaurizio was in the same condition. We wandered around the streets and parted company at approximately 2330 hrs, 30 Jun 45. I do not know where the accused went after I left him.

A.K.G. Ryall

(A.K.G. Ryall) Pte D.166321

The accused declines to cross-examine this witness.

The accused was cautioned as follows: Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence on oath.

I certify that the foregoing Summary of Evidence, consisting of THREE pages, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

A. B. Thompson

(A.B. Thompson) Capt
Officer Detailed to Take Summary.

BLACKDOWN CAMP
11 Jul 1945.

APPENDIX "A"

SECOND WITNESS FOR THE PROSECUTION

B-136999 L/Cpl. Melnyk, J., No. 6 Detachment, No.6 (Area) Provost Coy., Cdn Provost Corps, having been duly sworn saith:-

At Manchester on 30 Jun 45 at approx 2359 hours in Gardener's Restaurant, Piccadilly, while on duty with Cpl. Ames, I approached Cpl. Dimaurizio and asked him to let me see his pass. He replied, "No, let me see your pass first". I then again asked to see his pass and he replied again with the same words. I then asked him to come with me. He came with me towards the door to where Cpl. Ames was at the time. Cpl.Ames asked what was going on and he said, "Fuck off, you cease fire bastards" and at the same time took a swing at me. We grabbed him and took him out to the door where he braced himself and refused to go any further. While we were taking him through the door he struck me on the side of the head. We took him outside when he continued to struggle. We all three fell down to the pavement when he was eventually overpowered and handcuffed. He then refused to enter the truck and had to be lifted in. Once we got him in the truck he gave us no further trouble. We took him to the Ardwick Green Guardroom, and turned him over to the Guard Commander. At the time this incident occurred Cpl. Dimaurizio was sober.

Witness:

(Sgd) R.P.Harrison, Capt.
Cdn Provost Corps
5 Jul 45

(Sgd) J.Melnyk L/Cpl.
B-136999
No.6 (Area) Provost Coy.

APPENDIX "B"

Statements of evidence under oath in the case of D-122739 Cpl. DIMAURIZIO, J.A., No.2 Cdn Repatriation Depot, Cdn Army Overseas.

FIRST WITNESS FOR THE PROSECUTION

F-50448 Cpl. Ames, F.M., No.6 Detachment, No.6 (Area) Provost Coy., Cdn Provost Corps, having been duly sworn saith:

At Manchester on 30 Jun 45 at about 2359 hours I was on duty in Gardener's Restaurant, Piccadilly, together with B-136999 L/Cpl. Melnyk. I saw L/Cpl. Melnyk check a Canadian Corporal for his leave pass. This Corporal who later proved to be D-122239 Cpl. DIMAURIZIO, J.A. of No. 2 Cdn Repat Depot, was sitting at a table with two American soldiers. I did not hear the conversation between L/Cpl. Melnyk and Cpl. Dimaurizio, but L/Cpl. Melnyk seemed to be having trouble. I went over to see what I could do to help L/Cpl.Melnyk and on the way over I checked a Canadian soldier for his pass. When I got finished checking the soldier, L/Cpl. Melnyk and Cpl. Dimaurizio were standing in the centre of the floor not far from the main entrance to the restaurant. Cpl. Dimaurizio had his tunic off and tucked under his arm. I approached the two N.C.O's and asked what the trouble was. L/Cpl.Melnyk stated, "This man will not show me his pass or Pay Book". I then ordered Cpl.Dimaurizio to produce his pass and pay book and to put on his tunic, to which he replied, "Fuck you cease fire bastards, I'm not going to do anything for you". I then placed Cpl. Dimaurizio under arrest and while he was being escorted from the restaurant he became violent. He struck L/Cpl. Melnyk on the side of the head with his fist. Then I took hold of him by the right arm and tried to get him out the door. He then braced his feet and his arms against the sides of the door and we had to use force to remove him from the premises. After getting outside he was still violent and then I had to put handcuffs on him. While trying to get the handcuffs on the three of us fell to the pavement where we finally overpowered Cpl. Dimaurizio and prevented any further violence. We then escorted him to our lorry a short distance away and when we got to the lorry he would not get into it. We then lifted Cpl. Dimaurizio bodily and set him in the truck and escorted him to the Ardwick Green Guardroom where he was handed over to the N.C.O.i/c of Cells to be detained. At the time of his arrest Cpl. Dimaurizio was sober.

(Sgd) F-50448 F.M.Ames, Cpl.
6 (Area) Provost Company.

Witness:

(Sgd) R.F.Harrison, Capt.
Cdn Provost Corps
5 Jul 45

COUNTER NUMBER 5-50300

HOUR 15 15

OPERATOR'S INITIALS GM

RELIEVING OPERATOR HL

COUNTER NUMBER 5-50300

HOUR 15 15

OPERATOR'S INITIALS GM

RELIEVING OPERATOR H.L

SA-87

Pl. Dimitroff J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K-49784 Pte James DIMETROFF Calg Highrs, 11 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~.....~~ E Y H beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 72 days, of which 5 days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of six (6) months

(Sgd) ..... Judge Advocate, if any. 9 Feb 45 Date awarded. (Sgd) C G King Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sentence back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally, AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (1. AA 57A. Delete if not used.)

(Sgd) .....

Date 12 FEB 45 A/Commanding 2 CDN BASE REP GP (J Runcie) Lt-Col Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K-49784 Pte. James Dimetroff.	17 Feb 45.	L.F. Abbott Colonel OC 2 Can Gen Hosp, RCAMC.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 166 5H-87

RECEIVED 4 APR 1945 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL (CPA88 (In lieu of AFA87) 40/P & R/1688 (6/44)) 4/38B

Convened by Brigadier G.S.N. Gostling, ED Comd 2 CBRG dated 2 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt Rank	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-49784	Pte		James	DIMETROFF	Calg Highrs 11 CBR Bn

PROCEEDINGS REVIEWED 4 Apr 45 Pte [illegible] Lt-Col REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Date 14 Apr 45 Capt 6 HQ 2 Echelon 21 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date) 9 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 22/112.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns KOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 752. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number in fn. Set back of Convening Order, CF A95, for oaths and Instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1745 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(2) Do you object to ..... as shorthand writer? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (1)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	C.G. KING	RCA	9 CBR Bn
Member	Major	E.V. PINHAM	RHC	3 MBTD
Member	Captain	D.L. McJANET	RCASC	9 CBR Bn
Judge-Advocate				
Prosecutor	Lieut	G.C. SCOTT	Tor Scots	10 CBR Bn
Defending Offr	Lt	T.C. TUFTS	RAR	11 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (1)

(1. RP 26, 27, 109, 111. Lists of offrs under instr will be returned separately with proceedings for information of Conv Offr.) Q. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 85 (B) and fn 2 were not followed. See Q1 p 3.)

A8. The accused K-49784 Pte James DIMETROFF before arraignment make(s) (no) ~~(no)~~ plea(s) .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 42(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fn to RP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 52; when several accused to be tried separately see RP 71(C), and use separate copies of CF A84 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRU Vol 3 p

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete words or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ..... Do you intend to call witnesses on your behalf ? Ans. ..... Are they witnesses as to character only ? Ans. .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 895. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 66(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes re Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. yes, call character witnesses
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 294. 2. MFM 4. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. yes, on Statement
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to speak on both anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 111 perverso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(4-6), KR Can 308, 325, 543-566, Overseas MO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 98(1), KR Can 564. 2. RP 50. As to remission from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused K49784 Pte James, DIMETROFF,(CALG HIGHRS REGT) 59 Coy, 11 CBR BN, a soldier of the Cdn Army Overseas is charged with:

FIRST CHARGE "WHEN ON ACTIVE SERVICE ABSENCE WITHOUT LEAVE"
AA SEC 15(1)

in that he,

in the Field, at 0630 hrs on 27 Dec 44 did absent himself without leave until apprehended by C Pro C at 1545 hrs 17 Jan 45.

(Total absence: 21 days 7 hrs 15 mins)

(G. GROSSMAN) Major,
A/COMD, 11 CBR BN

In the Field,
26 Jan 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(E.H.N. Gostling), Brigadier,
Commander
2 Canadian Base Reinforcement Group.

In the Field
2 Feb 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K-49784	Pte	James	DIMITROFF	Calg Highrs 12 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 2 Feb 45 endorsed by me, ~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(8), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	C.G. KING	RCA	9 CBR Bn

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Major	E.V. PINKHAM	RHC	3 RHTD
Captain	D.L. McJANNET	RCASC	9 CBR Bn
	~~WAITING MEMBER~~		

~~JUDGE ADVOCATE~~

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

In BELGIUM (Country)

Date 2 Feb 45

(Signed personally. RP 105 (a) 2.)

(G.S.W. Gostling)

Brigadier (Rank.)

Commanding 2 CDN BASE HFT GP

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 66 (In lieu of AFA 3) 40-7 A.G. 1695 (8142)

MEDICAL INSPECTION CERTIFICATE

This is to certify that K-49784 Pte DIMETROFF J has been Medically Examined and is fit to stand trial by Court Martial.

(J G MacFetridge) Capt
Medical Officer

9 Feb 45

2 Cdn Gen Hosp RCAMC

G.G.K.

Proceedings in the case of

K49784 Pte JAMES DIMETROF of the CALGARY HIGHLANDERS

CHARACTER WITNESS FOR THE DEFENCE.

K65729 Sgt Barstow C.A. having been duly sworn states:

" I am K65729 Sgt Barstow C.A. of 11 Bn CBRG,and I have known Pte Dimetrof for about 2½ years.
About two and a half years ago Pte Dimetrof came to my unit in Canada.He was placed in my Platoon and was subsequently made a Lance Corporal.During the time that I knew him which was about six months after that he carried out his duties well,and to my knowledge was never in any difficulties.
During the time that he was in my Coy at 11 Bn CBRG he carried out all his duties cheerfully and was no trouble to us in the Coy while he was there."

R.P. 83(b) has been complied with.

In mitigation, sir, I wish to say that Pte. Demeriot has a fine record up to the time of this lapse. He has also been wounded in action with his regiment, the Calgary Hig/Sanders. I want the court to bear these facts in mind in awarding sentence, and not be too severe with a man for his first mistake, especially as it was after the shock of action and being wounded. Give him a chance to return to carrying out his duties as a soldier at the front.

T. C. Tufts, Lieut.

C.G.H.

Ex "A"

SUMMARY OF EVIDENCE

In the case of K49784 Pte James, DIMETROF (Calg Highrs Regt) 59 Coy, 11 CBR BN, a soldier of the Cdn Army Overseas charged with Absence Without Leave.

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS

K65729 Sgt Barstow, C.A. 58 Coy 11 CBR BN having been duly sworn, states:

"I am K65729 Sgt Barstow, C.A. 58 Coy 11 CBR BN."

"At 0830 hrs 27 Dec 44 I held a parade on which I called out the names of several men for transfer to another company. Pte Dimetroff's name was one of them. He did not answer his name and was not present. I searched the Coy lines and could not find the above mentioned soldier."

C.A. Barstow
.....
(K65729 Sgt Barstow, C.A.)

(RP 83(b) has been complied with)

The accused does not wish to cross-examine the witness.

DOCUMENTARY EVIDENCE

A Certificate of Apprehension produced as Documentary Evidence was read over to the accused marked Exhibit "A" by me and attached hereto.

R.E. Crouch
.....
(R.E. Crouch) Lt,
Officer detailed to take
SUMMARY OF EVIDENCE

The accused was cautioned as follows:

"Do you wish to make any statement or give evidence on oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you may give will be taken down in writing and may be given in evidence."

The accused does not wish to make any statement.

The accused does not call any witness.

I CERTIFY THAT THE FOREGOING SUMMARY OF EVIDENCE, CONSISTING OF ONE (1) PAGE, WAS TAKEN DOWN BY ME IN THE PRESENCE AND HEARING OF THE ACCUSED AND THAT RP-4 (c) (d) (e) and (f) HAVE BEEN COMPLIED WITH.

R.E. Crouch
.....
(R.E. Crouch) Lt,
Officer detailed to take
SUMMARY OF EVIDENCE

In the Field,
26 Jan 45.

64

REQUEST FOR DEFENDING OFFICER

I wish to have an officer appointed at the discretion of the Commanding Officer defend me at my Trial.

J. Dimetroff

.....

(K49763 Pte Dimetroff, J.)

LIST OF WITNESS

PROSECUTION:

K65729 Sgt Barstow, C.A.

DEFENCE:

NIL

LIST OF EXHIBIT

"A" CERTIFICATE OF APPREHENSION

64

Exhibit "A"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 45

I CERTIFY that No K-49784 Rank Pte Name DIMETROFF.J.

Unit 11 Bn "2" C.A.P.C. was arrested at Paris (Place)

at 1545 (hour) on 17/Jan-45 (date) and that at the time of his arrest he was wearing (military uniform) or ([redacted]).

Signature of Provost-Marshal, Assistant Provost Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

C. Beaulne Lieut.

D.A.P.M. Paris

C.Beaulne
D.A.P.M.
Cdn Mil Staff-Paris

Paris
16-Jan-45

bgk.

26 Jan 45
(DATE)

K49784 Pte James, DIMENTROFF (Calg Highrs Regt) 11 CBR RM
(NAME OF ACCUSED)

1. I he rby acknowledge receipt of one copy of Charge Sheet and one copy of the Summary of Evidence delivered to me

30 JAN 45
(DATE)

2. (a). ~~I request that~~ (NAME AND RANK) ~~if available, be appointed~~ OR

(b). I request that an officer be appointed as my Defending Officer at my trial by Court Martial.

(Delete either (a) or (b))

(SIGNED) J. Dimentroff

I hereby certify that Lt. A. Craig was appointed to defend K49784 Pte James, DIMENTROFF at his forthcoming
(No Rank and Name of ACCUSED)
trial by Court Martial and that the said
Lt. A. Craig was notified that
(RANK AND NAME OF DEFENDING OFFICER)
he was Defending Officer on 30 Jan 45
(DATE)

Dr. Stewart Capt
(ADJUTANT)

49K

Ex "B"

M.F.B. 355
22M—5-41 (372-3)
H.Q. 1272-30-420
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K49784	Pte.	DIMETROFF J.	Calg. Highr.

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For SUPPLEMENTARY COPY	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct Nil

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for Nil beginning on the Nil day of Nil

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 22 days in military custody, making a total of 22 days in custody, of which Nil 5 days were spent in hospital.

5. The present age of the accused according to his record of service is 28 Years / attestation paper is

6. The date of his attestation specified in his record of service is 27 Jan 43 / attestation paper

7. The service which the accused is allowed to reckon towards discharge is 2 Years

[redacted]

9. The accused is in possession of or entitled to no military decoration, or military reward (or is in possession of or entitled to). State any military decoration or reward. C.V.S.M. & Clasp

10. [redacted]

GGK

11. [redacted]

..... dated .....

..... dated .....

12. [redacted]

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... Unit of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7th 9th day of February 1946 [illegible] Adjt 11 CAB Sqn

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

C.G.K.

MFM 6
(AFB 132)

No K49764 Name DIMETROFF James | Sqn, Battery, or Company | Corps CIC | Date of enlistment 27 Jan 43 OC | Badges | Service or Proficiency Pay Ex "C"

Date of last entry in Company Conduct Sheet Nil | No and date of last drunk nil | Period not reckoning towards freedom from extra fine nil | Sheet No ONE | Signature OC Company, etc Major A16 C.I.T.C. C.A.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed effective 27 Jul 43 Certified no entries Sgd A. Wilson Major A16 C.I.T.C., C.A. 31 Jan 44					

THIS IS A CERTIFIED TRUE COPY OF THE REGT'L DOCS IN MY POSSESSION

D.L. Stewart

(D.L. Stewart) Capt & Adjt,
11 CBR BN

(FTO)

KK-122 (Case #2)
PTE DIMOCK H.L.
See B-228 for 1st case.

Correspondence to be PINNED here.

G-17692 Pte Dimock, H.L.
1 C.A.S.C.R.U.
BGHQ 8-6-2/269

KK-122

F.O.C.M.

Army Form A.3.



Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this Twenty-first day of July, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of "B" Group Canadian Reinforcement Units, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.



And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers [illegible] appointed or detailed hereunder.

* Omit if not applicable.

*[illegible]

*[illegible] President

*[illegible] Members

*[illegible] [illegible] service

[illegible]

President.

Rank.	Name.	Regiment.
Major	A.S. Pettapiece	H.Q., C.R.U.

Members.

Rank.	Name.	Regiment.
A Captain	to be detailed by	O.C. 1 CASCRU
A Lieutenant	to be detailed by	O.C. 1 CSRU

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (P.R. Shields) Brig
Commanding "B" Gp., C.R.U.
Convening Officer

Alex S. Pettapiece Major

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C-17692 Pte DIMOCK, Herbert Lawrence. 1 C.A.S.C.R.U.	First Charge A.A. Sec. 15(1)	Guilty	~~Guilty~~ Sentenced to undergo detention for a period of eight (60) days 23 Jul 43. A.H.P.	I confirm the finding and sentence of the Court but mitigate the sentence to one of twenty eight days detention. P.R. Reed 24 July 43 Brig

See attached Charge Sheet

~~(Suggestion to be asked of accused, if he pleads not guilty (R. of P. 39 (4)) :—~~
~~"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure (where that have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparation your defence?"~~
~~Answer (to be recorded on opposite side if necessary):—~~

(Signed) P.R. Reed (F.R. Shields) Brig
Commanding "B" Gp., C.R.A.U.
Convening Officer (e)

(Signed) Arthur L. Pettypiece Major
President.

(a) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 23rd day of July 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
~~2. The witnesses~~
~~*(3. The interpreter)~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 23rd day of July 1943.

Arthur L. Pettypiece, Major
President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (e) on page 762 M.M.L. 1920.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 24 day of July 1943.

P.R. Reed Brig
Confirming Officer.

Promulgated and extracts taken in the case of C 17692 Pte Dimock H.L.

(a) (Dated) 26 July 1943 (Signed) W.L. Whitaker Lt. Col. Comd. 1 Trng. Wing, 1 Can. A.S.C. R.U.

Promulgated and extracts taken in the case of

(Dated) DO 179 26 July 43 (Signed) Officer i/c Records 1 Cdn. A.S.C. Reinf. Unit.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, C-17692 Pte. Herbert Lawrence DIMOCK, RCASC, 1 Cdn ASC Rft Unit, a soldier of the Cdn Army, Overseas is charged with:

WHEN ON ACTIVE SERVICE

1st Charge
Sec.15(1)
A.A.

ABSENTING HIMSELF WITHOUT LEAVE

in that he,
at Farnborough, Hampshire, absented himself without leave from 2300 hrs 9 July 43 until 2025 hrs 15 July 43 when he voluntarily surrendered himself to the Unit Guard Room, 1 Cdn ASC Rft Unit.
Total time absent - 6 days 21 hrs 25 mins.

(H.P.Bonnick) Lt-Col.
Commanding, 2 Trng.Wing,
1 Cdn ASC Rft Unit.

Farnborough, Hampshire
15 July 43.

To be tried by Field General Court Martial.

(P.E. Shields) Brig
Comd "D" Sub
Cdn Rft Units.

21 Jul 43

Colin S. Pettapiece, Major
President

Medical Officers' Certificate.
K.R. (Cam.) Para 557

I certify that I saw this morning charged No. 5179[illegible] Pte. Parker H.
of No. 1 Mdsc Reinforcement and in my opinion he is fit to undergo
trial by court martial.

Station. Field

Date. 23/7/43

Sgd. [illegible]
Medical Officer

Medical Officers' Certificate.
K.R. (Can.) Para 557

I certify that I have this morning examined No. S.17312 Pte. Dimock, H.L.
of No. 6 Dn A.S.C. Reinforcement and in my opinion he is fit to undergo
trial by court martial.

Station. Field

Date. 23/7/43

Medical Officer

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT Guillemont Barracks, Cairo
ON THE 22nd DAY OF July 1943

The accused 19682 Pte Hinds, A.P. ..... Unit 1 C.C.S.R.A. .....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Maj. A.J.S. Pettavel ..... Unit H.Q. C.R.A. ..

Members Capt. T.R. Wood ..... Unit 1 C.C.S.R.A. ..,
Lt. C. Kirk ..... Unit 1 C.C.S.R.A. ...,

The officers under instruction are duly sworn:-
Lt. W.C. Adams 1 C.C.S.R.A.
..... Lt. R. Cartmell ..... Unit 1 C.C.S.R.A. .....,
..... Lt. H.P. Hayden Unit 1 C.C.S.R.A. ....

Prosecutor Lt. K.B. Legge ..... Unit 1 C.C.S.R.A.

Defending Officer Maj. A.W. Ayre ... Unit 1 C.C.S.R.A.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge ~~(a)~~ and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge ~~(c)~~. R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, ~~AFB 296~~ and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
~~(b) Calls witnesses as to character.~~
~~(c) Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.

3262
O/S R.O. 1 was complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, ~~CHARACTER EVIDENCE~~ and ADDRESS OF ~~ACCUSED OR HIS~~ DEFENDING OFFICER

---

attached hereto.

Arthur J. Pettavel, Maj

Plea of Mitigation in case of
G. 17692 Pte Dimock H.L.

To President
F.G.C.M.

Sir. The accused received a letter from his woman friend a Mrs Stamp, 21 Stokeness Rd. Purley stating she was passed her ~~maternity~~ current monthly yield & that he was the culprit. She threatening to write his wife in Canada, whose address she knew, that if he did not help her she would tell all.

The accused applied for 48 hours leave, but was unable to get it and consequently went AWOL.

He procured from the local chemist pills to make said girl friend abort. This treatment was unsuccessful and when all was well returned to unit and gave himself up to Unit Guard Room.

The accused has been a good soldier in the field with 1st Corps Petrol Coy. W.S. but broke his wrist in pursuance of his duties. He is now C.1 Category and I would submit that if he went before Medical Board would probably be found of unsound mind. He has applied for a P.B.O.W.E and it is hoped on serving his sentence that he might be returned to Canada.

[signature]
Lt. Col.
1st Cdn ASC RI

SUMMARY OF EVIDENCE

in the case of,

G-17692 Pte. Herbert Lawrence DIMOCK, RCASC,
1 Cdn ASC Rft Unit, Blenheim Barracks,
Farnborough, Hampshire.

The Commanding Officer, Colonel J.M. Pocock, 1 Cdn ASC Rft Unit, directs that the evidence be taken on oath:

1st Witness for the Prosecution

H-65699 L/Cpl Miller, J., RCASC, 1 Cdn ASC Rft Unit, having been duly sworn, states:

I am H-65699 L/Cpl Miller, J. employed as section NCO in 1 Cdn ASC Rft Unit. On 8th July 43, I was platoon orderly corporal and at 2300 hrs I called the roll in my hut and found that the accused, G-17692 Pte. Dimock, H.L. whom I now recognize, did not answer the roll call and was therefore absent. I marked him absent on the Tattoo report and turned same into #6 Coy. Orderly Room.

The accused declines to cross examine this witness.

L/Cpl Miller J.
(H-65699 L/Cpl Miller, J.)
1 Cdn ASC Rft Unit.

2nd Witness for the Prosecution

L-8378 Cpl Adolph, C., RCASC, 1 Cdn ASC Rft Unit, having been duly sworn, states:

I am L-8378 Cpl Adolph, C. employed on the Regimental Police, 1 Cdn ASC Rft Unit. I was on duty on the 15th July 43, and at approximately 2025 hrs, at #1 Guard Room, the accused, G-17692 Pte. Dimock, H.L., whom I now recognize, entered the guard room and surrendered himself as an absentee. I placed Pte. Dimock under close arrest. He was properly dressed at the time of surrender.

The accused declines to cross examine this witness.

Cpl. Adolph C.
(L-8378 Cpl Adolph, C)
1 Cdn ASC Rft Unit.

3rd Witness for the Prosecution

M-103928 Pte. Bardsley, J., RCASC, 1 Cdn ASC Rft Unit, having been duly sworn, states:

I am M-103928 Pte. Bardsley, J. employed on Regimental Police, 1 Cdn ASC Rft Unit. I was on duty in #1 Guard Room on the 15th July 43 and at approximately 2025 hrs, the accused, G-17692 Pte. Dimock, H.L., whom I now recognize, entered the guard room and surrendered as an absentee. He was properly dressed at this time and was placed in close arrest.

The accused declines to cross examine this witness.

(M-103928 Pte. Bardsley, J.)
1 Cdn ASC Rft Unit.

SUMMARY OF EVIDENCE in the case of G-17692 Pte. DIMOCK, H.L.

The accused, G-17692 Pte. Dimock, H.L., 1 Cdn ASC Rft Unit, was then warned in accordance with R.P. 4(e)

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

A. "I do not wish to make any statement at this time."

W L Dimock
(G-17692 Pte. Dimock, H.L.)
1 Cdn ASC Rft Unit.

I hereby certify that the foregoing Summary of Evidence was taken down by me in writing on the 17th July 43, at 1 Cdn ASC Rft Unit in the presence and hearing of the accused and that R.P. 4 (c)(d)(e)(f) and(g) have been complied with.

K B Shaw
(Lieut.K.B.Shaw)
1 Cdn ASC Rft Unit.

I, G-17692 Pte. Dimock, H.L., RCASC, 1 Cdn ASC Rft Unit, desire the assignment of an officer to represent me at my forthcoming trial by Court Martial. I request the assignment of Lieut. Doak, RCASC or Major Dyas, RCASC to represent me, if available.

W L Dimock
(G-17692 Pte. Dimock, H.L.)
1 Cdn ASC Rft Unit.

LIST OF EXHIBITS: N I L

LIST OF WITNESSES:
For the Prosecution - H-65669 L/Cpl Miller, J.
L-8878 Cpl Adolph, C
M-103926 Pte Bardsley, J.
1 Cdn ASC Rft Unit Farnborough, Hants

Arthur S Pettypiece Maj

Farnborough, Hampshire
18 July 43

CERTIFIED TRUE COPY

No. G17392 Name DIMOCK, H.L. Sqn., Battery, or Company 32Coy Corps R.C.A.S.C. Date of enlistment 2-5-40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Signature O.C. Company, etc. Sheet No. 1 Character

M.F.M. 6

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17-6-41	Pte		Tried by F.G.C.M. on the following charges (1) AWL from 1430hrs 29 Mar 41 to 1315hrs 31 Mar 41. Charged under Sec 15(1) A.A.	Cpl.Arrott W.E. L/C.Martin H.J. Sgt.Ford C.L. M.J.Umsted Ruby Ashdown Cpl.Pike S.A. Cpl.McCarthy J.C.	Guilty (3) Charges 50 days Detn. Forf.50 d.p. FR&I 149(1)(d) & d.p. FR&I 149(1)(a) Forf.78 d.p. FR&I 149(1)(d) Forf.294 d.p. FR&I 149(1)(a) and FR&I 149(1)(d)	17-7-41	F.G.C.M.	
Field	28-7-41	Pte		AWL 2300 hrs 26 Jul41 to 1530 hrs 28 Jul 41. 41 hrs 30 mins Sec 15(1) A.A.			28-7-41	Maj.Bonniak	

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	31-5-42	Pte		Contrary to the--- On 31 May 42 did drive a M.D. Vehicle(M/C) without proper authorization Sec 40 A.A.	Cpl Bowen F.S. C&M.Ford,C.L. L/S.McNamara,J.A.	3 days C.B.	8-6-42	Capt.A.J. Foley	
Field	29-8-42	Pte		AWL from P.T. parade at 0700hrs	Sgt.Doritty C.	14 Days C.B.	29-8-42	Maj.J.Fitz-Randolph	Sec 15(1) A.A.
Field	15-4-43	Pte		AA Sec 15(1) AWL T.F.A. 5 days 9 hrs 30 mins	Cpl Stephan Documentary	14 days detn with 14 d.p.	24Apr43	Maj. L.J. Dufresne	Forf.7 dp VR&I 149(1)(a) 14 d.p. VR&I 149 (1)(c)(ii) 14 d.p. VR&I 149(1)(b) Forf.14 d.p. VR&I 149(2) Forf 7 d.p. VR&I 149(1)(a)
Field	13-5-43	Pte		AA Sec 15(1) AWL from 1300 hrs 13May43 to 1115 hrs 20 May 43 T.F.A. 6 days 22 hrs 15 mins	Documentary Cpl Palmer	Forf. 14 d.p.	31May43	Lt/Col H.B. Bonnick	

M.F.M. 6
(A.F.B. 179)
40/P & R/150 (2677)

No. G17692 Name DIMOCK, H.L. | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service of Proficiency Pay | Character

Signature O.C. Company, etc. | Sheet No. 2

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under disposing with, what	By whom awarded	Remarks
Field	17-6-43	Pte		AA Sec 15(1) AWL from 2300 hrs 15-6-43 to 1515 hrs 17-6-43 T.T.A. 1 day 17 hrs 15 mins	L/C.Madden Documentary	14 days Detn	18-6-43	Lt/Col H.P.Connick	For 14 d.p. FRAI 149(1) For 2 d.p. FRAI 149(1)

CERTIFIED TRUE COPY
As Held in my Possession
23 Jun 43.
Officer i/c Records
1 Cdn A.T.C. Reinf Unit
Cdn Army O/S

Arthur A. Chipman Major

(P.T.O.)

M.F.H. 355
22M—5-41 (573-3)
H.Q. 1772-99-420
A.F.H. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C 17692	Pte	DIMOCK H L	1 Cdn ASC Rft Unit

1. The following is a fair and true summary of the entries in the [redacted] or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, [redacted] of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For Sec.15(1)	4	times	Sec.15(1) 5	times
For		times	Sec.40 1	times
For		times		times
For		times		times

[redacted]

or,

[redacted]

NOTE.—[redacted]

2. [redacted]

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act [redacted] A.A. and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in [redacted] civil custody, and Eight days in military custody, making a total of Eight days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 25 yrs old

6. The date of his [redacted] attestation specified in his [redacted] attestation paper 2 March 1940

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military military possession of or entitled to). State any air force decoration or reward. N/A

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
..... dated ....., and in his regiment (or corps), the rank of
..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number G17692 Rank Pte
Unit
Name DIMOCK H L of 1 Can ASC Rpt Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	Field 17-7-41	Sec.15(1)	90 days detention	N/A

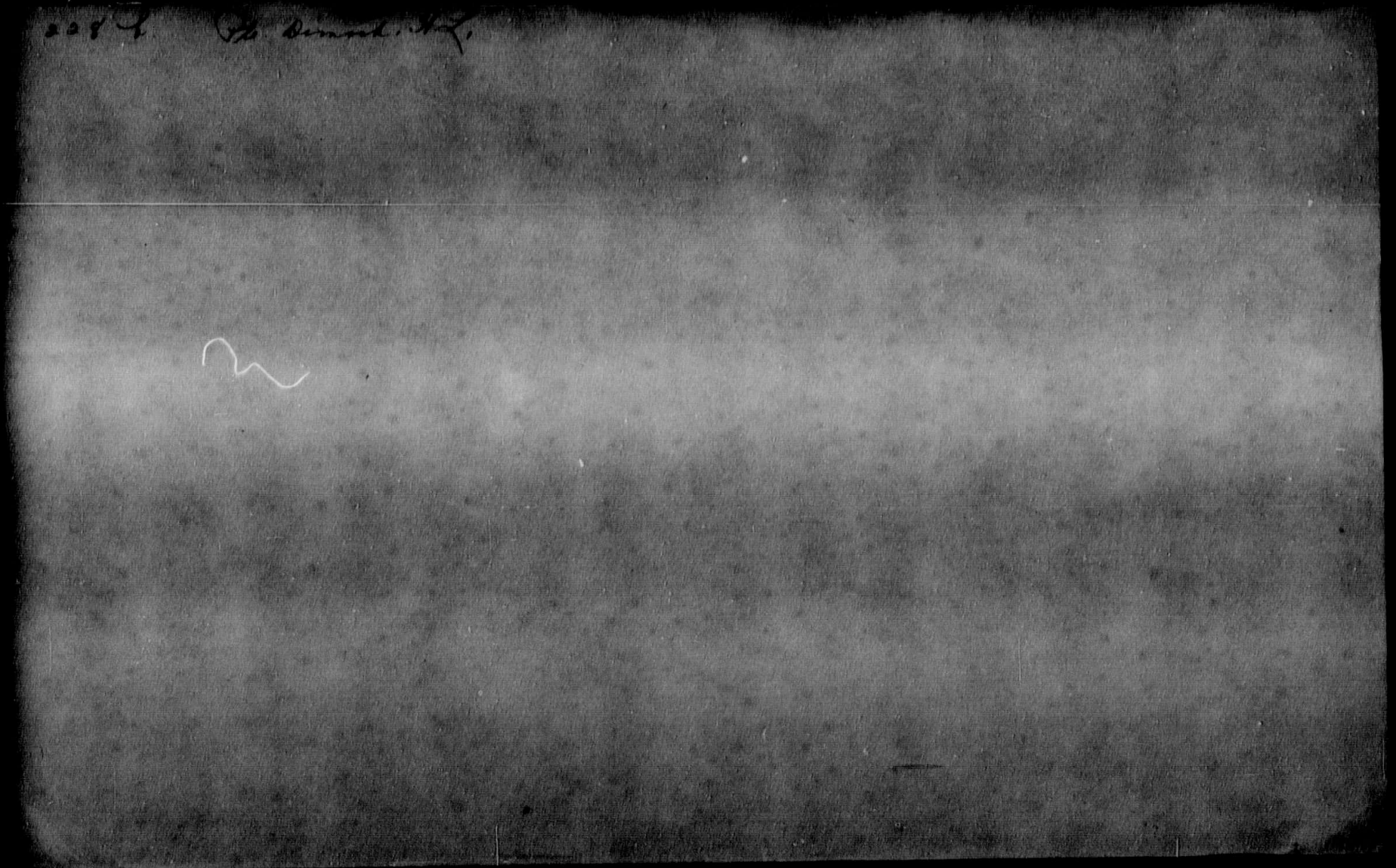
I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th 23rd day of July 1943 C. Pettypiece Capt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Walter S. Pettypiece, Major

RECORDS
1 CDN. ASS.C. RPT. UNIT



Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this first day of June, 1941.

Whereas it appears to me, the undersigned, an officer in Command of Corps Royal Canadian Artillery, Home Forces, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer;~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

*~~I am unable to appoint~~ —

*~~(1 Three Officers to form the Court)~~

*~~(2 A Field Officer as President)~~

*~~(3 Three Officers having more than one year's service)~~

~~for the following reasons, namely ——~~

PROCEEDINGS REVIEWED.

President.

Rank.	Name.	Regiment.
Major	D. McRae	R.M.R.(W.C.)

Members.

Rank.	Name.	Regiment.
Captain	GENEX, A.	Cdn Corps Signals
Lieut	NICKSON J.	8 A.Fd. Regt., R.C.A.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed J. C. Stewart

Commanding J. C. STEWART, BRIG., C.C.R.A., Cdn Corps.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G.17692 Pte. Dimock, H.L. Cdn Corps Pet. Pk., R.C.A.S.C.	First Charge Army Act Section 15(1) (See charge sheet annexed)	Not Guilty	GUILTY	Findings confirmed Sentence confirmed with exception that stoppages are remitted.
	Second Charge Army Act Section 40 (See charge sheet annexed)	Not Guilty	GUILTY	
	Third Charge Army Act Section 40 (See charge sheet annexed)	~~Not~~ Guilty	WITHDRAWN by PROSECUTION	
	Fourth Charge Army Act Section 22 (See charge sheet annexed)	GUILTY	GUILTY SENTENCED to FIFTY DAYS DETENTION Stoppages £1-3-11	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) J.C. STEWART, BRIG. C.C.B.A. Cdn Corps — Confirming Officer (d)

(Signed) D MacRae Major. R.M.R. — President.

(a) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 17th. day of June 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. ~~[illegible]~~ Shorthand writer.
*(4. ~~[illegible]~~

* Omit if not applicable.

were duly sworn.

Signed this 17th day of June 19 41.

D MacRae Major.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 761 M.M.L. 1940.

~~I certify that the confirming officer in the case of [illegible]~~

~~[illegible]~~

~~[illegible]~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or having such authority, recommends suspension.

~~I direct that the soldier named in the margin be not committed to prison until further orders.~~

Signed this 9th. day of ~~June~~ July 1941.

J.C. Stewart Brig
Confirming Officer.

Promulgated and extracts taken in the case of G17692 [illegible] Dimock, H.L.

(a) (Dated) 8 Jul 41 (Signed) A Bennick Major.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

CHARGE SHEET

The accused, No. G17692 Pte. Herbert L. Dimock, Canadian Corps Petrol Park, R.C.A.S.C., a soldier of the Canadian Army (Overseas) is charged with:-

1st Charge
A.A. 15(1)

While on active service absenting himself without leave,

in that he at Ifield, Sussex, absented himself without leave from 1430 hrs 29 Mar 41 until 1315 hrs on 31 Mar 41.

2nd Charge
A.A. 40

While on active service an act to the prejudice of good order and military discipline,

in that he at Coulsden, Surrey on 29 Mar 41 improperly used a Government vehicle and petrol for private purposes.

3rd Charge
A.A. 40

While on active service an act to the prejudice of good order and military discipline,

in that he at Coulsden, Surrey on 29 Mar 41 negligently drove a Government vehicle, thereby damaging it to the value of £-15-0d.

4th Charge
A.A. 22

While on active service did escape arrest,

in that he at Ifield, Sussex, on 13 May 41 while in arrest did escape.



FIELD
15 May 41

(H.P. BOMMICK) MAJOR,
Officer Commanding,
Cdn. Corps Petrol Park,
R.C.A.S.C.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL:-

FIELD
~~15~~ May 41.

J. C. STEWART, BRIG.,
C.C.R.A., Cdn Corps.

Thos Rae Major
R. M. R.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT ST.MARGARET'S PARISH HALL? IFIELD,
17th. JUNE 1941

Trial of No.G.17692 Private DIMOCK, H.L.
Canadian Corps Petrol Park, R.C.A.S.C.

President: Major D. McRae, R.M.R.(MG)

Member: Capt. Genek, R.C.C.S.

Member: Lieut. Nickson. 8th. A.F.R. RCA.

Prosecutor: Lieut. W.H.Heffernan Cps. Tps.Sup. Col.

Defence: No.L7208 Sergt. Haskell S. Cps.T.S.Col.

Court Stenographer: No.B.93703 Sgt.Warren J.F., H.Q.Corps.

The Order convening the Court, the Charge Sheet and the Summary of Evidence are laid before the Court.

The Court satisfy themselves as provided by R.P.22 & 23.

The Trial commences at 1015 hours.

The accused is brought before the Court.

The Order convening the Court is read in the presence of the accused.

Q.1. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

A.1. No Sir.

Q.2. Do you object to No.B.93703 Sgt. Warren J.F. acting as shorthand writer.

A.2. No Sir.

President and Members are duly sworn.
Shorthand writer is duly sworn.

Q.3. Are you guilty or not guilty of the First Charge against you which you have heard read?

A.3. Not Guilty Sir.

Q.4. Are you guilty or not guilty of the Second Charge against you which you have heard read?

A.4. Not Guilty Sir.

Q.5. Are you guilty or not guilty of the third charge against you which you have heard read?

A.5. Prosecutor: Sir, I am not going to proceed with the Third charge, will you withdraw that charge Sir?

Court: Alright then.

Q.6. Are you guilty or not guilty of the Fourth charge against you which you have heard read?

A.6. Guilty Sir.

Q.7. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

A.7. No Sir.

Prosecutor presents Medical certificate to the Court.

Pros: I think we can now proceed with the 1st and 2nd. charges, those to which he has pleaded "Not guilty". Sir, I shall endeavour to prove the chain of events by calling witnesses. On the First charge it will be shown that the accused went absent without leave from 1430 hours on the 29th. of March to the 31st. of March. On the 2nd. Charge, it is using Government Vehicle and petrol and the story is that on the 29th. of March he was instructed By Sergt. Ford to proceed to the Vehicle Park, down Rustic Lane and take the lorry number CL195889 to "C" Section Lorry park. On the night of the 29th. there was no Tatoo Roll Call, and he was marked present on the morning parade State of the 30th. which was Sunday for what reason I do not know, but there was a Church Parade that morning and the accused was absent, and the next thing they knew was that the lorry was missing. The evidence will be that he reported on the 31st. March to Sergeant Ford and told him that the vehicle was crashed Nr. Caterham. Apperantly the vehicle had got into a collision with a Green Line Bus and the Conductor and Conductresss of the Bus and a Captain who saw the accident will give evidence.

1st. WITNESS PROSECUTION No.B.84492 Sergt. Ford C.L., Cdn. Cps. Pet. Pk. RCASC having been duly sworn is examined by the Prosecutor.

Q.8. You are Sergeant Ford, C.L. of the Cdn. Cps. Pet. Pk.?
A.8. Yes Sir.
Q.9. Touching upon this investigation, the accused is in your Section?
A.9. He was in my Section.
Q.10 Can you give us any information regarding this affair?
A.10 Do you wish me to give my statement?
Q.11 Yes.
A.11 At approximately 1030 hours on the morning of the 29th. of March.
Q.12 In what year?
A.12 This year.
Q.13 Yes
A.13 I instructed Dimmick to take the lorry No.CL.195889, a 30 cwt. to the lorry park. He had previously mentioned having the brakes adjusted. The day being Saturday he could then do what he liked.
Q.14. Having taken the lorry to the Vehicle Park, did he have any authority from you?
A.14 No Sir.
Q.15. If the lorry was found at Caterham did it go there on your authority?
A.15. No Sir.
Q.16. What happened then?
A.16. Well on the Sunday morning there was a Church parade and he was absent.
Q.17. Then what did you do?
A.17. I went to the lorry park to see if the lorry was there.
Q.18. Was it there?
A.18. No Sir.

Q.19. What then?
A.19. I reported it.
Q.20. Anything happen that day?
A.20 No Sir.
Q.21. What happened the next day?
A.21. On the morning of the Tuesday following he came into the Orderly Room?
Q.22. What happened there?
A.22. I said, "Hello Dimock where have you been" and he said, "I have been away" I asked him where the lorry was and he said at Caterham, the exact words I cannot say, I asked him what had possessed him to take it away and he said he went to visit some friends, I do not think he mentionedany place.
Q.23. Anything else?
A.23. He said something about having slept the night in gaol on account of the accident.

Witness cross-examined by the Defence.

Q.24. Sergt. Ford! this day that you instructed the accused to take the lorry to the Park was Pay Day was it not?
A.24. I can't just say.
Q.25. But you knew the accused had been celebrating by this time?
A.25 If he had it had not come to my knowledge.
Q.26 When he reported back to you and said that he had been in gaol, did he mention anyone else with him?
A.26 He mentioned a friend but I do not know the name.
Q.27. Did he give you any particulars of the accident?
A.27. Except that he had bumped into a bus.
Q.28. And had an arguement with a policeman and the result was he spent the night or part of it in gaol? A.28. Yes
Q.29. And you do not know whether there were any civilians in the lorry?
A.29. I do not know sir.

Witness questioned by the Court.

Q.30 Did you have the morning Roll Call?
A.30 Just the Church parade.
Q.31. Any other one?
A.31. The men were allowed a little longer on Sunday morning.
Q.32. In your statement you said that Dimock was marked present on the morning parade state and that there was no roll call the previous night, you cannot say whether he was present that night or not?
A.32 No Sir.

Witness re-examined by the Prosecutor

Q.33 When you gave him instructions to drive that lorry, was he drunk or sober?
A.33 He was definitely not drunk.
Q.34 There was a roll call on the morning parade and he was not present?
A.34. No Sir.

2nd.WITNESS PROSECUTION Mr. Harry John Unsted, London Passenger Transport Board, Godstone, Surrey, having been duly sworn is examined by the Prosecutor.

Q.35 Mr. Unsted, you are one of the drivers of the London Transport Board buses?
A.35 Yes Sir.
Q.36. And you were driving between Coulsden and Caterham when this accident took place?
A.36. Yes Sir.

Q.37. Do you mind telling the Court what you know about this accident?

A.37. Well I was driving along near the Old Toll Gate, and I felt a bump on the rear of the bus. I looked in the mirror and saw that a lorry had bumped into me.

Q.38. Who was the driver?

A.38. Dimock.

Q.39. Is he here?

A.39. Yes Sir. (Looking at the accused).

Q.40. Anyone else with with?

A.40. Well there was someone else but he spoke to me first.

Q.41. Any damage?

A.41. Very little.

Q.42. You say another chap came up to you first, did he get out of the lorry?

Defence

A.42. I did not see him get out of the lorry.

Q.43. Did you see the accused in the lorry?

A.43 Half in and half out.

Q.44. Did you have any conversation with Dimock?

A.44. He spoke to the other chap first, he said I pulled up too quick, and I then went to the driver.

Q.45. I said,what did you do or someting to that effect, and he said I have no brakes on the lorry.

A.45. Would you say that the accused was driving?

Q.46. Well he was.

A.46. Did you see him get out of the lorry?

Q.47. Yes Sir.

A.47. Did he stand up alright?

Q.48. Yes Sir.

A.48. Would you say that he was intoxicated?

Q.49. Not to the extent that he could not control the

A.49. vehicle.

Witness questioned by the Court.

Q.50 How far did you run before you stopped?

A.50 A matter of ten or twenty yards.

Q.51. And you were at a dead stop when it happened?

A.51. Almost to a dead stop, but I was not sure just what had happened.

Q.52. Were you meeting any on-coming traffic?

A.52. No Sir.

Q.53. And where did it hit the bus?

A.53. Left hand rear.

Q.54. You did not notice the lorry until that minute?

A.54. No Sir.

Re-examined by the Prosecution.

Q.55. You have been driving how long?

A.55. Fourteen years.

Q.56. How far is the Old Toll Gate from here?

A.56. 15 or 20 miles.

3rd. WITNESS PROSECUTION. Miss Ruby Ashdown, Conductoress, London Passenger Transport Board, Godstone, Surrey, having been duly sworn is examined bythe Prosecutor.

Q.57. You are a Conductoress, is that right,on the London Passenger Transport Buses?

A.57. Yes Sir.

Q.58. For how long,

A.58. Five months.

Q.37. Do you mind telling the Court what you know about this accident?

A.37. Well I was driving along near the Old Toll Gate, and I felt a bump on the rear of the bus. I looked in the mirror and saw that a lorry had bumped into me.

Q.38. Who was the driver?

A.38. Dimock.

Q.39. Is he here?

A.39. Yes Sir. (Looking at the accused).

Q.40. Anyone else with with?

A.40. Well there was someone else but he spoke to me first.

Q.41. Any damage?

A.41. Very little.

Defence Q.42. You say another chap came up to you first, did he get out of the lorry?

A.42. I did not see him get out of the lorry.

Q.43. Did you see the accused in the lorry?

A.43 Half in and half out.

Q.44. Did you have any conversation with Dimock?

A.44. He spoke to the other chap first, he said I pulled up too quick, and I then went to the driver.

Q.45. Did you have any conversation with Dimock?

A.45. I said,what did you do or someting to that effect, and he said I have no brakes on the lorry.

Q.46. Would you say that the accused was driving?

A.46. Well he was.

Q.47. Did you see him get out of the lorry?

A.47. Yes Sir.

Q.48. Did he stand up alright?

A.48. Yes Sir.

Q.49. Would you say that he was intoxicated?

A.49. Not to the extent that he could not control the vehicle.

Witness questioned by the Court.

Q.50 How far did you run before you stopped?

A.50 A matter of ten or twenty yards.

Q.51. And you were at a dead stop when it happened?

A.51. Almost to a dead stop, but I was not sure just what had happened.

Q.52. Were you meeting any on-coming traffic?

A.52. No Sir.

Q.53. And where did it hit the bus?

A.53. Left hand rear.

Q.54. You did not notice the lorry until that minute?

A.54. No Sir.

Re-examined by the Prosecution.

Q.55. You have been driving how long?

A.55. Fourteen years.

Q.56. How far is the Old Toll Gate from here?

A.56. 15 or 20 miles.

3rd. WITNESS PROSECUTION. Miss Ruby Ashdown, Conductoress, London Passenger Transport Board, Godstone, Surrey, having been duly sworn is examined bythe Prosecutor.

Q.57. You are a Conductoress, is that right,on the London Passenger Transport Buses?

A.57. Yes Sir.

Q.58. For how long,

A.58. Five months.

Q.59. On the night of 29th. of March you were on the Bus, did anything happen in connection with this investigation?
A.59. Well, after we left Coulsden Station a lorry was coming up behind us.
Q.60. Did you see who was driving it?
A.60. Yes Sir.
Q.61. Could you identify him?
A.61. Yes Sir.
Q.62. Is he here?
A.62. Yes Sir, (Looking at the accused)
Q.63. Did you see anyone else in the lorry?
A.63. Yes Sir, a young lady, another soldier and the accused.
Q.64. How far behind was the lorry when you first saw the lady in it?
A.64. About a quarter of a mile and we stopped to take on some passengers and at the next stop we did not have any passengers, and I saw inside the lorry, he stopped.
Q.65 Who was in the lorry then?
A.65 The young lady, another soldier and the accused?
Q.66. The same three?
A.66. Yes Sir.

Witness cross-examined by the Defence

Q.67. You say in your evidence that the accused stopped behind you?
A.67. Yes Sir.
Q.68. You stopped and he pulled up?
A.68. Yes Sir.
Q.69. Did you come very close?
A.69. Not very close.
Q.70 How close?
A.70. About 50 yards.
Q.71. But you could see who was in it?
A.71. Yes Sir.
Q.72. Was that as close as he came to you until he hit the bus?
A.72. Yes Sir.
Q.73. He had his hat on?
A.73. Yes Sir.
Q.74. When it happened did you get off the bus?
A.74. I had to get off to let off the passengers.
Q.75. Did you speak to the driver?
A.75. No Sir.
Q.76. You saw someelse speaking to him?
A.76. Yes.
Q.77. Could you say that he had been drinking?
A.77. I cannot say.
Q.78. Did you see the lady in the lorry when it happened?
A.78. I did not see it hit the bus.

Witness questioned by the Court.

Q.79. What sort of vehicle was the accused driving?
A.79. An Army lorry.
Q.80. There are several types, was it a heavy one?
A.80. Yes Sir.
Q.81. How do you happen to know that this was the particular one?
A.81. I was looking out of the back of the bus.
Q.82. What made you take particular notice?
A.82. Well I thought it funny for a lady to be riding in an Army lorry.
Q.83. Where was she riding?
A.83. In the middle.

Q.84. How far did they travel behind you?
A.84. Well it is 2½ miles from Caterham, and the fact that the accused has fair hair was another thing that made me notice him, I noticed him when we stopped on the road.
Q.85. Is there anything at this spot that you should get out particularly for?
A.85. No Sir.
Q.86. No Public House or anything?
A.86. Well there are many public houses along the road but not just there.

4th. WITNESS Prosecution — Captain J.F. Waterfield, R.A.S.C. having been duly sworn is examined by the Prosecutor.

Q.87. Your name sir, is J.F. Waterfield, A.87 Yes.
Q.88. And you are a Captain in the R.A.S.C.
A.88 Yes.
Q.89. On the night of 29th. of March so far as this investigation is concerned you were driving in your own car?
A.89. Yes Sir.
Q.90. Will you tell the Court what you observed on that night?
A.90. I was driving my car and I saw the Army lorry try to pass the bus, the army lorry pulled up and nearly hit my car. The lorry swerved and stopped behind the bus. I went up to the driver and asked him why he was driving like that. He was driving dangerously and apparently hit the bus. He said to me,"This bus has no brakes". I took his name and went for a policeman.

Witness cross-examined by the Defence.

Q.91. You had some conversation with him after the accident?
A.91. I asked why he was driving like that and I took his name.
Q.92. Would say that he had been drinking?
A.92. I would say that he was not drunk.
Q.93. Was there anyone else in the lorry?
A.93. Not a soul.
Q.94. You did stop your car?
A.94. Yes Sir.
Q.95. Did you see anyone else get out of the lorry?
A.95. No Sir.

Witness questioned by the Court.

Q.96. You were approaching the bus, I take it and the Army lorry went to pass the bus and found he could not and swerved in behind it?
A.96. Yes Sir.

Witness re-examined by the Prosecution.
Q.97. The question has been brought up by the Defence about anyone else in the lorry, did you see anyone near the lorry?
A.97. Yes Sir, two ladies.

5th. WITNESS PROSECUTION. — No.G.17213 Cpl. Pyke S.B., Carleton & York Regt. have been duly sworn is examined by the Prosecutor.

Q.98. You No.G.17213 Cpl. S.B. Pyke?
A.98. Yes Sir.

Q.99. And you are with the Carleton & York Regiment?
A.99. Yes Sir.
Q.100. In connection with this investigation here to-day, are you connected with the police?
A.100. No Sir, the transport.
Q.101 Did you receive any information regarding the accused?
A.101. We received information at our Orderly Room that there were two of our men at the Wallington Police Station and that one had stolen a truck.
Q.102. What did you do?
A.102. They told me to take the truck and a spare driver and get them.
Q.103. When you got there did you see the accused?
A.103. Yes Sir.
Q.104. What was he doing?
A.104. He was asleep.
Q.105. Where?
A.105. In the police station, they told us the names of the men they had there, Private Skerry and Private Dimock. We told them that Dimock was not one of our men.
Q.106. What did you do? Did he come back with you?
A.106. Yes Sir and he offered to show us where the truck was.
Q.107. You got back to where the lorry was and what time was it?
A.107. Sometime during the night, he came as far as the lorry and we did not know where he went. There was a Policeman guarding the truck.

Witness cross-examined by the Defence.

Q.108. When you went to the police, did they tell you what Dimock was being held for?
A.108. Yes Sir, he was being held for being involved in an accident, but it did not interest us.
Q.109. Is Private Skeery with you to-day?
A.109. I do not know sir.
Q.110. You did not know Skerry very well?
A.110. No Sir.
Q.111. Did you have any conversation with Dimock after you took him away from the Station.
A.111. The only conversation we had with Dimock was that we had a Dimock in our out-fit and he said he was a brother.
Q.112. Was he sober?
A.112. Yes Sir.

Witness questioned by the Court.

Q.113. Did you know Skerry by sight?
A.113. No Sir.
Q.114. You identified them by their Pay books?
A.114. Yes Sir he only came to us that day.
Q.115. You identified the accused by his Pay book?
A.115. No Sir.
Q.116. Well how did you know that he was not your man?
A.116. Well we only have one Dimock in our out-fit and it is not him.
Q.117. Was the lorry there?
A.117. The lorry was in Purley.

6th. WITNESS. PROSECUTION.

No.C.11721 Sergt. Amyott W.F., Cdn. Corps. Petrol Park, RCASC. having been duly sworn is examined by the Prosecutor.

Q.118. You are Sergt. Amyott W.F. No.C.11721?
A.118. Yes Sir.
Q.119. I understand that you are the Provost Sergeant?
A.119. I am Sir.
Q.120. So far as this case is concerned tell us when you came into the case?
A.120. On 31st. of March at about 1330 hours I went with L/c Martin and found Dimock in his billets,
Q.121. Is that Dimock?
A.121. Yes Sir. I knew that he was A.W.L. I asked him where he had left the lorry he told me it was at Caterham.
Q.122. What did you do?
A.122. I questioned him and he said I was A.W.L. and took the lorry and went to see someone in the Carleton & York Regt. I asked where the lorry was because I knew it was not back at the Park. From him I found that the Lorry was at the Carleton & York Regt. I put him in Close Arrest, and with L/c. Martin took him to the Carleton and York Regt. We found the lorry, signed the receipt and brought it back.
Q.123. Is that all?
A.123. Yes Sir.

Witness cross-examined by the defence.

Q.124. When you were questioning Dimock, I am told that he said to you, "I got pretty tight", is that right?
A.124. Yes Sir.
Q.125. From your knowledge did he use those exact words?
A.125. He said I had some wine.

Witness questioned by the Court.

Q.126. I understand you went to Warlingham Police Station in the Croydon District?
A.126. Yes Sir.
Q.127. You went to Warlingham not Wallington?
A.127. Yes Sir.

Prosecution: That is the case Sir there are no other witnesses.

DEFENCE

Court: Q.128. Do you apply to give evidence yourself as a witness?
A.128. Yes Sir.
Q.129. Do you intend to call any other witness in your Defence.
A.129. I would like to have Private Skerry Sir.

Pros: He was subpoened Sir, but he is not here.

Defence: There are two witnesses Sir, but one I think went to detention Sir and I think we can get along without him.

Pros: So far as the man in detention is concerned it is their own fault Sir, they could have had him here, there is no reason why he is not here.

Defence: I am not asking for an adjournment Sir, I am only trying to dispense with the witness. We could dispense with Skerry's evidence Sir if we could have Durett.

1st. Witness DEFENCE. No.G.17692 Pte. Dimock, H.L., Cdn Corps. Petrol Park, RCASC. having been duly sworn is examined by the defence.

Q.130 How old are you?
A.130 Twenty five.
Q.131 Married or single?
A.131 Married.
Q.132 Any family?
A.132 Two.
Q.133 Where is your home?
A.133 St. John, New Brunswick.
Q.134 When did you join up?
A.134 2nd. March 1940
Q.135 What were your duties on or about the 29th. March?
A.135 As far as I know I was around the billets, I had been drinking for a day or two and the Sergeant told me to take the lorry. I had been drinking but I went to the lorry park when I tested the brakes.
Q.136 What had you been drinking?
A.136 Wine Sir, I drank all the day before.
Q.137. Did you have any with you at the Lorry Park?
A.137. Yes Sir two 40 oz bottles.
Q.138. Did you drink at the park?
A.138. Yes Sir.
Q.139. Was anyone else drinking with you at the Lorry Park?
A.139. Yes Sir Private Durett.
Q.140. Was there any reason for this drinking?
A.140. I had been trying to be tested and when I was told to go for the test as Driver Mechanic and when I got there I found another man in my place.
Q.141. So you went on the bat?
A.141. Yes Sir.
Q.142. That is the first you remember after leaving the lorry Park.
A.142. The next thing I remember was when I woke up in gaol.
Q.143. Was there anyone else with you in the Lorry?
A.143. Private Skerry.
Q.144. Where did you pick him up?
A.144. At the Park.
Q.145. Did you have any appointment with him?
A.145. No Sir.
Q.146. Did you have any lady with you?
A.146. No Sir.

Q.147. And the first thing that you remember is when you woke up in gaol?
A.147. Yes Sir.
Q.148. And that is your evidence on oath?
A.148. Yes Sir.

Witness Cross-examined by the Prosecution.

Q.149. You come from St. John, New Brunswick?
A.149. Yes Sir.
Q.150. What did you do there?
A.150. Lineman.
Q.151. You have driven a truck before?
A.151. Yes Sir.
Q.152. St. John is a pretty big City?
A.152. Yes Sir.
Q.153. Ever driven a car around St. John?
A.153. Yes Sir.
Q.154. How long have you been in this Area?
A.154. Since shortly after New Years.
Q.155. There is a lot of traffic around here?
A.155. Yes Sir.
Q.156. You got some instructions about having the brakes tested?
A.156. Yes Sir.
Q.157. Oh! you remember that?
A.157. I remember that he gave me the instructions.
Q.158. And you were drinking?
A.158. Yes Sir.
Q.159. How much?
A.159. I was pretty drunk.
Q.160. You had been drinking all Friday and Friday night and Saturday?
A.160. Yes Sir.
Q.161. And you still had some left?
A.161. Yes Sir.
Q.162. And when you left to take this lorry where did you go, to the billets?
A.162. Yes Sir.
Q.163. To pick up the wine?
A.163. Yes Sir.
Q.164. And then went back to the Park?
A.164. Yes Sir.
Q.165. You know Private Skerry?
A.165. Yes Sir.
Q.166. How long?
A.166. Some little time.
Q.167. He was with the Carleton and Yorks?
A.167. Yes Sir.
Q.168. Where are they?
A.168. Near Caterham.
Q.169. You had met him before?
A.169. Yes Sir.
Q.170. And when you went out that day you went to see Skerry?
A.170. Not particularly.
Q.171. And what about these two girls?
A.171. I know nothing about them.
Q.172. Do you swear that you did not have two girls in the lorry?
A.172. I do not remember them.
Q.173. Do you remember having spoken to Captain Waterfield?
A.173. No Sir.
Q.174. Who gave you the idea of coming to Court to tell this story?
A.174. No one Sir.

Q.175. That is just the truth?
A.175. Yes Sir.
Q.176. You say that you do not remember the accident?
A.176. No Sir.
Q.177. You were too drunk?
A.177. Yes Sir.
Q.178. You remember having the conversation with Sergeant Ford?
A.178. Yes.
Q.179. Did you get permission to leave?
A.179. No Sir.
Q.180. Did you get permission to take the lorry?
A.180. No Sir.
Q.181. Were you drunk when you reported back?
A.181. No Sir.
Q.182. You were sober then?
A.182. Yes Sir.

Witness questioned by the Court.

Q.183. When was pay day?
A.183. I just do not know the date Sir.
Q.184. Was it Saturday?
A.184. I cannot say.
Q.185. Were you paid prior to getting the wine?
A.185. Yes Sir.
Q.186. Had you ever been over to Purley or Caterham before?
A.186. Yes Sir I was Stationed there.
Q.187. You knew that the lorry was dangerous to drive without brakes?
A.187. Yes Sir.
Q.188. Where was Pte. Skerry where did you meet him?
A.188. He was with the 3rd. Brigade Anti Tank.
Q.189. Did you know him in civilian life?
A.189. No Sir.
Q.190. You recall that when you stopped on the road that you were following a bus?
A.190. I do not remember Sir, I was told after I woke up that I had had an accident.
Q.191. Who told you?
A.191. The Civilian police.
Q.192. You heard Capt. Waterfield say that he had seen two young ladies near your lorry? do you know anything about them?
A.192. No Sir.

Pros: The other witness is not here Sir, and I suggest that you adjourn the Court for ten minutes until he is sent for.

Pres. The Court will be adjourned for ten minutes.

2nd. WITNESS DEFENCE. No.E.26909 Pte. Durrette, L. Cps. Pet. Pk. having been duly sworn is examined by the Defence.

Q.193 How do you spell your name?
A.193. Durrette
Q.194. And your Unit is Cps. Petrol Park?
A.194. Yes Sir.
Q.195. On 29 th . of March what were your duties?
A.195. I was on Guard.
Q.196. Where, at the lorry park?
A.196. That is right.
Q.197. Did you have occasion to see Dimock?
A.197. Yes Sir, he came to the Lorry Park.

Q.198. Was he Drunk?
A.198. Yes Sir quite drunk.
Q.199. What was he doing?
A.199. He was going to do some work but he was too drunk.
Q.200. Did you have any conversation with him?
A.200. Yes Sir.
Q.201. What makes you think he was drunk?
A.201. He was staggering.
Q.202. Did you see him take any drink in the lorry park?
A.202. Yes I did.
Q.203. Do you think he was cabable of driving a car?
A.203. I do not know that Sir.
Q.204. But he was quite drunk?
A.204. Yes Sir.

Witness cross-examined by the Prosecution.

Q.205. You were on Guard?
A.205. Yes Sir.
Q.206. At what time did Dimock come into the Park?
A.206. I do not remember.
Q.207. Was it in the Morning or afternoon?
A.209. In the morning.
Q.208. Ten thirty, eleven o'clock?
A.208. I do not remember,
Q.209. Did you see him go out of the park with the lorry?
A.209. Yes Sir.
Q.210. You saw him drinking some wine?
A.210. Yes Sir.
Q.211. Did you report it to anyone that he was drinking?
A.211. No Sir,
Q.212. Did he tell you to come here and make up this story?
A.212. No Sir.
Q.213. You just came here of your own free will to give this evidence?
A.213. Yes Sir.

Questioned by the Court.

Q.214. What were your duties on this Guard?
A.214. It was to just walk up and down the Park.
Q.215. You don't know what he came for?
A.215. He came to fix his brakes.
Q.216. You were not suspicious of him at all?
A.216. No Sir.
Q.217. Was it usual for the guard to drink?
A.217. No Sir.
Q.218. What was the wine in?
A.218. A bottle Sir, a quart bottle.
Q.219. How did he carry it?
A.219. On the Seat of the car.
Q.220. And he was still drinking?
A.220. Yes Sir, and the bottle was full.
Q.221. Did you know the accused in civilian life?
A.221. No Sir.

R. Prosecution: May it please the Court, I have no further evidence to call and I imagine the defence has no further witnesses so we can now deal with the 4th. Charge, so far as this is concerned, Rule of P. 35(B) must be complied with.

R.P. 35(B) complied with.

Prosecution: I would like to give the fact about the 4th. charge. The accused Dimock was in Close Arrest in connection with this case and on the 13th. of May he broke arrest and about 24 hours later gave himself up, so that we can say he actually returned within twenty four hours, but nevertheless he broke arrest.

Court. But he was absent more than six hours?
Pros. Yes about 24 hours.

The address by the defence dwelt on the fact that owing to the excessive drinking of the accused he did not know or at least did not remember what had happened until he woke up in the Police Station. Quoting M.M.L. 105 page, (6) and page 106 (9). The defence that on these grounds the 1st. and 2nd. charges should be dismissed. On the 3rd. charge it was claimed that the accused had been in arrest about two and half months awaiting this trial, and even then was away only a few hours and gave himself up. None of the charges were very serious and asked that they be dismissed.

The address of the Prosecution laid stress on the fact that drunkenness was no excuse for crime, and referred to the same M.M.L. page 106 (9). The Prosecution then went over the chain of events and declared that the accused had not told the truth in any way and asked that the maximum sentence be given.

The Court closed for the consideration of the findings.

The Court being re-opened the accused is again brought before it.

Captain Guy, Adjutant, Cdn. Cps. Pet. Park. having been duly sworn :-

Q.222 Have you any evidence to produce as to the character and particulars of service of the accused?

A.222 I produce M.F.M. 6 Conduct sheet of the accused and A.F.B. 296.

Q.223 Is the accused the person named in the statement which you have heard read?

A.223. Yes Sir.

Q.224. Have you compared the contents of the above statement with the regimental books?

A.224. Yes Sir.

Q.225. Are they true extracts from the regimental books, and is the statement of entries in the Conduct sheets a fair and true Summary of those entries?

A.225. Yes Sir.

Q.226. To Defence, Do you wish to cross-examine?

A.226. No Sir.

Sheet

Q.227. Dp you wish to address the Court?
A.227. Defence: In considering the sentence I would just like to point out to you that the accused has already been in arrest for two and half months, I have not seen his M.F.M.6, but I believe there are several minor charges on it and these charges are not particularly serious. I know it was wrong to take leave and to take the lorry without permission, but it is not as serious as if he had deserted his post etc. I am sure he has learned his lesson and would ask for your leniency.

Captain G.H. Guy, Adjutant of the Cdn Cps. Pet. pk.

Sir, I would just like to say on behalf of Dimock, that he is a hard worker, perhaps a little headstrong, but I can say that anything that we have asked him to do it has always been done willingly. There are several charges on his M.F.M. 6 but he has always been a good soldier.

The Court is closed for consideration of the sentence.



SUMMARY OF EVIDENCE

IN THE CASE OF

G.17692 PRIVATE DIMOCK H. L.

CANADIAN CORPS PETROL PARK

ROYAL CANADIAN ARMY SERVICE CORPS

CANADIAN TROOPS

BY THE DIRECTION OF THE COMMANDING OFFICER

THE STATEMENT OF WITNESS ARE TAKEN ON OATH

Statement of witness
for the prosecution. C.11721 Corporal Amyott, W.F. of
Cdn. Corps Petrol Park RCASC
(having been duly sworn) states:

At 2100 hours, 13 May 41 when I called at the Police billets, I was notified by B84086 Pte. Sarmatiuk, W., one of my Regimental Police that G.19672 Pte. Dimock, H.L. and B84232 Pte. Campbell, H.E. had left. Every effort was made to apprehend these men, including making contacts with the civilian police at Horley, Horsham, and Crawley. I did not see Pte. Dimock again until 0030 hours, 15 May 41 in the Police billets. I was informed by Pte. Palmer, H. C12324, one of the Regimental Police that these men had returned and surrendered to him at 2100 hrs. 14 May 41. They were absent from approximately 2100 hours, 13 May 41 to approximately 2100 hrs. 14 May 41.

The accused declines to cross examine the witness.

Signed...W.F. Amyott...
C11721 Cpl. Amyott, W.F.

////////////////

Statement of witness
for the prosecution.

C12324 Private Palmer, H. of
Cdn. Corps Petrol Park RCASC
(having been duly sworn) states:

At approximately 2100 hours, 13 May 41 at the Police billets I was informed by B83807 Pte. Beach, W.L.C.(Prisoner) that Pte. Dimock and Pte. Campbell were missing. I found this to be correct. At 2359 hrs. 14 May 41, Pte. Dimock and Pte. Campbell surrendered themselves to me at the Regimental Police Billets. I placed them in close arrest and reported the offence to Cpl. Amyott when he returned to the Police Billets at 0030 hrs. 15 May 41.

The accused declines to cross examine the witness.

Signed...H.B. Palmer...
C12324 Pte. Palmer, H.

Statement of witness for the prosecution.

C 11721 Corporal Amyott W.F. of Cdn. Corps Petrol Park RCASC (having been duly sworn) states:

At Ifield, Sussex, at 1230 hours 31 Mar 41, being the corporal in charge of the Regimental Police, Cdn. Corps Petrol Park, I was informed that C 17[illegible], Pte. Dimock, who had previously been reported to me as being absent without leave and having taken a W.D. lorry no. CL 195[illegible] without authorization, was back in his unit lines without the lorry aforementioned. At 1330 hours of the day mentioned, accompanied by C30[illegible] L/Cpl. Martin also of the Regimental Police I went to "Whitehall" Rusper Road, Ifield, Sussex andfound Pte. Dimock in his billets there. Upon asking him where he had left the lorry he informed me that it was in the hands of the Carleton & York Regt. at Caterham, Surrey. I immediately placed Pte. Dimock in close arrest and took him with me to the Carleton & Yorks at Caterham where I found the lorry in question. After checking the tools & equipment, which I found to be all in good order, I signed a receipt for the lorry and took it in my charge, with the information received from the Regtl. Police of the Carleton & York Regt. that there might possibly be charges laid by the civilian police against Pte. Dimock I then proceeded to the Warlingham Police station and learned that there was no charge against him other than that he had had an accident with a Green Line bus. Upon returning to our unit lines I had the lorry turned into our workshop for a report on damages. After reporting the finding of the lorry with all information I had gathered over to Capt. Searle at our headquarters I placed Pte. Dimock in custody in the Regtl. Police billets of Cdn. Corps Petrol Park.

The accused declines to cross examine the witness.

Signed Amyott W.F.
C 11721 Cpl. Amyott W.F.

Statement of witness for the prosecution

C 30[illegible] L/Cpl. Martin W.J. of Cdn. Corps Petrol Park RCASC (having been duly sworn) states:

At Ifield, Sussex, on 31 Mar 41 I accompanied Cpl. Amyott to Whitehall, Rusper Rd, Ifield and found Pte. Dimock there in his quarters. I then proceeded to Caterham, Surrey with Cpl. Amyott and Pte. Dimock where we found lorry No. CL 195889 in the hands of the Carleton & York Regt. We then proceeded to the Warlingham police station and I heard the statement of the police inspector there that they had no charge against Pte. Dimock, excepting that he had been involved in an accident with a Green Line bus. We then returned to our unit lines where I stayed in the Regtl. Police billets with Pte. Dimock who was being held in close arrest.

Cross examined by the accused:

Q. Was the lorry in the hands of the Carleton & York Regtl. Police.
A. Yes.

Signed W.J. Martin
C 30[illegible] L/Cpl. Martin W.J.

Taken down by me at Field this 8th day of April 1941 in the presence of the accused. Rule of Procedure 4 complied with.

Signed [illegible]
R. G. Shepard Capt.
Cdn Corps Petrol Park
RCASC CA(A)

Statement of witness
for the prosecution.

G 32917 Pte. Skerry of the
Carleton & York Regt.
(having been duly sworn) states:

At Caterham on the Hill I met Pte. Dimock at approximately 1830 hours of the 29 Mar 41. I accompanied him in the lorry he was driving along the road towards Coulsdon, Surrey. We went to pass around a Green Line bus and were met by a civilian car coming from the opposite direction. At this point the bus suddenly stopped and we crashed into the rear of it. There was no one riding in the lorry besides Pte. Dimock and myself.

Cross examined by the accused:

Q. Would you say I was drunk at the time.
A. Yes.

Signed---------
G 32917 Pte. Skerry.

Statement of witness
for the prosecution.

B 84498 Sjt. Ford C. L. of
Cdn Corps Petrol Park RCASC
(having been duly sworn) states:

At Ifield, Sussex, at approximately 1030 hours of the 29 Mar 41 being sergeant in charge of 'C' section to which Pte. Dimock belongs I ordered the accused to drive lorry No. CL 195089 from Whitehall to 'C' section lorry park on the Ifield Station Rd., a distance of about one mile. As there was no tatoo roll call taken on the night of 29 Mar 41, Pte Dimock was marked as present on the morning parade state of 30 Mar 41, but was found to be missing when the roll was called for church parade at about 0930 hours 30 Mar 41. Upon investigation it was learned that lorry No. CL 195089 was also missing. I immediately reported this occurrence to the Regtl. Police of Cdn Corps Petrol Park.

The accused declined to cross examine the witness.

Signed---------
B 84498 Sjt. Ford C.L.

Taken down by me at Field this 26th day of April 1941 in the presence of the accused. Rule of Procedure 4 complied with.

Signed---------
C. C. Ryerson Lieut.
Cdn Corps Petrol Park
RCASC CAIA)

Statement of Witness
for the prosecution

Harry John Unsted
London Passenger Transport
Godstone, Surrey.
(having been duly sworn)stat

Iwas driving a green line bus between Coulsden and Caterham abou
6.20 P.M. 29 Mar. 41 when, near a place called The Old Toll Gate
where there is a severe bend in the road I felt a bump on the rear
of my Bus. I stopped my Bus and then felt the impact of another
bump. I got out of the Bus and took the particulars of the Lorry
and driver who struck me. I diden'd see the Lorry until after I felt
the first bump then I saw it in my rear vision mirror. I was travellin
at normal speed between two stops , on the left side of the road.
After stopping a car driven by Capt. Waterfield arrived on the scene,
and he said he would report the accident to the Police.
The accused declined to cross examine the witness.

Signed Harry John Unsted

Harry John Unsted

Statement of Witness
for the Prosecution

Ruby Ashdown
London Passenger Transport Board
Godstone, Surrey.
(having been duly sworn)states:

I was Conductor on the Bus when the accident happened. I was sitting
on the back seat of the Bus and saw the Lorry some distance back of
us. I saw a young lady in the seat of the Lorry on the left side. I
didient see the Lorry again until it hit us. It then hit us the second
time before it stopped.
Cross examined by the accused:

Q. How far back from the Bus was the Lorry
when you saw the women in it.

A. About a quarter of a mile.

Q. You actually saw no woman getting out of the Lorry.
A. No, I diden't

Signed R Ashdown

Taken down by me at Field this 1st. day of May 1941 in the presence of
the accused. Rule of Procedure 4 complied with.

Signed J.J.Ryerson

J.J.Ryerson Lt.
Cdn. Corps Petrol Park
R.C.A.S.C.(C.A.S.F.)

Statement of Witness
for the prosecution

Harry John Unsted
London Passenger Transport Board
Godstone, Surrey.
(having been duly sworn)states:

Iwas driving a green line bus between Coulsden and Caterham about 6.20 P.M. 29 Mar. 41 when, near a place called The Old Toll Gate where there is a severe bend in the road I felt a bump on the rear of my Bus. I stopped my Bus and then felt the impact of another bump. I got out of the Bus and took the particulars of the Lorry and driver who struck me. I diden'd see the Lorry until after I felt the first bump then I saw it in my rear vision mirror. I was travelling at normal speed between two stops , on the left side of the road. After stopping,a car driven by Capt. Waterfield arrived on the scene, and he said he would report the accident to the Police.
The accused declined to cross examine the witness.

Signed Harry John Unsted

Harry John Unsted

Statement of Witness
for the Prosecution

Ruby Ashdown
London Passenger Transport Board
Godstone, Surrey.
(having been duly sworn)states:

I was Conductor on the Bus when the accident happened. I was sitting on the back seat of the Bus and saw the Lorry some distance back of us. I saw a young lady in the seat of the Lorry on the left side. I dident see the Lorry again until it hit us. It then hit us the second time before it stopped.
Cross examined by the accused:

Q. How far back from the Bus was the Lorry when you saw the woman in it.

A. About a quarter of a mile.

Q. You actually saw no woman getting out of the Lorry.
A. No. I diden't

Signed R. Ashdown

of

Ta ken down by me at Field this 1st. day May 1941 in the presence of the accused. Rule of Procedure 4 complied with.

Signed J.G.Pearson

J.G.Pearson Lt.
Cdn. Corps Petrol Park
R.C.A.S.C.(C.A.S.F.)

Statement Of Witness
For the Prosecution

G.17213 Cpl. Pike S.B.
Carleton & York Reg't
Cdn. Army (overseas)
(having been dult sworn)states:

I was ordered by the Batt'n Adjutant to go to Croydon, Police Station as some of our men were being held there. The Croydon Police sent us to Wallington Police Station. We found that one of the men held was ours, Pte. Skerry but the other was not. The Sgt. of Police asked us to bring the lorry back and report it to the proper authorities. The lorry was in Purley Parked on the side of the road guarded by a police officer. On showing our identity we were given the lorry and drove it back to Batt'n Lorry Park. Our H.Q. then notified Cdn. Corps Petrol Park. The accused returned with us as far as where the lorry was parked, in fact he showed us where it was , and then disappeared. He was not under arrest by us.

The accused declined to Cross-examine the witness

Signed G.17213 Cpl. Pike S.B.

G. 17213 Cpl. Pike S.B.

Taken down by me at Field this 2nd., day of May 1941 in the presence of the accused. Rule of procedure 4 complied with.

Signed [signature]
J.G. Ryerson Lieut.
Cdn. Corps Petrol Park
R.C.A.S.C. (C.A.S.F.)

No. C17692 Name EDMOCK, Herbert Lawrence Sqn., Battery, or Company | Depot Corps C&Y Regiment | Date of enlistment 2/3/40 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. (sgd) G.C.L. Holder Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under closure date when tried	By whom awarded	Remarks
Aldershot,N.S.	17/4/40	Pte.		Refusing to go on Parade when ordered to do so by a superior officer.	Sgt.Burns L/C.Arseneau	4 days C.B.	18/4/40	Capt.Morrisy	
Aldershot,N.S.	20/4/40	Pte.		Unclean Brass on 0745 hrs.Parade	Cpl. David	3 days C.B.	20/4/40	Capt.Morrisy	
Caterham	14/1/41	Pte.		(W.O.A.S.) A.W.L. 2300 hrs. 14 Jan 41 to 2230 hrs. 15 Jan 41.	Sgt. Samson Sgt. Andrews	Forfeits 1 days pay and 1 days pay. F.R.d.L.	16 Jan 41	Lt. Oxley	
Caterham	18/1/41	Pte.		(W.O.A.S.) A.W.L. 2300 hrs. 18 Jan 41 to 1630 hrs. 19 Jan 41.	Sgt. Andrews	Def.1 days pay. Forfeits 2 days pay.	20 Jan 41	Lt. Oxley	
Field	12/3/41	Pte.		Conduct to the prejudice etc. In that his rifle was found in a dirty condition. Sec. 40 A.A.	Documentary Evidence	Severe Reprimand	13 Mar 41	Lt.Johnston	

(over)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16/2/41	Pte.		Conduct to the prej. etc. in that he at Field was absent from his place of duty without being duly relieved	Cpl.Rochon	7 days C.B.	17 Feb 41	Capt. A.W. Searle	

CERTIFIED TRUE COPY:-

Lieut. J.C. Ryerson
Cdn. Corps Petrol Park,
R.C.A.S.C. CDN. ARMY ACTIVE.

FIELD
1 May 41
-/KP

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

G.17698 Pte Dimock H.L. of the Cdn. Corps Petrol Park R.C.A.S.C. Cdn. Army

(1)-The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct Sheets of the Accused. Exclusive of convictions by a Court Martial or a Civil Court , of summary [illegible] section 47 of the Army act, and of cases in which trial has been dispensed with:-

	Within last 12 months	Since Enlistment
For---refusing to go on parade	One-Time	One--Time
For---unclean brass	One-Time	One--Time
For---absent without leave	Two-Times	Two--Times
For---dirty rifle	One-Time	One--Time
For---absent from place of duty	One-Time	One--Time

3. The accused is not under sentence at the present time,

or

The accused at the present time is under sentence for N.A.

X beginning on the X day of X

4. The accused has been in confinement, awaiting trial on the present charge for X days in Civil Custody

and 36 days in Military Custody

Total 36 days

of which Nil days were spent in hospital

5. The present age of the accused according to his records of service (attestation papers) is

_____ years Information not available

6. The date of his attestation specified in his records of service (attestation papers)

is _____ Information Not available

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N.A.

8. The accused is entitled to deferred pay or gratuity in respect of

N.A. years service.

9. The accused is entitled to reckon N.A. years service for the purpose of determining his pension & etc.

10. The accused is in possession of, or entitled to, no Military decoration or Military rewards (or is in possession of or entitled to) N.A.

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT, OF SUMMARY AWARDS UNDER SECTION 47 OF THE ARMY ACT, AND OF CASES IN WHICH TRIAL HAS BEEN DISPENSED WITH

Army Number, Rank and Name G.17692 Pte. Dimock, H.L. of the Cdn. Corps Petrol Park, R.C.A.S.C. Can.Army

Note:- A verbatim extract from the regimental books, stating these convictions and dispensations with trial must be inserted.

Discription of Court by which tried, or status of Officer dis-posing of the charge or dis-pensing with trial	Date and place of trial, or summary award, or of order dispensing with trial	Charges upon which conviction or in respect of which trial was dispenced with.	Sentence of the court or authority disposing of the charges or order of the dispensing authority	Punish-ment remitted
Coy Orderly Room	18-4-40	Refusing to go on parade when ordered to do so by a Superior Offider	4 days C.B.	
Coy Orderly Room	20-4-40	unclean brass	3 days C.B.	
Coy Orderly Room	14-1-41	A.W.L. 23hrs and 15 minutes	forfiats (1) days pay and (1)days pay F.R.& A.	
Coy Orderly Room	18-1-41	A.W.L. 17hrs and 15 minutes	Dep (1)days pay forfeits (2)days pay	
Section O. Room	12-3-41	Dirty rifle Sect. 40 A.A.	Severe Reprimand	
Sub.Park O. Room	16-2-41	Absent from place of duty without being duly relelved (Sect. 40 A.A.	7 days C.B.	

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this fifth DAY OF May 1941

Maj.
Cdn Corps Petrol Park, R.C.A.S.C.

M.

AFS 246.

MEDICAL OFFICER'S CERTIFICATE.

(A.F.S. (C.M.) Forms, 1937)

I certify that I have this morning examined

No. 417692 Pte Dimock.

of Chelsea Detd Pack

is fit to undergo Trial by Court Martial.

Station. Field.

Date. 17/June/41

G. J. Mc-Capt.

Medical Officer

AFS 246.

MEDICAL OFFICER'S CERTIFICATE.

(A.F.S. (C.M.) Forms, 1937)

I certify that I have this morning examined

No. 417692 Pte Dimock

of Chelsea Detd Pack

is fit to undergo Trial by Court Martial.

Station. Field.

Date. 17/June/41

G J McCapt

Medical Officer.

F-111

PTE. DIMOCK, P.K.

Correspondence to be PINNED here.

F.G.C.M. G-15073 Pte. Dimock, P.K.
(C.D.C.) 1 C.G.D.U.
2-6-2/23.

Army Form A.3. 111 T

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 28th day of November, 19 .

Whereas it appears to me, the undersigned, an officer in Command of "A" Group, Canadian Reinforcement Units, Canadian Army (Overseas), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*[I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely:—]

Proceedings Reviewed
[illegible]
Reviewing Officer (A.G.'s Rep.)
11 Dec 23

Notes.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	W. H. Graves, D.S.O.	1 C.M.R., C.F.U.

Members.

Rank.	Name.	Regiment.
A Captain	to be detailed by	1 C.M.R.U.
A Lieutenant	to be detailed by	1 C.M.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature]
(P.M. Dimock) Colonel,
Commanding "A" Group, Can. Reinf. Units.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G-15073 Pte. DIMOCK, P.L. (CDC) 1 C.G.A.D.	First Charge A.A. Sec 15(1) Second Charge A.A. Sec. 24(2).	Guilty	Guilty To undergo detention for a period of 15 months. 30/11/42	I confirm the finding and sentence of the Court but mitigate/commute the sentence to 12 months detention
		Guilty	Guilty Stoppages of pay of $3.2.2½ to make good deficiencies of kit 30/11/42	P.R. Dimock Col 1 Dec 42
	See Charge Sheet attached.			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) P.R. Dimock (P.L.B. DIMOCK) Colonel, Commanding 30th Group, C.A.(O.) — (Signed) A.A. deGrasse 1 Can A.G.R.U. Major, Convening Officer (e) — President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings

I certify that the above Court assembled on the 30th day of Nov. 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~.)

were duly sworn.

* Omit if not applicable.

def

Signed this 30th day of Nov. 1942.

A.A. deGrasse Major.
1 Can A.G.R.U.
President of the Court Martial.

C. Certificate in case of death sentence

* See footnote (b) on page 782 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

def

Signed this ~~day of 19~~.

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 7 day of Dec 1942.

P.R. Dimock Col

Confirming Officer.

Promulgated and extracts taken in the case of G-15073 Pte Dimock P.L.

(a) (Dated) 20 Dec 42 (Signed) [illegible] Adjutant. 1 Can General Reinf. Unit, C.A.(O.)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

A. de Sages
Mpr.
President.

CHARGE SHEET.

The Accused, G-15073, Pte. Dimock, Parker Kenneth., C.D.C. No.1. Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas when on Active Service is charged with:

FIRST CHARGE: ABSENTING HIMSELF WITHOUT LEAVE
SEC. 15 (1) A.A.

IN THAT HE

At Morval Barracks, Cove, Hants., did absent himself without leave from 2400 hrs., 10 June 42., until apprehended by the Civil Police at 2150 hrs., 20 Nov 42.
"Absent 163 days, 21 hours, 50 minutes."

SECOND CHARGE: LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES.
SEC. 24 (2) A.A.

IN THAT HE

At No.1. Canadian General Reinforcement Unit, Barresa Barracks, Aldershot at 1330 hrs., 26 Nov 42 was deficient of the following articles to the value of £3.2.2½ which amount is 75% of the vocabulary price of such articles which totalled £4.2.11½.

Article	Quantity	Value £	S	D	75% of Value. £	S	D
B.D. Blouse	1	1	7	0	1	0	11
B.D. Trousers, prs.	1		1	10½		1	4½
Razors, safety,	1		5	1		3	10
Shirts, woollen,	1		8	10		6	7½
Shoes, canvas, H.S., Prs.	1			11½			9
Towels, hand	1		1	1			10
Brush, hair	1		6	6		4	10½
Haversack, resp., Mk.VII	6		2	3		1	8
Eyeshields, a.g., prs.	1			9½			7
Ointment a.g., #2, sets,							
TOTALS		£ 4	--	2 -- 11½	£ 3	- 2	-- 2½

(R.W. Frost) Lt-Col.
O.C. No.1.Cdn.Gen.Reinf.Unit.
Canadian Army Overseas.

Aldershot Hants.,
Nov 42.

To be tried by Field General Court Martial.

(P.A.GUIBORD) Colonel,
Commanding "B" Group,
Cdn. Reinforcement Units.

28 Nov. 42.

NO I CANADIAN GENERAL REINFORCEMENT UNIT
CANADIAN ARMY OVERSEAS

def

1 GRU 5-4-4 DIMOCK
30 Nov 42.

G-15073 Pte. Dimock, P.K.

CERTIFIED that I have this day medically examined the m/n soldier and find him in a fit state of health to undergo trial by F.G.C.M.

W.H. Warren Capt.
Medical Officer
No 1 Cdn Gen Rein Unit
Canadian Army Overseas

/AMH

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT Deville Bkg. Cove. ON THE 30th DAY OF Nov 42

TRIAL OF:- No. 915093 Pte. Hiscock P.K. Unit No. 1 C.G.R.U.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) ~~Capt. W.H. Dean~~ (Unit) 1 C.G.R.U

Defending Officer:- (Name) Lt. J.M. Read (Unit) 1 C.G.R.U

At 11.20 hrs the trial commences.

The order convening the court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 -

The President, members and judge-advocate (if any) are duly sworn.

The following constitute the Court:

President Maj. W.A.de. GRAVES. ~~M.C.~~ (Unit) 1 C.D.A. C.C. R

Members Capt. H.C. BOWES.....(Unit) 1 C.G.R.U

Lt. C.C. Hadley.....(Unit) 1 C.E.R.U.

~~The officers under instruction are duly sworn.~~

~~Q2 Do you object to ..... acting as shorthand writer? A2 -~~

~~The shorthand writer is duly sworn.~~

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(3) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name..Capt. D.L. McPhee (Unit) 1 C.G.R.U..... sworn, produces AFB 296 and AFM/8 and upon being questioned by Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3. (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - statement read and handed in.

Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4 - No

---

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

See attached

Q. 15413 PTE. DIMOCK F.K.

Summary of Evidence in the Case of ~~No. Pte. Desertion~~ Absence
G 15073. Pte. DIMOCK. P.K. C.D.C. No 1 Canadian General Reinforcement Unit.

The Commanding Officer. No 1 Cdn. Genl. Rein. Unit directs that the evidence be taken on oath.

FIRST WITNESS: CAPT. W.J. McPHEE, Records Officer, No 1 Cdn. Gen. Rein. Unit, having been duly sworn states:

"I am Capt. W.J. McPhee. I hold the appointment of Records Officer at No 1 C.G.R.U.

I produce herewith A.F.B. 115 "which is a record of the declaration of a Court of Inquiry on the illegal absence of one Pte. Dimock, P.K. (attached as app. A.)

I also produce A.F.O. 1618, which purports to be descriptive return of a deserter or absentee without leave describing the above mentioned soldier and signed by a magistrate of the Bow Street Police Court. (att. as App. B)

I also produce a form No. 511, which purports to be the particulars of the arrest by the Civil Police of the above mentioned soldier (att. as App. C).

W.J. McPhee Capt
Rec. Officer
#1 C.G.R.U.

The accused declines to cross-examine this witness.

SECOND WITNESS - E 37031 Cpl Bowen, "A" Coy, No 1 Cdn. Gen. Rein. Unit having been duly sworn states —

"On the 11th of June, 1942. I was Coy. Orderly Corporal. I called the Roll at 0600 hours. C15073, Pte DIMOCK. P.K, was ~~reported~~ absent from 2359 ~~hrs~~ AB hours. June 10th I took his kit to the Q.M. Stores and I reported to the Company Sergeant Major.

Sgt A Bowen

The accused declines to cross examine this witness.

THIRD WITNESS. D32007. Company Sergeant major Hughes, H. F., Gen. Coy., No 1 Cdn R Gen. Rein. Unit, having been duly sworn states —

at 0900 hours on the 11th of June, 1942 the Orderly Corporal, Cpl. Bowen, A. reported to me, that C15073, Pte Dimock, P.K. was absent from 2359 h. 10 June 42 and that the kit of Pte Dimock had been placed in stores for safe custody. I reported the matter to the Coy. Commander.

H F Hughes CSM.

The accused declines to cross examine this witness.

WITNESS - H111 76 CQMS. FRIELL. T. No 1 C.G.R.V. having been duly sworn states -

"at 1330 hours 26th of November. 1942. I inspected the kit of G 15073. Pte Dimock. P.K. & found him deficient the articles listed on the attached list which I submit as evidence. (att. as app. D.)

T Friell.

The accused declined to cross examine this witness

FIFTH WITNESS P.S. J. WILLS. PS 94 "A", Metropolitan Police. Carmon Row Station. "A" Divn. I, Roland Richard Dean, the officer taking the summary of evidence in this case hereby certify that in my opinion the attendance of P.S. - J. WILLS. is not readily obtainable and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as appendix "C".

R. R. Dean Lieut. C.D.C.

I do not require the attendance of P.S. J. Wills for the purpose of cross. examination

P.K. Dimock G 15073

The accused was cautioned as follows -
"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declined to make a statement.
The accused did not call any witnesses for the defence.

I certify that the foregoing Summary of evidence was taken down by me in the presence of the accused and that Rules of Procedure 4 (c)(d)(e) and (f) have been complied with.

R. R. Dean Lieut.
C.D.C.
No. 1 C.G. R.V.,
Cdn Army, Overseas.

Aldershot, Hants.
26 Nov. 42.

80th W.J. McPhee Major Received

Summary of Evidence in the Case of G-15073, Pte. Parker Kenneth Dimock. C.D.C. No.1. Canadian General Reinforcement Unit.

The Commanding Officer, No.1. Cdn. Gen. Reinf. Unit directs that the evidence be taken on Oath.

First Witness:
For Prosecution.

Capt. W.J. McPhee, Records Officer, No.1. Cdn. Gen. Reinf. Unit., Having been duly sworn states:-
" I am Capt. W.J.McPhee, I hold the appointment of Records Officer at No.1. Canadian General Reinforcement Unit.
I produce herewith A.F.B. 115 "which is a record of the declaration of a Court Of Inquiry on the Illegal Absence of one Pte. Parker Kenneth Dimock. (Attached as App. "A")
I also produce A.F.O. 1618,, which purports to be descriptive return of a deserter or absentee without leave describing the above mentioned soldier and signed by a magistrate of the Bow Street Police Court. (Att. as App. "B".)
I also produce a form No.511 which purports to be the particulars of the arrest by the Civil Police, of the above mentioned soldier. (Att. as App. "C")

(W.J. McPhee) Capt.
(Officer I/c Records)
No.1.C.G.R.U.

The Accused declines to cross-examine this witness.

Second Witness:
For Prosecution.

Z-37031, Cpl. Bowen, Gen. Coy., No.1. Cdn. Gen. Reinf. Unit. having been duly sworn states:-
"On the 11th of June 1942. I was Coy. Orderly Corporal. I called the Roll at 0600 hrs. G-15073, Pte. Dimock, P.K. was absent from 2359 hrs., 10 June 42. I took his kit to the Q.M. Stores and I reported to the Company Sergeant Major.

(Z-37031, Cpl. Bowen, A.

The Accused declines to cross-examine this witness.

Third Witness:
For Prosecution.

D-32007, Company Sergeant-Major Hughes, H.F., General Coy., No.1. Cdn. Gen. Reinf. Unit. having been duly sworn states:-
"At 0900 hrs. on the 11th of June 1942, the Orderly Corporal Cpl. Bowen, A. reported to me, that G-15073, Pte. P.K. Dimock was absent from 2359 hrs. 10 June 42., and that the kit of Pte. Dimock had been placed in the Stores for safe custody. I reported the matter to the Coy. Commander.

(D-32007, C.S.M. Hughes, H.F.)

The Accused declines to cross-examine this witness.

Fourth Witness:
For Prosecution.

H-11176 C.Q.M.S. Friell, T. No.1. Cdn. Gen. Reinf. Unit. having been duly sworn states:-
" At 1330 hrs., 26 Nov 42., I inspected the kit of G-15073, Pte. P.K. Dimock. I found him deficient the articles listed on the attached list which I submit as evidence.(Att. as App. "D")

(H-11176, C.Q.M.S. Friell, T.)
No.1. C.G.R.U.

 (con't. on 4th Witness)

The Accused declines to cross-examine this witness.

FIFTH WITNESS:
For Prosecution. P.S. Wills, P.S. 94 "A", Metropolitan Police, Carmon Row Station, "A" Division.

" I, Roland Richard Dean, the officer taking the summary of Evidence in this case hereby certify that in my opinion the attendance of P.S.- J. Wills, is not readily obtainable and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Appendix "C"

(R.R. Dean) Lieut. C.D.O.
No.1. C.G.R.U.

I do not require the attendance of P.S. J. Wills for the purpose of cross-examination.

(F.R. Dimock, G-13073)

The accused was cautioned as follows-" Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence"

The Accused declined to make a statement.

The Accused did not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence was taken down by me in the presence of the Accused and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

Aldershot, Hants.
26 Nov 42.

(R.R. DEAN. LIEUT.)
C.D.O. No.1. C.G.R.U.,
Cdn. Army Overseas.

COPY

APPENDIX "A"

Rec

Army Form A.

a Court of Inquiry on the Illegal Absence of a Soldier.

ration of a Court of Inquiry assembled at Cove, Hants.

on the third day of July 1942, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.G-15073 Pte. Dimock, P.K.

DECLARATION.

The Court declare that G-15073 Pte. Dimock, P.K. illegally absented himself without leave at Morval Barracks Cove, Hants., on the eleventh day of June 1942. That he is still so absent and that on the 11th day of June 1942 he was deficient and that he is still deficient of the following articles.

ARTICLE	QUANTITY	PRICE £	s	d
Anklets web prs	1		2	7
Battle dress blouse	1	1	0	9
Battle dress trousers	1	1	0	11
Boots ankle prs	2	1	12	3
Braces prs	1		1	
Brasses button	1			1½
Brush shaving	1		1	
Brush tooth	1			3
Cap comforter	1			10
Cap field service	1		2	9
Comb hair	1			1½
Drawers woollen prs	2		7	10
Dressing first field	1			10
Fork	1			4
Holdall	1			7

ARTICLE	QUANTITY	PRICE £	s	d
Housewife	1		1	8
Blouses denim	1		9	5
Razor	1		1	4½
Shirts woollen	2		7	8
Shoes canvas R.S. prs	1		6	7½
Knife table	1			7
Spoon	1			3
Towels hand	1			9
Covers mess tin	1			2
Eyeshields prs	6		1	8
TOTAL		£6.	2.	4.

Names of President and Members

President - Capt. A. Nicholls.

Member - Lieut. R.F. Barber.

Member - Lieut. R.J. Dickson.

Signature of Commanding Officer Sgd. (R.W.Frost) Lt. Col.

CERTIFIED TRUE COPY

Officer Commanding,

Signature of Officer having custody of the Original Record

No. 1 Canadian Corps Base Sec. C.A.(O.)

(12291) WL34318/1422 15,000 10/39 A & E W 122 Gp. 698 Forms/S/113/56

B.

Army Form O.1618.

IMMEDIATE.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

---

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*10054) Wt.12300/230 10,000 5/39 A.&E.W.Ltd. Gp.899 Forms/O.1618/31

DESCRIPTIVE RETURN OF L.C. 13073. DIMOCK Parker Kenneth who
was apprehended at 9.50 (hour) a.m. on the 21st day
of NOVEMBER and was committed to confinement at Rochester Row Station
on the 21st day of NOVEMBER as a Deserter (~~or Absentee~~ without
leave) from the 5th General Reinforcement Unit
Regiment of Canadian Army.

Age 22. Height 5 feet 4½ inches
Complexion Fresh. Hair Brown. Eyes Blue.
Marks Tattoo right forearm. In uniform or plain clothes Plain clothes

Probable date and place of attestation	9th September 1939.
Probable date of desertion or beginning of absence and from what place.	10.6.42 COVE. Hampshire.
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured.	Pte White P.C. 524A

Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.

arrested for drunkeness on 21st Nov. and on 23rd November 1942 at Bow Street Police Court admitted himself to be a deserter from the above unit.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he

the before-mentioned Corps.

Signature of Justice of the Peace / one of His Majesty's Magistrates of the Police Courts of the Metropolis sitting at The Bow Street Police Court / Committing Magistrate.

Post Town

Signature of Witness

Signature of Prisoner

Signature of Informant



P.K. Dimock
L. White Pte. 524A

where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then

I CERTIFY that the above-named confessed to the circumstances stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence.

Signature / Residence / Post Town / of Magistrate

Date of Signature

* Care should be taken to insert Army No. and Rank.

‡ Insert "was apprehended" or "surrendered," as the case may be.

† It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.

† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs" or "does not belong to," as the case may be

APPENDIX C

C

No. 511.

METROPOLITAN POLICE

Carnaby Row Station. A Divn.

Particulars of a Soldier apprehended by the Police of the A Division

and now in custody at Rochester Row Police Station.

Hour when brought to Station 9-55 pm Date 21-11-42

No. 6152973 Rank Private

Name Parker Kennetty DIMOCK

Regiment 1st General Reinforcement Unit Canadian Army

Where stationed

Person charging Name Pc 524A White

Address Rochester Row Police Station S.W.1

Nature of charge Drunk Rennet on Licensed Premises and Desertion

Remarks Private Dimock will appear at Bow Street Police Court at 9.30 am Monday 23/11/42. Please arrange for escort

To the Officer Commanding. [illegible] Sergt. on Duty

M.P.-35-5265/1st W17

App. D

G15073 Pte. Dimock, P.K.

Deficiencies of Clothing and Equipment on Charge to:

Article	Quantity	Value £	s	d	75% of Value £	s	d
B.D. Blouse	1		7	8		5	9
B.D. Trousers, prs.	1	1	7	11	1	0	11
Razors, safety,	1		1	10½		1	4½
Shirts, woollen,	1		5	1		3	10
Shoes, canvas, R.S., prs.	1		8	10		6	7½
Towels, hand	1			11½			9
Brush, hair	1		1	1			10
Haversack, resp. Mk.VII	1		6	6		4	10½
Eyeshields, a.g., prs.	6		2	3		1	8
Ointment a.g., #2, sets,	1			9½			7
TOTALS		£ 4	2	11½	£ 3	2	2½

26/NOV/42
Barrosa Bks.
Aldershot, Hants.

Thomas Friell C.Q.M.S.
(H11176 C.Q.M.S. Freill, T.)

C.M.H.Q. 1930 '74
WT & S/905

CANADIAN PROVOST CORPS

FILE REFERENCE

COMPANY. S.I.S. FORMATION. C.M.H.Q. CORPS.

LOCATION. LONDON. DATE. 23 Nov.42.

SUBJECT: G-15073, Pte DIMOCK, P.K.- No.1 C.G.R.U. C.R.U.

DESERTER. Convicted 'DRUNKENNESS' by Civil Authority.

File Numbers
42/SIS/D/7-95.

Previous Report
FIRST.

Diary Date
NIL.

1. On 10 June 42 the a/m soldier went absent without leave and remained absent until arrested by D.S.I. DAVIS and P.C. WHITE at the Surprise Public House, Vauxhall Bridge Rd, at about 2145 hrs 21 Nov.42, on charge of 'drunk on licensed premises'. When arrested DIMOCK was wearing civilian clothes.

2. DIMOCK appeared before Mag.McKENNA at Bow St.Police Court on 23 Nov.42 and pleaded guilty. He was fined 7/6, to be stopped out of his pay. Notice of Fine from Chief Clerk, Bow St.Police Court, is attached to this report for information of his Unit Paymaster. DIMOCK was handed over to escort as a deserter and was taken to No.6 Coy Cdn Provost Corps Detention Room. He will be returned to unit, under escort, on 24 Nov.42.

3. Investigation by Civil Police showed that for about 10 days past DIMOCK had been residing at 45 Kendall St.LONDON. Also resident at that address, and arrested at same time as DIMOCK was 5681884, Pte J.F. LYNN, an absentee from Somerset Light Infantry. There was nothing in DIMOCK'S effects to indicate his previous address and he refused all explanations as to how he supported himself, or by whom he was supported, during his absence.

HANDED OVER.

J. Kelly Sgt.
B-69712 (J.F.Kelly).
S.I.S. C.PRO.C. C.M.H.Q.

O.C.
1. C.G.R.U.

1. Forwarded please, for your information together with Notice of Fine for your further attention.

(E. Porter) Capt.
Officer i/c SIS
Cdn Pro Corps CMHQ

London.
25 Nov 42.

List of Witnesses for the Prosecution and Defence in the case of G-15073 Pte. Dimock, P.K., C.D.C., No.1. Canadian General Reinforcement Unit.

PROSECUTION:

FIRST WITNESS - Capt. W.J.McPhee, Records Officer, No.1. Cdn. Gen. Reinf. Unit.

SECOND WITNESS - E-37031 Cpl. Bowen- Gen. Coy. No.1. Cdn. Gen. Reinf. Unit.

THIRD WITNESS - D-32007 C.S.M. Hughes, H.F.-Gen. Coy. No.1. Cdn. Gen. Reinf. Unit.

FOURTH WITNESS - E-11176 C.Q.M.S. Friell, T.- No.1. Cdn. Gen. Reinf. Unit.

FIFTH WITNESS - P.S. Wills, J., P.S. 94., "A" Metropolitan Police, Carmon Row Station. "A" Division, London.

DEFENCE:

NIL.

List of Exhibits in the case of G-15073, Pte. Dimock, P.K.,C.D.C. No.1. CanadianGeneral Reinforcement Unit.

EXHIBIT "A" A.F.B.115- Record of the declaration of a Court of Inquiry on the Illegal Absence of the Accused,:: G-15073, Pte. Dimock, P.K.

EXHIBIT "B" A.F.O. 1618 - Certificate of apprehension of the Accused by Civil Police.

EXHIBIT "C" Statement of Evidence by P.S., J. Wills, P.S. 94 "A" Metropolitan Police, Carmon Row Station, "A" Division, London.

Appendix "D" List of Deficiencies in kit of the Accused as of 1330 hours, 26 Nov 42.

NO.1. CANADIAN GENERAL REINFORCEMENT UNIT

CANADIAN ARMY OVERSEAS. I.G.R.U. 5-4-4.
27 Nov 42.

With reference to my pending trial by F.G.C.M.

I wish an Officer assigned to act as defending Officer.

Pte P.K. Dimock G/15073

(G-15073, Pte. Dimock, P.K.)

No. G1507 Name Pte. Dimock P.K. Sqn., Battery, or Company 1st. Corps Petrol Park R.C.A.S.C. Date of enlistment (as) N.P.A.M. 19/9/39 G.C. Badges 26/9/39 Signature O.C. Company, etc. Sheet No. C.A.S.C. Pet. Park 1. Service or Proficiency Pay A.A. Gurdon Major. Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field.	1/9/40	Pte.	Nil	A.W.L. 0830 hrs.1/9/40 until 1800 hrs, 1/9/40. Surrendered to Mil.Police-London. Sec.15.A.A.	(Documentary) Sgt Larouette.	Forfeiture of pay. (7 Days)	5/9/40.	Major. Barrett O.C.	
London.	23 Dec 41.	Pte.	1st.	WOA3 Conduct to the prej.,etc Created a disturbance A.A.40. WOA3 was drunk (1st Offence)A.A.19	Documentary pay. R.R.A.I.149 (2) Admonished.	Forfeits 5 days pay.	(27 Dec 42.)	Major R.J. Williams	
London.	24/4/42.	Pte.		WOA3 Absent Without leave from 1745 hrs 23/4/42 until 1800hrs. 23/4/42. and from 0920hrs 24/4/42. until 1000hrs 24/4/42.(Absent 55 Minutes) A.A. Sec. 15 (1)	U-1612. B/Sgt. Bates. L.H.	Forfeits 1 days pay F.R.R.I.149(2)	24/4/42.	Major. N.D. Hadley.	

(T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
London.	21/11/42.	Pte.	One.	"Drunk on Licensed Premises	Documentary	Fine of 7/6	23/11/42.	Magistrate McKenna Bow Street Police Stn. London.	

Certified True Copy:

(Record Officer No.1. C.M.R.U.)

A. Redpath
Pte
Canadian

Judge Advocate
President

Army Form B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G-15073	Pte.	Dimock, P.K.	C.D.C. No.1.Cdn.Gen.Reinf.Unit

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For Sec. 15 (1) A.A.	1 times	2 times.
For Sec. 19 A.A.	1 times	1 times.
For Sec. 40 A.A.	1 times	1 times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct. ~~Nil~~

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time, or The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for 2 days in civil custody, and ~~5~~ 10 days in military custody, making a total of ~~5~~ 10 days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~declared in~~ attestation paper is 22 Years, 341 days

6. The date of his ~~enlistment~~ attestation specified in his ~~record attestation~~ attestation paper is 26 Sep 39.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of n/a service.

9. The accused is entitled to reckon n/a service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~for which he is eligible but has not received~~

~~Particulars to be given if entitled to wear~~

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of n/a

12. (*In the case of an officer.*) The accused holds in the army the rank of n/a dated n/a and in his regiment (or corps or department) the rank of n/a dated n/a

~~Particulars to be given in the case of~~

Note.—At a trial by field general court-martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, particulars being given to the most serious offence in each entry and to any recognized special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. G-15073 Rank Pte. Name Dimock, F.K. of No.1.C.G.R.U Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispositions with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge or order of the dispensing authority	Punishment remitted
Bow Street Police Court.	23 Nov 42 Bow Steet Police Station, London.	"Drunk On Licensed Premises"	Magistrate McKenna	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23rd day of Nov 42.

(Records Officer)
No.1.Cdn.Gen.Reinf.Unit.

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion
In the rank of	
In the rank of	
In the rank of	

(Instructions—If any entries in any of the above paragraphs cannot be stated from the regimental books the paragraphs must be struck through, stating that in the case of a trial by field general court martial the information may be obtained from such sources as are available and the paragraphs completed accordingly.)

DDR-58

TPR DINGMAN L.G.

DDD-58

FIELD GENERAL COURT-MARTIAL

(CF AMS. (Im. Forms of AF 33) as in B.C. (AUS) (Navy))

Convened by Order of Brig T. J. Rutherford Comd "E" Gp, CRU dated 18 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-328	Tpr	Leonard George	DINGMAN,	1 CACRU

PROCEEDINGS REVIEWED

[illegible] Capt
7 Cdn Bde 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England. on (date) 19 Feb 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns 80s. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which matters are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~[illegible]~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~[illegible]~~ brought before the Court. At 1015 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~[illegible]~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ as interpreter ? Ans ~~[illegible]~~

~~The Interpreter is sworn.~~(1) Do you object to Sgt R.C. Lashbrook as shorthand writer ? Ans No sir.
A 59769
The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt.-Col.	D.L. Redman, V.D.	3 C.A.C.R.U.
Member	Capt.	T. Johnston	2 C.A.C.R.U.
Member	Lieut.	W.L. Roadhouse	2 C.A.C.R.U.
~~Judge Advocate~~			
Prosecutor	Lieut.	R.B. Allen	1 C.A.C.R.U.
Defending Offr	Lieut.	C.F.H. Boothroyd	1 C.A.C.R.U.

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans Yes (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See DI p 3.)

A8. The accused ~~[illegible]~~ before arraignment make(s) (no) ~~[illegible]~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-328 Tpr Leonard George DINGMAN, 1 CACRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and on loss of kit see RP 44 (n 6.))

~~As promulgated under sentence for~~ ~~beginning on date~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

10 forfeit all ordinary Pay for a period of forty five (45) days.

(Sgd) ~~Judge Advocate, if any.~~ Date awarded. 19 Feb 44. President (RP 25, 26.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 53-56, 120, MML pp 758-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

finding and sentence confirmed.

I direct that the accused be not committed to prison or detention barracks until further order.(1) ~~[illegible]~~

(1. AA 57A. Delete if not used.)

Date 21 Feb 44 (Sgd) J Rutherford Brig
Commanding E. Gp. C.R.U.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-328 Tpr LEONARD George DINGMAN	23 Feb 44	[illegible] Lieutenant [illegible]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc., offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 28.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~to S.C. absent~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No Sir.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B), fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 91(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 104, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 885. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(2) (c), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No Sir.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes Sir and by my Defending Officer.(2) NOTE ATT.
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2) 7/6/0
(1. *When several accused tried separately see RP 90(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

HQ CDN RFT UNITS

20 Feb 44.

Confirming Officer,
Comd. "E" Group,
C.R.U.

F.G.C.M. - 19 Feb 44.
B.328, Tpr. L.G. Dingman, 1 CACRU

1. I enclose herewith proceedings of the marginally noted F.G.C.M.

2. In this case the Court has before it a soldier who had been in the Militia for three years before the war and who has been in the R.C.R. since the 30th of June, 1941. He was a caterer in the Officers' Mess. He had what his M.O. considered a slight injury to his big toe. He knew his unit was about to go overseas and was very anxious to go with it. In every medical institution to which he went, he apparently used his best efforts to be returned to his unit but without success. The following two occurrences stand out; first, Major McLeod of 1 CACRU wrote to Alton Convalescent Hospital asking that the accused be returned to his Unit. He was not returned. The accused stated that he had been told there that, if he could get such a letter, he would be returned. Second, the accused states that he was told at Hindhead Convalescent Depot that the C.O. was too busy to see him when he asked to be paraded to him. It is my opinion that these matters require investigation.

(D.L. Redman) Lt.-Col.,
President of the Court.

Encls.
DLR/rl
DLRS/POST (R)

Major Harvey D.A.A.G. (Dis), C.R.U., has told me that all such reports as the above receive appropriate attention and action at C.R.U.
9 Mar 44.

CHARGE SHEET

The accused No. B-328 Tpr. Leonard George DINGMAN, on the strength of No.1. Canadian Armoured Corps, Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with,

1st Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, on the 17th December 1943, did absent himself without leave from 0900 hours until surrendering himself with Military Uniform, to No.2. Convalescent Depot at 1700 hours the 7th February 1944. Total time absent:- 52 days, 8 hours.

A.T. PATERSON, Lt. Col.,
Commanding Officer,
No.1. Cdn. Arm'd. Corps,
Reinforcement Unit.

In the Field,
9th February 1944.

To be tried by Field General Court Martial.

(T. J. RUTHERFORD) Brig
Comd
"E" Gp, CRU

In the Field,
18 FEB 44.

FIELD GENERAL COURT-MARTIAL

CFAA96 (In lieu of AFA3)
40/FAR/1097 (2003)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Con 308, 324, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-328	Tpr		Leonard George	DINGMAN,	1 CACRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and dated (*date*) 16 FEB 44 endorsed by me, "~~Action under section 70 of the Act~~." To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; ~~and whereas it is not practicable to delay the trial of the accused, or some of them, for the purpose of~~
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am of opinion that it is not practicable that the trial of the accused, or some of them, for the purpose of~~
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~And whereas the following officer or officers who may be present and available~~
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Unit.)
Lt.-col	D. L. Redman, VD.	HQ, CRU.
	(*Must be named. RP 106.*)	

MEMBERS.

(Rank.)		(Unit.)
Capt	to be detailed by CO 2 CACRU	2 CACRU
Lt	to be detailed by CO 2 CACRU	2 CACRU.
	(*Named or detailed. RP 106.*)	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (*Country.*)

Date 16 FEB 44

J. Rutherford (*Signature. RP 105 (n 2.)*)

(T. J. RUTHERFORD) Brig

Commanding 2nd Gp, CRU. (*Rank.*)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for notes and notes for use on trial.*)

MEDICAL OFFICER'S CERTIFICATE
K.R.(Can.) Para. 557

I certify that I have this morning examined No. B328

Name DINGMAN. L.G. of #1 C.A.C.R.U. and in my opinion he is fit/~~unfit~~ to undergo trial by Court-Martial.

Station FIELD

Date 19-2-44

M.Yates Capt R.C.A.M.C.
Medical Officer.

Trial of B 328 Tpr. L. G. Langmaid, 1 CAPV.

Note E-2

The accused states in mitigation:-

I have three years in the Militia here at home in Canada. ~~with the~~ When the R.C.E. mobilized I tried to join up. I have been over here two years. I have been employed in the Officers Mess for the past 2 years 3 months as a caterer to the officers running the bar and waiting in the dining room. I was moving a piano on the 7th Oct 43. The piano tipped and broke my big toe. I reported to the M.O. The M.O. said the bone of my toe was broken and I was sent to No 5 Convalescent Hosp. My M.O. said that I would return that evening. When I arrived at No 5 Convalescent Hosp. I had an X-ray taken of my toe. I reported to the M.O. at the hospital that my own M.O. had said that I would be able to return to my own unit that evening. He kept me there four days. I was sent out of No. 5 Convalescent Hosp to 14 Gen. Hosp. Two days later 14 Gen. Hosp. moved out. I paraded up to the 14 Gen. Hosp. requesting that I wished to be returned to 1 CAPV as I wanted to join my kit before it went abroad. They ~~and~~ said they couldn't do anything about it as they were moving out. I was sent from No 14 Gen. Hosp. to No. 12 Gen. Hosp. I was paraded before the O.C. of No. 12 Gen. Hosp in an effort to get back to my own unit ~~but~~ but to no avail. I was sent from No 12 Gen. Hosp. to Alton Convalescent Hosp. I paraded up before the O.C. of Alton Con Convalescent Hosp. in an effort to get back to 1 CAPV. They said I had to go to Headhead Convalescent Depot and that I had to get an officer

from 1 C.A.C.R.V. to claim me. I wrote to Major McLeod that I wanted to get back to No. 1 C.A.C.R.V. He wrote to Alton Convalescent Hosp. that I be returned to 1 C.A.C.R.V. They said they were too busy. I was just pushed around. I then went A.W.L. I had one 48 hr. pass while at Alton and received ~~one~~ week-end passes while at the other hospitals. I was well enough to walk around and do fatigues in hospital. At Alton when I first went there, I was graded "B", being well enough for route marches, P.T. and fatigues. My category was never changed. I am still "A" category. In my opinion I could have performed all my duties in my unit at any time which is the opinion of the Unit M.O. at the beginning of my fracture. It was found that there was a fracture in my big toe. I am married. I worked for the Coca-Cola Company at Brantford, Ontario as a salesman. Major McLeod was in the Adjutant's room when I was before the Colonel on this charge, and he there said that he had received a letter from me and had written a letter to Alton Convalescent Hosp. asking that I be returned to 1 C.A.C.R.V.

GW

NOTE E-3

F.G.C.M. of B328 Tpr DINGMAN, L.G.

Plea in Mitigation of Sentence on behalf of the Accused

The accused, Tpr Dingman, has pleaded guilty to the charge of absence without leave and thoroughly realises that he has committed a military offence which no court can overlook but he hopes that the Court will in passing sentence consider two things:-

FIRST the full circumstances which led up to his absence without leave

SECOND his past good record as a soldier.

The President of this court has, I know, had a great deal of experience with cases of A.W.L. and it is not new to him to be told that an accused was "browned off", to use a current term. However, I do not believe that he can have encountered many instances where a soldier had ~~reason~~ as much reason to feel that he was being badly treated and to be fed up with the army and all its works.

The Court have heard Tpr Dingman's account of the events leading up to this offence and know that he believed that his unit, the R.C.D., was shortly going overseas and can appreciate his anxiety to proceed with it. The members of the court know how much a unit can mean to a soldier, to a Canadian in England it is home, family and friends and I think they will realize that it meant all that to this trooper.

Tpr Dingman made all possible efforts to get back to his unit and I think there can be no doubt that HE BELIEVED THAT HE WAS PHYSICALLY FIT TO BE WITH HIS UNIT.

This was due to:-

(a) The words of his unit M.O. who told him he was merely going to S.C.E.S. for an X ray and not to take his kit with him.

(b) The opinion of the Capt. at S.C.E.S., later overridden by

the major, that he was fit to return to his unit

(c) The way in which he was treated at 12 and 14 Gen. Hosp. where he was given week ends allowed to move about and led to believe that it was only RED TAPE which kept him there, (that he had to go to Convalescent home for discharge and it was too full to receive him.

(d) The information given him at ALTON that if he could be claimed he could go right to Holding Unit, otherwise he would have to go to HINDHEAD CONVALESCENT DEPOT and he felt that at ALTON he was placed in "GREY" category as fit for Route marches and P.T.

Pte Dingman therefore felt that he should be on full duty and he took all steps open to get back, first to his unit and then to the Holding unit. Unfortunately the change over from 12 to 14 Gen. Hosp. with consequent confusion and the failure of ALTON to take any action when Major McLEOD, RCD, wrote claiming him, in response to a letter from Dingman, (a fact which Maj McLeod mentioned before C.O. #1 CACRU prior to his proceeding on draft) and finally the ~~news that~~ failure to get parade to the C.O. of HINDHEAD and the news that his unit had left, presumably for overseas, all led him to believe that the RCASC was just playing with him and no body cared where he was and what he did.

In these circumstances he went on the loose.

I have been in a Transit Camp in Canada three afternoons of waiting about officers and men get the feeling that they were forgotten men and discipline and morale reached such a low ebb that officers missed parades if they felt like it and two even went A.W.L., and it is difficult to feel that if officers act like that an ordinary trooper who under even less satisfactory conditions behaves in a similar way should be dealt with as severely as one who goes A.W.L. from duty.

SERVICE & CHARACTER

3 Yrs 54th Bty R.C.A. Brantford. NPAM

Attempt to enlist with 54th in Sept. '39 found category "E" due to hernia.

1 yr with 2 Bn Dufferin and Haldimand Rifles Reserve Army.

FEB 41 hernia operation at own expense ($150.00)
JUN 41 on recovery enlisted with R.C.D (Active).

Crime sheet clean except for two short absences on returning from Privilege Leave, at Maresfield where bus & train connections poor.

Employed as Off. Mess Caterer, a position of trust for 2 yrs.

Unfortunately Lt. SINGER, the only RCD officer at #1 CACRU has gone on detached duty and cannot give evidence as to character but with the Court's indulgence I should like to mention that Mr Singer told me last night that he would give DINGMAN the highest possible recommendation.

CONCLUSION

I sincerely believe that this is a case in which the Court might be expected to temper Justice with mercy and the accused hopes that the court will exercise its prerogative of mercy.

T. Edward M. Bentley M.
Defending Officer

Appendix (A)

DAILY PART TWO ORDER

BY

LIEUTENANT COLONEL H.B. BUSTIN. E.D. OFFICER COMMANDING

NO. 2 CONVALESCENT DEPOT . R.C.A.M.C.

ORDER NO. 21 10 FEBRUARY 1944

(Last Part Two Order No. 20 d/9 Feb 1944)

SECTION "B"

1. ABSENT WITHOUT LEAVE

The u/m convalescent returned from AWL at time and date shown:

B-328 Tpr. DINGMAN, L.G. 1700 hrs. 7 Feb 44. #1 CACRU.

H.B. BUSTIN
(H.B. Bustin)Lt.Col.
O.C.No.2 Convalescent Depot,RCAMC.

CERTIFIED TRUE COPY OF ORIGINAL NOW IN MY POSSESSION.

(A.H. Featman) Capt. Adjt.
No.2 Convalescent Depot,RCAMC.

P.R.O. 11009.
Appendix (C)

DAILY PART TWO ORDER

BY

LIEUTENANT COLONEL H. B. BUSTIN, E.D. OFFICER COMMANDING

NO. 2 CONVALESCENT DEPOT, R.C.A.M.C.

ORDER NO. 5 8 JANUARY 1944.

XVXVXVXVXVXVXVXVXVXVXVXVXVXVXVXVXVXVXVXVXVXVXVXVXVXVXVXVXVXV

(Last Part Two Order No. 4 d/7 Jan.44)

Section "B" Other Ranks

3. ABSENT WITHOUT LEAVE.

Absent without leave from 0900 hrs. 17-12-43. Still absent 0900 hrs. 8-1-44. (22 nd day.)

B-328 Tpr. Dingman, L.G. #1 CACRU.

A. N. Restman Capt. Adjt.

for (H. B. Bustin,) Lt. Col.
O.C. No. 2 Convalescent Depot, RCAMC.

CERTIFIED TRUE COPY OF THE ORIGINAL NOW IN MY POSSESSION.

A. N. Restman.

(A. N. Restman,) Capt. Adj.
No.2 Convalescent Depot, RCAMC.

RECORD of the Declaration of a Court of Inquiry assembled at the Field on the 11th day of January 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION.

The Court declare, that B-328 Trp. Dingman, L.D. of No.1 CACRU illegally absented himself without leave in the field, on the 17th Dec. 1943 and on the 11th day of Jan. 1944 he was defficient, and is still deficient of clothing and Equipment.

Articles	Voc. Price	Unexp. Wear
	$---¢	
Anklets Web Prs. 1	.99	.75
Blouse, Stle Dress, 1	5.25	4.08
Boots, ankle Prs. 1	5.46	4.08
Caps F.S. 1	.56	.42
[illegible] clout 1	.86	.65
Greatcoat Drb 1	11.31	8.48
Overalls Comb. 1	2.72	2.04
Socks Prs. 4	1.48	1.11
Trousers Bttle Dress	5.39	4.05
Badges Cap 1	.09	.06
Brass Cleaning 1	.04	.03
Brush shaving 1	.37	.27
Brush Tooth 1	.11	.09
Cap comforter 1	.34	.24
Comb Hiar 1	.04	.03
Disc indentity W/cord 1	.03	.02
Fork table 1	.07	.05
Holdall 1	.19	.15
Housewife Comp. 1	.17	.12
Knife clasp 1	.86	.65
Knife table 1	.15	.12
Razor safetyW/blade 1	.06	.02

Articles	Voc. Price	Unex. Wear
	$-----¢	$---¢
SpoonN.S.Desert 1	.07	.02
Towels hand 1	.32	.24
Belt waist 1	.74	.56
Frogs webb byonet 1	.19	.15
Ointment A/G 2	.30	.24
Eye shields A/G 6	.45	.33
Detectors prs. 1	.12	.09
Total--	$38.93	$29.00

"CERTIFIED TRUE COPY OF ORIGINAL DOCUMENT IN MY POSSESSION"

C.R. DAVIS, Capt & Adj.,
No.1. C.A.C.R.U.

Names of President and Members:

President---Major P.F. McGinn
No.2 Convelesant Depot.
R.C.A.M.C.

Member-----Capt. R.A. Wilks
No.2 Convelesant Depot.

Member-----Lt. S. Harris.
No.2 Convelesant Depot

Signature of Commanding Officer

RECORD of the Declaration of a Court of Inquiry assembled at on the day of 19 , for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION.

The Court declare,

Names of President and Members :

Signature of Commanding Officer

44-7058. W/L 15125. 3,000 Bks. 1/40. D.P.W.

SOLDIER'S FRIEND

I, B-328 Tpr. Dingman, L.G., a soldier of the Canadian Army Overseas, on the strength of No.1. C.A.C.R.U., desire the services of an Officer to defend me at my trial by Field General Court Martial.

I desire the services of Lieut. V.W. Singer of No.1. C.A.C.R.U. if he is available.

B-328 Tpr. Dingman, L.G.,
No.1. C.A.C.R.U.

LIST OF EXHIBITS

EXHIBIT "A" - Certified true copy of a Declaration of a Court of Inquiry, showing the accused absented himself without leave from 0900 hours the 17th December 43.

EXHIBIT "B" - Copy of Daily Part II Order No. 5 dated 18th Dec 43, of No.2. Convalescent Depot, showing the accused as still being absent at 0900 hours the 8th Jan 44.

EXHIBIT "C" - Copy of Daily Part II Order No. 21 dated 10th Feb 44, of No.2. Convalescent Depot, showing the accused as returning from A.W.L. at 1700 hours the 7th Feb 44.

LIST OF WITNESSES

1st Witness:- Capt.C.H. Davis, Adjutant, an Officer of the Canadian Army Overseas, on the strength of No.1. C.A.C.R.U.

2nd Witness:- F-32136 L/Cpl. Waterhouse, R.S., a soldier of the Canadian Army Overseas, on the strength of No.1. C.A.C.R.U.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B-328 Tpr.Leonard George DINGMAN, on the strength of No.1. Canadian Armoured Corps, Reinforcement Unit, a soldier of the Canadian Army Overseas.

THE COMMANDING OFFICER DIRECTS THAT THE EVIDENCE BE TAKEN ON OATH.

1st Witness for the Prosecution

Capt. C.H. Davis, Adjutant, an Officer of the Canadian Army Overseas, on strength of No.1. C.A.C.R.U., having been duly sworn, states,

"I am Capt. C.H. Davis and I am employed as Adjutant of No.1. C.A.C.R.U. As such I am the keeper of all regimental books and documents. I produce Certified True Copy of a Declaration of a Court of Inquiry showing that B-328 Tpr. Dingman, L.G. of No.1. C.A.C.R.U. absented himself without leave at 0900 hours 17th Dec 43. The accused whom I now recognize is the person referred to therein. I further produce Certified True Copy of Daily Part II Order of No.2. Convalescent Depot, issued by Lt.-Col. H.B. Bustin, E.D. and received in my office the 8th Feb 44, showing that B-328 Tpr. Dingman, L.G., of No.1. C.A.C.R.U. was absent without leave from 0900 hours 17th Dec 43 and was still so absent at 0900 hours 8th Jan 44. The accused is the person referred to therein. I further produce D.P. II Order No. 21 d/10 Feb 44, showing the accused as returning from A.W.L. at 1700 hours the 7th Feb 44. The accused is the person referred to therein."

The accused declines to cross-examine this witness.

C.H. Davis, Capt & Adj.,
No.1. C.A.C.R.U.

2nd Witness for the Prosecution

F-32136 L/Cpl. Waterhouse, R.S., a soldier of the Canadian Army Overseas, on the strength of No.1. C.A.C.R.U., having been duly sworn, states,

"Whilst on duty at the Guard Room, I was called to A.H.Q. where B-328 Tpr. Dingman, L.G. was turned over to me by the escort from No.2. Convalescent Depot at approximately 1030 hours the 8th Feb 44."

The accused declines to cross-examine this witness.

F-32136 L/Cpl. Waterhouse, R.S.
No.1. C.A.C.R.U.

The Record of Declaration of Court of Inquiry, the copy of Daily Part II Order No. 5 d/18th Dec 43 of No.2. Convalescent Depot, marked Exhibits "A" & "B" respectively, and attached to this Summary.
All the foregoing documents have been produced and read over to the accused.

R.B. Allan, Lt.
A.B. Allan, Lieut.,
Officer detailed to take Summary of Evidence.

(page two follows)

Ex "A"

SUMMARY OF EVIDENCE (CONTINUED)

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused declines to make a statement or call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e), (f), and (g) have been complied with.

R.B Allan Lt

R.B. Allan, Lieut.,
Officer detailed to take
Summary of Evidence.

In the Field,
9th February 1944.

EXA
my

No B-[illegible] Name [illegible] Sqn, Battery or Company | Corps C.A.C. | Date of enlistment 10 Jun 41 | OC Badges | Service or Proficiency Pay N/A | MFM 6 (AFB 121)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc R. Mortimer, Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with (the)	By whom awarded	Remarks
				Sheet destroyed 30 Dec 41	A.A. Pine Capt No Entries			R. Mortimer Capt	Capt. R. Mortimer
Field	13 Jan 43	Tpr.		A.A. 15(1) A.W.L. 1200 hrs 13 Jan 43 to 1700 hrs 13 Jan 44 Absent 5 hrs.	S.S.M. Ross Sgt. Morrill Cpl. Snider	7 Days C.B.	15 Jan 43	Capt. Reid	
Field	17 Jun 43	Tpr.		A.A. 15(1) A.W.L. 0600 hrs 17 Jan 43 to 0900 hrs 17 Jun 43 Absent 3 hrs.	Sgt. Morrill Cpl. Saunders	7 Days C.B.	17 Jun 43	Major Veitch	

CERTIFIED TRUE COPY OF ORIGINAL DOCUMENT NOW IN MY POSSESSION

C.H. Davis, Captain, Adj., No.1. C.A.C.R.U.

(FTO)

M.F.S. ###
ZSM—5-41 (S.C.)
H.Q. (S.D.)-30-1-41
A.F.S. 39S

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-325	Trooper	DINGMAN, L.C.	No.1. C.A.C.R.U.

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, / Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.A. Sec 15(1)	2 times	A.A. Sec. 15(1)	2 times
For	N.A.	times	N.A.	times
For	N.A.	times	N.A.	times
For	N.A.	times	N.A.	times

There are no entries in the conduct sheets of the accused.

2. [illegible]

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 12 days in military custody, making a total of 12 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 28 yrs 15 days / attestation paper is

6. The date of his attestation specified in his record of service is 30 June 41

7. The service which the accused is allowed to reckon towards discharge is 2 yrs 7 mos 7 days

8. The accused is entitled to reckon 2 yrs 7 mos 7 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to [illegible] C.V.S.M. & Clasp

EX B

11. [redacted]

12. [redacted]

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number ..... Rank ..... Unit

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	N/A			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ..... 19[illegible] ..... day of Feb 44

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

[illegible] Adams
Capt RAOC

58-S.

REGIMENTAL DOCUMENTS

H.Q. FILE No. .....

Pte DINGMAN. R.A.L. REGIMENTAL No. .....

UNIT OF ENLISTMENT ..... RANK .....

CONTENTS	NON-EFFECTIVE BY
COMBINED DECLARATION FORM OR ATTESTATION AND MEDICAL HISTORY (M.F.M.1 & 1A) OR (M.F.M.2 & 2A)	DEATH
SERVICE AND CASUALTY FORM (M.F.M.4 & 4A) (A.F.B.103)	DATE
PARTICULARS OF FAMILY (M.F.M.5)	CAUSE
FIELD CONDUCT SHEET (M.F.M.6) (A.F.B.122)	AUTHORITY
CERTIFICATE OF SERVICE (M.F.M.8) COPY OF, OR DISCHARGE CERTIFICATE (M.F.M.7) COPY OF	
FORM OF WILL (M.F.M.10 OR M.F.M.10A)	
DENTAL HISTORY SHEET	DISCHARGE
MEDICAL REPORT OR CASE HISTORY SHEET	DATE
MEDICAL EXAMINATION ON LEAVING THE SERVICE	REASON
TRANSFER CLOTHING STATEMENT	AUTHORITY
LAST PAY CERTIFICATE (M.F.D.930A)	
PROCEEDINGS ON DISCHARGE	
PROCEEDINGS COURT OF ENQUIRY	DESERTION
DECLARATIONS COURT OF ENQUIRY	DATE
PAY SHEETS	AUTHORITY
CARDS	
SUNDRY	

Correspondence to be PINNED here.

68-5

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this Fourteenth day of NOVEMBER, 1942.

Whereas it appears to me, the undersigned, an officer in Command of FOURTH CANADIAN INFANTRY BRIGADE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer. See R.3 of Field Rules.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~*[I am unable to appoint—~~

~~(1. Three Officers to form the Court.)~~

~~(2. A Field Officer as President.)~~

~~for the following reasons, namely—]~~

In my opinion, military exigencies, namely the dispersion of units, and difficulties of communication, and other difficulties, render it inexpedient to observe the provisions of those rules inconsistent with Appendix "A" to D.R.O. 772 on the trial of the person named on the annexed schedule.

Proceedings Reviewed

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	F.J. Gilmour	RCA HQ 2 Can Div

Members.

Rank.	Name.	Regiment.
Capt or Lieut to be detailed by OC RHLI		RHLI
Capt or Lieut to be detailed by OC Essex Scot		Essex Scot
WAITING MEMBER Lieut to be detailed by OC RHLI		RHLI

30

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (M.H.S. PENHALE) Brigadier

Commanding 4th CDN INF BDE.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
No.C.5592 Private Reginald Alfred Lenz DINGMAN, 1st Battalion Royal Hamilton Light Infantry, a soldier of the Canadian Army (Active)	FIRST CHARGE Army Act Sec 15(1) Absenting himself without leave. SECOND CHARGE Army Act Sec 24(2) Losing by neglect his equipments clothings and regimental necessaries. (SEE CHARGE SHEET ATTACHED)	Guilty	Guilty On Instructions from the Convening officer this charge is not proceeded with. 60 days detention + stoppages 4 pay 4 R.O./14/3 in respect cost guard Nov 16/42	Confirmed Confirmed

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) (N.R.S. PENHALE) Brigadier (Signed)
Commanding 4th CDN INF BDE
Convening Officer (c) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16th day of November 42, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—*

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter)~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable

Signed this 16th day of November 1942.

J Kilmour Hoyt
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 702 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless power to remit, etc., is granted to Officer having authority to confirm, and in case of sentence having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~

Signed this Seventeenth day of November 1942.

H Rosedale Brigadier
Confirming Officer. Comd. 4 Cdn Inf Bde.

Promulgated and extracts taken in the case of C5592 Pte Dingman A.L. R.H.L.

(a) (Dated) 17th Nov 42 (Signed) Geo G Hurley Lt Col
Commanding Royal Hamilton Light Infantry

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Medical Certificate (R.A. (Can) 557)

I certify that I have this morning examined No C ..... .
Name P.R. Plyman R.C. of ...R.M.R.. and in my opinion he
is fit to undergo ~~proceed on~~ ...trial by Court martial

Station ..Field.....
Date ..Feb 19..1942..

J.H. Fletcher Capt.
(R.C. I En. R.M.R.I.

~~Strike out which is not applicable.~~

CHARGE SHEET

The accused No. C-5592 Private REGINALD ALFRED LENZ DINGMAN 1st Battalion Royal Hamilton Light Infantry a soldier of the Canadian Army (Active) is charged with:-

FIRST CHARGE
Sec. 15 (1)
ARMY ACT

ABSENTING HIMSELF WITHOUT LEAVE
in that he
in the field at 1800 hrs 18 Oct. 42 absented himself without leave until he was apprehended by the Milita ry Police of No. 6 Provost Coy. in London a t 1230 hrs. 6 Nov. 42 incurring expenses of return to his unit in the sum of fourteen shillings and three pence (14s.3d.)

SECOND CHARGE
Sec. 24 (2)
ARMY ACT

LOSING BY NEGLECT HIS EQUIPMENTS CLOTHING AND REGIMENTAL NECESSARIES
in that he
in the field on 19 Oct. 42 was deficient of the following articles:-

	Quantity	Vocab Price	Depreciated Value
Anklets Webb, prs	1	£ 0 - 3 - 5½	£ 0 - 2 - 7½
Badges Cap	1	- 1 - 2	- - 9
B.D. Blouses, Serge	1	1 - 7 - 8	1 - 1 - 4
B.D. Trousers, Serge	1	1 - 7 - 11	1 - 1 - 6
Brasses Cleaning	1	- - 2	- - 1½
Brushes, Boot Blacking	1	- - 8	- - 6
Brushes, Clothes	1	- 1 - 1	- -10
Brushes, Boot Polishing	1	- - 9	- - 7
Brushes Hair	1	- 1 - 1	- -10
Caps Comfortor	1	- 1 - 1½	- -11
Cap Field Service	1	- 3 - 8	- 2 - 8
Greatcoat, Drab	1	2 - 2 - 6	1 -12 -
Combs Hari	1	- - 2	- - 1½
Disc, Identity with Cord	1	- - 3	- - 2
Dressing First Field	1	- 1 - 1	- -10
Forks, N.S. Table Small	1	- - 5	- - 4
Gloves K.D.	1	- 2 - 7½	- 2 -
Spoons Dessert	1	- - 4½	- - 3
Bags Ration	1	- - 2½	- - 2
Haversack W.E. Patt '37	1	-10 - 5	- 8
Helmets Steel	1	-10 - 6	- 8 - 1
Packs	1	-10 - 6½	- 8 - 2
Straps Shoulder 'Left'	1	- 3 - 4	- 2 - 6
Straps Shoulder 'Right'	1	- 3 - 4	- 2 - 6
Tins Mess, Set	1	- 3 - 1	- 2 - 4
Pullthroughs	1	- - 4½	- - 3
Respirator Facepiece	1	-10 -	- 7 - 6
Eyeshields, Pks	1	- 1 - 1½	- -10
Ointment - Tins	1	- - 9½	- - 7
Mugs Enamel	1	- - 5	- - 4
Anti/Dim	1	- - 2	- - 1½
			£ 6 - 9 - 7

B2 T Richard Lt/Col

13 Nov 42

J.J. Hurley Lt/Col.
Comd. 1 Bn R.H.L.I. Cdn. A. (C)

To be tried by Field General Court Martial

14 Nov 42.

Brigadier
Commanding 4 Cdn. Inf. Bde.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field General Court-Martial held * In the field

on the 16 day of Nov. 1942 by order of

Brigadier M H S Penhale Commanding 4th Cdn Inf Bde

dated the 14 day of November 1942

Major J Fitzsimmons RCA President.

Capt J.B. Halladay RHLI

Lieut J.C. Cockburn Essex Scot Members.

Judge Advocate.

DINCMAN Trial of No C5342 Pte Reginald Alfred Dincman RHLI

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that _____ is not available to serve owing to _____~~

~~_____, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Capt PA Philip RHLI

Counsel‡ or defending officer† Lt JA Fowler RHLI

At 1100 o'clock the Trial commences.

The order convening the Court is read, and is marked "Z" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).

† Here state Rank and Name, and Regiment (if any).

‡ Qualification to be stated.

J Fitzsimmons Maj RCA Pres

M.F.S. (C.) 8/47 & 6/50

CHARGE SHEET

The accused No. C-5592 Private REGINALD ALFRED LEWZ DINGMAN 1st Battalion Royal Hamilton Light Infantry a soldier of the Canadian Army (Active) is charged with:-

FIRST CHARGE Sec. 15 (1) ARMY ACT — ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field at 1800 hrs 18 Oct. 42 absented himself without leave until he was apprehended by the Militia ry Police of No. 6 Provost Coy. in London a t 1230 hrs. 6 Nov. 42 incurring expenses of return to his unit in the sum of fourteen shillings and three pence (14s.3d.)

SECOND CHARGE Sec. 24 (2) ARMY ACT — LOSING BY NEGLECT HIS EQUIPMENTS CLOTHING AND REGIMENTAL NECESSARIES

in that he

in the field on 19 Oct. 42 was deficient of the following articles:-

	Quantity	Vocab Price	Depreciated Value
Anklets Webb, prs	1	£ 0 - 3 - 5½	£ 0 - 2 - 7½
Badges Cap	1	- 1 - 2	- - 9
B.D. Blouses, Serge	1	1 - 7 - 8	1 - 1 - 4
B.D. Trousers, Serge	1	1 - 7 - 11	1 - 1 - 6
Brasses Cleaning	1	- - 2	- - 1½
Brushes, Boot Blacking	1	- - 8	- - 6
Brushes, Clothes	1	- 1 - 1	- -10
Brushes, Boot Polishing	1	- - 9	- - 7
Brushes Hair	1	- 1 - 1	- -10
Caps Comfortor	1	- 1 - 1½	- -11
Cap Field Service	1	- 3 - 8	- 2 - 8
Greatcoat, Drab	1	2 - 2 - 6	1 -12 -
Combs Hari	1	- - 2	- - 1½
Disc, Identity with Cord	1	- - 3	- - 2
Dressing First Field	1	- 1 - 1	- -10
Forks, N.S. Ta ble Small	1	- - 5	- - 4
Gloves K.D.	1	- 2 - 7½	- 2 -
Spoons Dessert	1	- - 4½	- - 3
Bags Ration	1	- - 2½	- - 2
Haversack W.E. Patt '37	1	-10 - 5	- 8
Helmets Steel	1	-10 - 6	- 8 - 1
Packs	1	-10 - 6½	- 8 - 2
Straps Shoulder 'Left'	1	- 3 - 4	- 2 - 6
Straps Shoulder 'Right'	1	- 3 - 4	- 2 - 6
Tins Mess, Set	1	- 3 - 1	- 2 - 4
Pullthroughs	1	- - 4½	- - 3
Respirator Facepiece	1	-10 -	- 7 - 6
Eyeshields, Pks	1	- 1 - 1½	- -10
Ointment - Tins	1	- - 9½	- - 7
Mugs Enamel	1	- - 5	- - 4
Anti/Dim	1	- - 2	- - 1½
			£ 8 - 9 - 7

B2 T Parkinson Lt 29 Nov 42

13 Nov 42

J.J. Hurley) Lt/Col.
Comd. 1 Bn R.H.L.I. Cdn. A. (C)

To be tried by Field General Court Martial

14 Nov 42.

Brigadier
Commanding 4 Cdn. Inf. Bde.

I desire the services of Lieut J.A. Fowler to defend me at my trial.

C5772 Pte Dungavan

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field General Court-Martial held ~~at~~ In the field

on the 16 day of Nov. 1942 by order of

Brigadier M H S Peakale Commanding 4th Cdn Inf Bde

dated the 14 day of November 1942

Major T J Gilmour RCA President.

Capt J. B. Halladay RHLI

Lieut J. C. Cockburn Essex Scot Members.

Judge Advocate.

Trial of* ~~No C 5592~~ Pte Reginald Alfred Lang DINCMAN

~~1st Bn.~~ R.H.L.I.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Capt Pit Philip RHLI

Counsel‡ or defending officer† Lt J A Fowler RHLI

At 1100 o'clock the Trial commences.

The order convening the Court is read, and is marked Z signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).

† Here state Rank and Name, and Regiment (if any).

‡ Qualification to be stated.

T J Gilmour Maj RCA

B

The President, members and ~~judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Lt J.P. Howard RHLI.

Charge-Sheet

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction.
If the accused has elected to be tried under Army Act, sec. 48 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read?

Question to the accused.

Guilty

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read?

Question.

By Instructions from the convening officer the 2nd charge is not proceeded with.

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read?

Question.

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Question.

Answer.

The accused having pleaded Guilty to first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

Instruction.

C

Proceedings on Plea of Not Guilty

*Instruction. (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

The prosecutor makes an opening address [hands in a written address, which is read, marked , signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution.

being duly sworn, is examined by the prosecutor.

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[~~The Court having been re-opened, the~~ accused ~~is~~ again brought before it, ~~and the charge to which he has~~ pleaded "Guilty" read to him again.]

The accused

is found guilty of the first charge.

*The summary (or abstract) of evidence is read, marked "C", signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

My defending officer will speak on my behalf.

Answer. The accused in mitigation of punishment says:—

The Defending Officer

[or hands in a written statement, which is read, marked "H", signed by the President, and attached to the proceedings.]

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No Sir

Answer.

Evidence as to character.

D

The prosecution is closed.

Defence

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer.

Question. Do you intend to call any other witness in your defence?

Answer.

Question. Is he a witness as to character only? *Answer.*

INSTRUCTIONS TO THE COURT

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[Hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

E

Finding*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~ 7/6

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

THE PROSECUTOR is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes - A 7/5 296 + Certificate of MFM 6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked E17, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes Sir

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes Sir

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes Sir

R.F.

Cross-examined by the accused.

[Observation.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court, the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the matters and amount of the additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No Sir

The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence the accused To undergo detention for 60 days and to be placed under stoppages of pay until he has made good the sum of fourteen shillings & three pence in respect of expense of apprehension & return to unit

J Fitzmaurice
Major
Pres

Sentence.

ABSTRACT OF EVIDENCE

In the case of No. C-5592 Private REGINALD ALFRED LENZ DINGMAN, 1st Battalion Royal Hamilton Light Infantry, Canadian Army (Active).

FIRST WITNESS — B-37300 Cpl Neale, C. states:-
"At 1800 hours on 18 Oct 42 I was Company Orderly Sergeant and called the roll for beach patrol duties. The name of C-5592 Pte Dingman, R.L. was on the roll. He did not answer his name when called nor was he present on parade. I reported his absence to company office."

SECOND WITNESS — B-36730 Sgt Hesselgrave, V.A. states:-
"I am the accused's platoon sergeant. During the period from 18 Oct 42 to 6 Nov 42 the accused was continuously absent and did not appear for any parade or duty."

THIRD WITNESS — B-36518 Sgt Porter, G. states:-
"I am sergeant of the Regimental Police. On 8 Nov 42 I took over custody of the accused from Military Police at FULBOROUGH and escorted him back to the unit."

FOURTH WITNESS — B-36615 C.Q.M.S. Morgan, R. states:-
"On 19 Oct 42 I took an inventory of accused's kit and found deficiencies as set out in Second Charge."

12 Nov 42

W.H. Broughall Lieut

(W.H. Broughall) Lieut,
1 Bn R.H.L.I., C.A.(A)

CHARGE

Army Form B 252
(See King's Regulations)

R.C.I.C. Regiment

"A" Coy. Battery / Squadron / Troop or / Company

CHARGE against No. [redacted] Rank Pte.

Name [redacted]

Place London Date of Offence 6-11-42
(1800 hrs 18 Oct

OFFENCE WAS was A.W.L. from... until apprehended by the Cdn. Provost Corps in Waterloo Rd., at about 12.30 hrs., 6-11-42. (2) In possession of a document purporting to be a genuine leave pass xx knowing it to be false. (3) Stating a falsehood to an N.C.O. of the Cdn. Provost Corps at the same time, date and place.

[redacted]
No. 6 Provost Coy.

Names of Witnesses:—

L/Cpl. Marriott, Canadian Provost Corps

L/Cpl. Bryant Canadian Provost Corps

Signature of O.C. Battery, Squadron, Troop or Company } [redacted]

Punishment Awarded } "4 Jan 43"

By whom Awarded } [redacted]

Adjutant.

[redacted] K & H Ltd [redacted] P.T.O.

Statement of EVIDENCE in the case of

C-5592 Pte. Dingman, F.L.
"A" Coy. H.M.L.I.

Sir,

At London on the 6th Nov. 42. at about 12.30 hrs. I was on duty in Waterloo Rd. in company with L/Cpl. Bryant, when I saw the a/m soldier.

I asked him for his pass. He produced one which did not satisfy me. I asked him if he was on leave. He stated "Yes, I am on leave and my pass is good". I told him I would take him to No. 6 Cdn. Provost Corps H. Q. where his unit would be contacted and his leave verified.

Upon arrival at this H. Q. the a/m soldier admitted that he was A.W.L. and that his pass was false.

I therefore placed him under arrest and handed him over to the N. C. O. i/c Cells to be detained.

L/Cpl. Marriott H.P.S.
(Mariott, H. C.)M2651

London
5-11-42

Sir:

I have read over and corroborate the above statement.

London

REMARKS Lyl Bryant H.P.
L/Cpl.
(Bryant, H.J.P.) M52257

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. C 5592 Rank Pte Name Livingmoor RL Unit RHLI

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount £	s	d
May 41	Escorts return fare from LONDON To Littlehampton		9	6
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Littlehampton		4	9
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		14	3

I certify that the above statement of Expenses is Correct. and that the amounts are fair and just.

Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-53
40/P & S/483

Statement for Mitigation of Punishment

The accused, C-5592 Private Reginald Alfred Leng Deignan, 1st Battalion, R.W.F., joined the army voluntarily, at the age of 18 years and within four months of his 18th birthday. He was attested on 29 April 1940 and arrived in England in August 1940.

From the time of this man's enlistment until Sept. 1941, constituting a period of nearly 1½ years this man not only did not commit any offence but furthermore conducted himself in a manner befitting a good soldier. As his records will show. Throughout this whole period this man was kept in the holding unit because he was considered too young for the field.

This man, during his whole army career, nearly three years, the only offence which he has ever committed is that one of being A.W.O.L.

This man, or boy, who came from a large family of ten children and who started to earn his own living at the age of 13 years, joined the army at the age of 18 and became fed up because he was kept in the holding unit for over two years.

I respectfully suggest that if this man had been given the proper guidance long before he came to his present unit that he would still be the enthusiastic soldier that he was when he joined the army.

In closing I would like to state this point - if this man is shown leniency by the court and given the proper guidance that he will again prove himself a good and willing soldier.

Lieut. J. A. Fowler
Defending Officer

"H"
Major
JAG

M.F.M. 6

No. C-5592 Name DINGMAN, R.L. Sqn., Battery, or Company "A" Corps R.H.L.I. Date of enlistment 29-4-40 G.C. Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15 Sep 41	Pte		WOAS AWL from 2200 hrs 15 Sep 41 till apprehended by civil police at 0445 hrs 16 Sep 41. A.A.15(1)		7 days C.B.	17 Sep 41		Forf 1 days' pay.
Witley	16 Nov 41	Pte		AWL from 2200 hrs 16 Nov 41 to 2230 hrs 18 Nov 41. AA 15 (1)	Sgt. Fletcher	14 days C.B.	19 Nov 41	Major Cameron	Forf 3 days' pay. FMI (1)
Algonquin	20 Jun 42	Pte		AWL from 2300 hrs 20 Jun 42 till 1130 hrs 22 Jun 42. AA 15 (1).	Sgt. Kennedy	7 days C.B.	23 Jun 42	Lt.-col C.C.Ferrie	Forf 2 dys P " 7 dys p
Algonquin	26 Jun 42	Pte		A.A. 40 Neglect to the prejudice (dirty rifle)	Sgt. Biddle	7 days C.B.	26 Jun 42	Major Ketcheson	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Algonquin	12Aug 42	Pte		AWL from 1730 hrs 12 Aug 42 till 0010 hrs 13 Aug 42. Total absence 6 hrs 40 mins. AA Sec 15(1)	Sgt. Hobbs	14 days F.P.	13 Aug 42	Lt.-col Bingham	Forf 1 days pay FRI 149(1)(a)
Algonquin	14 Aug 42	Pte		AWL from 1800 hrs defaulters parade and 1[illegible]00 hrs defaulters parade. A.A. 15(1)	Sgt. Hobbs	28 days detn	15 Aug 42	Lt.-col WJ Bingham	

CERTIFIED TRUE COPY MADE 12 Nov 42

(G.H. Craig) Major & A/Adjt,
1 Bn H.H.L.I., C.A.(A).

(Substitute for AFB 296 or MFB 355)

STATEMENT OF CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED.

No. C5592 Rank & Name Pte DINGEMANS AL Unit RHLI.

Age. 21 Married or Single Single No of Dependents one (mother)

Date of Attestation 29 Apr 40

No of days Spent in Close Arrest (To Date of Trial)

CIVIL Nil MILITARY 10 HOSPITAL Nil TOTAL 10

DATE OF PROMOTIONS, APPOINTMENTS & CONFIRMATION OF RANK, IF ANY.

Nil

A Certified True Copy of M F M 6 Must Accompany This Form.

(Officer i/c Records)

Unit.

Adjt. R. H. L. I.

DATED AT

THIS 16th DAY OF Dec 1942.

(To be dated and signed as at date of trial)

E [illegible]
Major
RHLI

In close arrest since 9 Nov 42.

REVIEW SHEET

F. C. C. M. - Trial: C5592 Pte Dingman, R.A.L., RHLI

Date of Trial: 16 Nov 42

President of Court: Major F. J. Gilmour, R. C. A. att'd H.Q. 2 Cdn Div

1. For the information of the Officers asked to sign below the following irregularities are noted:

(i) Documentary evidence attached to the abstract should be referred to therein, e.g.: "The prosecution will present: (a) Serf of expenses, shewing,
Escort's fare, London to Littlehampton 9/6
Prisoner's " " " 4/9

(ii) Where statements of absent witnesses are used in the abstract there should be some such notation therein, e.g.: Third Witness, M3561, L/Cpl Marriott, R.C., 6 Coy, Cdn Pro Corps (See statement attached), or (copy out the statement of evidence on the reverse of A.F.B. 252)



2. May these remarks and the authorities quoted be read by the following officers, signed and returned to this H. Q., please

O.C. _____

Adjutant _____

President _____

Staff Officer for Convening Officer _____

Staff Officer for Confirming Officer _____

Rear H.Q. 1 Cdn Corps (Legal)

4 Cdn Inf Bde: Please circulate.

W.M.W. Shaw

(W.M.W. Shaw), Capt.,
A.D.J.A. 2 Cdn Div

16 Nov 42

30

KK-99 (AFRICA)

PTE DINGMAN R.L.

KK-99

F-4

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 28th day of June, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Base Reinforcement Depot, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* [~~I am unable to appoint~~ :—

*(~~1. Three Officers to form the Court.~~)

*(~~2. A Field Officer as President.~~)

~~for the following reasons, namely:~~]

*Omit if not applicable.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	L. A. Deziel	Essex Scot. Regt

Members.

Rank.	Name.	Regiment.
Capt.	S. G. Main	Sask. L. I.
Capt.	J. Braden	Sask. L. I.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed J. Mackay Bagshaw Lt.-Col.
Commanding D.B.A.R.C.
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C-5592 Pte. Dingman, R.L. "B" Sub-Unit 1 Bn, 1 C.B.R.D.	FIRST CHARGE Sec. 22, Army Act W.O.A.S. when in confinement escaping in that he at 0945 hours on 5 Jun 43, when in confinement in detention barrack of 1 Battalion, 1 C.B.R.D. in the Field, escaped by breaking window sash of detention barrack. SECOND CHARGE Sec 15(1) Army Act W.O.A.S. when in arrest absenting himself without leave, in that he, in the field, absented himself without leave from 0945 hours 5 Jun 43 until 2345 hours 22 Jun 43. Total absence 17days 14 hours.	Guilty Guilty	Guilty Guilty	Confirmed and DAD DAD

(a) 27 Days Field Punishment
(b) 54 Days forfeiture of Pay
(c) Stoppages in the sum of £1-0-8 to make good cost of apprehension

2 July 43

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer to be recorded on separate sheet if necessary) :—

(Signed) G. Mathews Lt Col (Signed) R. A. Beziel Major
Commanding 1 C.B.R.D.
Confirming Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 2 July 43 ~~day of~~ , and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. ~~The witnesses~~
*(3. ~~The Interpreter~~)
4. ~~The officers under instruction~~)

were duly sworn.

Signed this second day of July 1943

R. A. Beziel Major
President of the Court Martial.

C. Certificate in case of death sentence.

See footnote (d) on page 702 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~) DAD

Signed this 2nd. day of July 1943.

B. L. Dingman Lt Col
Confirming Officer.
O.C. Troops
H.M.T. DA

Promulgated and extracts taken in the case of

(a) (Dated) 2nd July (Signed) G. Mathews Lt Col
1st C.I.C.B.R.D.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The Accused, No. C.5592, Private Dingman, R.L., on the strength of "E" Sub-Unit, No. 1 Battalion, No. 1 Canadian Base Reinforcement Depot, a soldier in the Canadian Army Overseas is charged with:-

First Charge
Army Act
Sec. 22

WHILE ON ACTIVE SERVICE WHEN IN CONFINEMENT ESCAPING

in that he

at 0945 hours on 5 June 1943, when in confinement in the detention barrack of 1 Battalion, 1 C.B.R.D. in the Field, escaped by breaking window sash of detention barrack.

Second Charge
Army Act
Sec. 15(1)

WHILE ON ACTIVE SERVICE WHEN IN ARREST ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from 0945 hours 5 June 1943, until 2345 hours 22 June 1943. (thereby incurring costs of apprehension amounting to £1-0-8.) Total absence 17 days, 14 hours.

(W.P. Bristowe, Lt-Col)
O.C., 1 Bn., 1 C.B.R.D.

Dated in the Field
this 27 day of June 1943.

To be tried by D.S.C.M.

G.K. Lang Barker Major
Comdg. 1 C.B.R.D.

CAD

MEDICAL CERTIFICATE (K.R.(CAN)577)

I certify that I have this morning examined No. C.5592 Pte. Duff R.L.
of 1st C.C.R.D. and in my opinion he is fit to undergo trial
by Court Martial.

Station [illegible]

Date [illegible]

Medical Officer [illegible]
Capt. R.A.M.C.

E Sub Unit

Accused C5592 (Number) pte (Rank) R. L. (Christian Names) Deagman (Surname) 1 Bn ICBRD. (Unit)

Held in the Field in at Sea (Country) on 2 July 43 (Date)

	Rank	Name	Unit
PRESIDENT:	Major	L. A. Dezeil	Essex Scot
MEMBERS:	Capt	S. G. Main	Sask L.I.
	Capt	J. Braden	Sask L.I.

JUDGE ADVOCATE: (If any)

OFFICERS UNDER INSTRUCTION:

PROSECUTING OFFICER: Lieut R. H. Bell Lawyer? Ans

DEFENDING OFFICER: Lieut A.J. Robichaud Lawyer? Ans

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs P 17(E), 22(A)).

The President, in closed court (R.P.22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P.106)

The accused is (are) brought before the Court, and at 1002 hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can)557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to accused:
Do you object to ~~him~~ " as interpreter? Ans "

The interpreter is duly sworn.

Do ~~you~~ object to " as shorthand writer? "

~~The shorthand writer is duly sworn.~~ (Forms of Oath on Page 'D'.
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (R.P.10)

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.26-27 (Forms of Oath on Page 'D'))

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused has (has not) elected trial by Court Martial (A.A.46(8))

(If special plea/s is/are made for separate trial on one or more charges (Rd P 62(2), 108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (A.A.130, R.P.57), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge	Guilty	Fifth Charge	
Second Charge	Guilty	Sixth Charge	
Third Charge		Seventh Charge	
Fourth Charge		Eighth Charge	

(For procedure on alternative charges, see R.P. 37, fn 2)

Further proceedings are recorded on Pages hereto attached.

PAGE 'A'

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. R.P.35(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (fn 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (R.P.37(B) Ans No.

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (R.P.37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (R.P.37(C). Ans Yes

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination)

5. President to accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (R.P.37(C). Ans No

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto)

6. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (A.F.B.6), signed in the manner required by A.A.163(1)(a) and purporting to refer to the accused by his number(if any), rank, name and Corps, are produced to the Court, read, marked "A", and "B", initialled by the President and attached to the proceedings. (R.P. 46; Overseas R.O. 3131)

7. President to accused:
Q. Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)). Ans No (No cross-examination)
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

8. The Court is now closed to consider sentence. (Record on Page 2 of A.F.A.J)
(Punishments, A.A.44, M.R.(Can)563-566; one sentence only awarded, R.P.48). Sentence should be dated)

The sentence is not announced to the accused by the Court.

[signature]
(Signature of President)

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P.39(A). Ans _____

2. The Prosecutor's opening address (if any) (R.P.39(B) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D')

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P.40 fn1; R.P.70 fn 1)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.P.40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans _____
Q. Do you intend to call any other witness in your defence? Ans _____
Q. Is he a witness as to character only? (R.P.40(B)) Ans _____

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see Rs P 40, 41 and 42)

8. The Court is now closed to consider the finding (Rs P 43 and 117)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. R.P. 117(B)

10. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.M.6) signed in the manner required by A.A.163(1)(a) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings, (R.P.46; Overseas R.O.3131)

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character Service and Conduct and in mitigation of punishment? (R.P.46(D).
Ans _____ No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

12. The Court is now closed to consider the sentence (Record on Page 2 A.F.A.3)
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, (R.P.48); sentence should be dated.

The sentence is not announced to the accused by the Court.

_____
(Signature of President)

Statement by Officer for Defense in Instigation of Lieutenant.

Pvt. A.J. Robichaud. for Defense.

Questions to Pvt. Robichaud when were you between 5 June 43 to 22 June 43

Answer. I was absent from camp

Q. Why did you come back.

A. I heard I was going so I came back to go with it.

Q Did you really, at time you would be placed under arrest & punished when you came back.

A. Yes. I did.

Q. How did you get back?

A. I surrendered myself to the Police at Birmingham & was brought back to camp by the Provost.

Q. were you alone when you escaped.

A. No there were 2 others. They did not come back with me.

Cab

6 C. E. Coy 26/6/1943.

Sir

C5592 Pte Ringman R.R. was on the 4th June 1943 sentenced to 27 Days Detention. On the morning of June 6th 1943 he escaped from close custody by breaking sash of window in Detention Room. He escaped at approximately 0945 hrs. 6th June 1943.

SIR

A/Sergt Mackenzie
Unit Provost.

"Exhibit A" referred to in the Summary of Evidence re: Pte Ringman R.R. C5592.

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (1) (d)

I, ...Capt. W.FFEN. P.A.P.M. London Area..... certify that

Reg. No. C-5592 Rank ...Pte. Name ....DUNCAN. R.L.....

REGIMENT ...#1 C.B.R.R.....

UNIT .....

STATIONED AT .....

Surrendered himself to No. P.C.P. Rank 159 Name HARDWIDGE.....

of the ...Victoria Rd. Aston.....

on the 22nd day of ....June.....1943, at ..2345... hours ..Lichfield Road

Aston.....AS AN ABSENTEE WITHOUT LEAVE .....

at the time of his surrender he was wearing (Military Uniform) or(Civilian Clothes)*

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on surrender.

(Strike out part inapplicable)*

London.
25-June 43.

.....Capt. FFFEN.....
Officer i/c Interrogation Room,
No. 6 Cdn. Provost Coy.

Exhibit 3" referred to
in the Summary of Evidence of
Pte. Duncan R.L. (C-5592)

I CERTIFY that the man whose personal description is given below surrendered himself to* P.C.D.159 Hardwidge at Lichfield Rd.Aston, at (hour) 11.45 pm on the 22nd. day of June 1943 as being No C.5592 (Rank and Name) Pte. DINOMAN Reginald Lens a deserter (or absentee without leave) from Sunningdale, Sussex. and it appears to me from his confession that he is a deserter or No.1.Canadian Special Base Depot. absentee without leave.

*After the word "to" is to be inserted the name and rank of the police officer concerned.

Age 23 Height 5 Feet 7 Inches

Complexion Fresh Hair Dk.Brn.

Eyes Grey

Marks Mole rt.cheek

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	29.4.40. Picton.Ontario
Probable Date of Desertion or beginning of absence, and from what place	Sat.5th.June Sunningdale Camp.

Arthur Baker
P.S.D.17.

Signature of Officer of Police in charge of Victoria Rd. Station. Aston.

22.6.43. Date of Signature.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. C 5592 Rank Pte. Name Hargmon, R.L. Unit 1 C B R D

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Birmingham

Date	Particulars (½ portion)	Amount		
25 June 43	Escorts return fare from LONDON To Birmingham		8	6
	Prisoners single fare to LONDON From Birmingham		8	6
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed;~~ Meals, Bus fares (½ portion		3	8
	Total £	1	0	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

..... Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

CAO

C.M.H.Q. 1000-55
40/P & S/483

Summary of Evidence

in the case of

No. C.5592, Private Dingman, R.L., on the strength of "E" Sub-Unit, No. 1 Battalion, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas.

The evidence is taken under Oath by the direction of the Officer Commanding.

FIRST WITNESS for the prosecution — No. B.95720, Sgt. MacKenzie, D.A., unit provost of No. 1 Battalion, No. 1 Canadian Base Reinforcement Depot, having been duly sworn states:

"Private Dingman, R.L. whom I now recognize, was in close custody in the detention room of No. 1 Battalion, 1 C.B.R.D. guard house on the morning of June 5, 1943. The accused had been sentenced to 27 days detention on 4 June 1943 and at that time was serving the sentence. At approximately 0945 hrs I went into the detention room and found that three men in confinement in the detention room, one of whom was the accused, were missing. On examining the detention room I observed that the window sash had been ripped apart from the steel structure and the accused with the others had escaped through the op ening between the sash and the structure. I notified the Canadian Provost Corps and gave them a description of the accused. On discovering that the accused had escaped, I sent out four Regimental Police to search the surrounding district. This was done but no trace could be found of the accused."

I produce herewith a written statement signed by myself and which sets forth the particulars regarding the escape of the accused and the relevant time of the escape. (Statement marked Exhibit "A" hereto).

D A MacKenzie

(B.95720 Sgt. MacKenzie, D.A.)
1 Bn., 1 C.B.R.D.

Cab

The evidence is read to the Witness.
The Accused declines to cross-examine the Witness.

SECOND WITNESS for the prosecution — No. K.67685, L/Cpl. Moran, C.E. on the strength of Headquarters, No. 1 Battalion, 1 Canadian Base Reinforcement Depot, having been duly sworn states:

"At 0800 hours on 5 June 1943, I came on duty as a Regimental policeman. Together with Sgt. Mac Kenzie we checked the prisoners in the guard room of 1 C.B.R.D. At this time 0800 hours, all prisoners were present. At 0900 hours I checked the guard room and annex alone and found the prisoners all present. At 0945 hours Sgt. MacKenzie came to the guard room and together we checked the guard room and found that Private Dingman whom I now recognize and who was in the detention room on the morning of 5 June 1943, as a prisoner, was missing. On looking around we fond that the wooden frame at the side of the window was broken and the tin roof was lifted high enough to allow for a man to escape. On discovering this Sgt. MacKenzie reported the incident. The accused had escaped through the opening."

E.E. Moran

(K.67685 L/Cpl. Moran,C.E.)
1 Bn., 1 C.B.R.D.

The evidence is read to the Witness.
The Accused declines to cross-examine the Witness.

I, R.M. Bell, Lt, on the strength of "E" Sub-Unit of No. 1 Battalion, 1 C.B.R.D. am the officer detailed to take the Summary of Evidence herein and produce as evidence a certificate pursuant to A.A. 163 (i)(j) purporting to be signed by the Deputy Assistant Provost Marshall of London Area relating to the accused. (Certificate marked as Exhibit "B" hereto.)

The said certificate is read to the accused. The accused declines to make any comment.

The accused was cautioned as follows: Do you wish to make any statement or to give evidence on oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The Accused declines to make a statement and reserves his defence.

R.L. Dingman

(C.5592 Private Dingman,R.L.)
1 Bn., 1 C.B.R.D.

The Accused declines to call witnesses in his own behalf. I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that the Rules of Procedure 4 (c),(d),(e),(f) and (g) have been complied with.

In the Field
26 June, 1943.

R.M. Bell Lt.
(R.M. Bell, Lt.)
1 Bn., 1 C.B.R.D.
Officer detailed to take Summary of Evidence.

List of Exhibits

1. Statement of Sgt. MacKenzie dated 25/6/43 (Exhibit "A").
2. Certificate of Surrender of D.A.P.M.

R.R. Bell Lt. 1 Bn 1 C.B.R.D.

List of Witnesses

Prosecution

1. B.95720, Sgt. MacKenzie, D.A., Unit Provost of No. 1 Battalion, No. 1 Canadian Base Reinforcement Depot.
2. K.67685 L/Cpl. Moran, C.E. on strength of Headquarters No. 1 Battalion, No. 1 Canadian Base Reinforcement Depot.

R.R. Bell

Defence

Nil

Statement by the Accused

I certify having received free of charge, a cop y of the Summary of Evidence, List of Witnesses, List of Exhibits, and Charge Sheet.

I desire the services of an Officer to represent me at the trial.

H. L. Dingman

(C.5592 Pte. H.L. Dingman)
1 Bn., 1 C.B.R.D.

Can

R.R. Bell

This is a true copy of the document held in my possession.
Officer i/c of Documents.
Lt & Adjt.

M.F.M. 6
(A.F. B.127)
W.O./F.S./5136 (2065)

CERTIFIED TRUE COPY

No. 5592 Name Dingman, R.L. Sqn., Battery, or Company — Corps C.I.C. — Date of enlistment 29-4-40 — G.C. Badges — Service or Proficiency Pay N/A — Character

Date of last entry in Company Conduct Sheet N/A — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No. 1 — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of entries digressing with total	By whom awarded	Remarks
Field	15-9-41	Pte		WOAS, AWL from 2200 hrs 15 Sep 41 till apprehended by civil police at 0445 hrs 16 Sep 41 AA 15 (1)		7 days C.B.	17-9-41		Forf. 1 days Pay.
Field	18-11-41	Pte		AWL from 2200 hrs 16-11-41 to 2230 hrs 18-11-41.	Sgt Fletcher	14 days C.B.	19-11-41		
Field	20-6-42	Pte		AWL from 2300 Hrs 20 Jun 42 till 1130 hrs 22 Jun 43 AA 15 (1)	Sgt Kennedy	7 days C.B.	23-6-42	C.C. Ferreis Lt-col	Forf 2 dy pay 7 days R
Field	26-6-42	Pte		A.A. Sec 40 Neglect to the prejudice (Dirty Rifle)	Sgt Biddle	7 days C.B.	26-6-42	Ketcheson Major	
Field	12-8-42	Pte		A.W.L. from 1730 hrs 12-8-42 till 0010 hrs 13-8-42 (6 hrs 40 mins) A.A. Sec 15 (1)	Sgt Hobbs	14 days C.B.	13-8-42	Bingham Lt-col	Forf 1 days Pay
Field	14-8-42	Pte		A.W.L. from 1600 hrs defaulters parade and 1900 hrs defaulters parade A.A. 15 (1)	Sgt Hobbs	28 days Detn	15-8-42	Lt-col W.J. Bingham	

(FTO)

Place	Date of offence	Rank	Unit of drafted unit	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18 Oct 42	Pte		A.W.L. from 1800 hrs 18-10-42 to 1250 hrs 6-11-42 A.A. 15 (1)	FGCM	60 days Detn Stoppages of 60-14-1.	16 Nov 42	FGCM	Total Forf-89 days pay.
Field	2-3-43	Pte		A.A. Sec 15 (1) A.W.L. from 1800 Hrs 2 Mar 43 to 1000 hrs 3 Mar 43 (Absent 16 hrs	L/Cpl MacGregor	5 days F.P. 5 days pay	4 Mar 43	Lt-col H. Cook	Forf 1 days pay FP&I 149 (1)(a)
Field	18 May 43	Pte		A.A. Sec 15 (1) A.W.L. from 0830 h 18 May 43 to 2140 hrs 25 May 43 (Absent 7 days 13 hrs 10 mins)	L/Cpl Blake Sgt Leconte	21 days F.P. Forf 7 days pay (AA 46-25)	26 May 43	Lt-col W.P. Bristowe	Forf 8 days Pay FP&I 149
Field	1 Jun 43	Pte		A.A. Sec 15 (1) A.W.L. from 1900 hrs 1 Jun 43 until 1900 hrs 2 Jun 43. (Absent 1 day)	Pte Babineau (R.P.)	28 days Detn	4 Jun 43	LT-col W.P. Bristowe	Forf 1 days pay FP&I 149 (1) (a)

I certify this to be a true copy of M.F.M. 6 in our possession.....

R.R. Bell Lt
Adjt. 1 Bn. 1 CBRD

Officer having official custody of documents

R.A.O.

Exhibit A
C.A.O.

M.F.B. 155
22M—5-41 (572-3)
H.Q. 1772-35-620
A.F.B. 266

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C 5592	Private	Deignan R.L.	1 Bn. 1 C.B.R.D.

1. The following is a fair and true summary of the entries in the Service and General / ~~Regimental and Squadron~~ ~~Battery~~ Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A.s.15(1)	5 times	8 times
For A.A.s.40	1 times	1 times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~

Previous convictions of the accused by a court-martial ~~or a civil court,~~ of summary awards under ~~Air Force Act~~ A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for ~~Air Force~~ civil custody, and 10 ~~X~~ days in military custody, making a total of 10 ~~X~~ days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his record of service is 23 years 11 mths 2. attestation paper is

6. ~~The date of his commission specified in his record of service is~~ ~~attestation~~ ~~attestation paper~~

7. The service which the accused is allowed to reckon towards discharge is 3 years 2 months Subs 24 April 194

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military military possession of or entitled to). State any air force decoration or reward. military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated , and in his regiment (or corps), the rank of dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number C 5592 Rank Private Unit Name Diagram, R.L. of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Field General Court Martial	La Ste Field 18 October 1942	A.W.L. 18 Oct '42 until 6 Nov. '42	60 days detention Stoppage of £0.14.3.	Sentence Confirmed 17 Nov. '42

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2nd ~~26th~~ day of July 1943.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked D.S Trans 25. signed by the president, and annexed to the proceedings.

C

4K122.

Re. Dingwall. H.

CHARGE SHEET

The accused, No. H 2070 Private Henry DINGWALL, 1st Bn The Saskatoon Light Infantry (MG), a soldier of the Canadian Army Overseas (CMF), on active service, is charged with:

FIRST CHARGE
Sec 18(2)
Army Act

WHEN ON ACTIVE SERVICE, WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he

in the Field, in Italy, on 16th OCTOBER, 1944, by discharging his rifle wilfully injured himself by shooting himself through the right hand, with intent thereby to render himself unfit for service.

SECOND CHARGE
(Alternative)
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, in Italy, on 16th OCTOBER, 1944, so negligently handled a rifle as to cause it to be discharged and thereby injured his right hand, and rendered himself unfit for service.

(A.W.Embury) Lt-Col,
Commanding,
1st Bn The Sask.L.I.(MG)

17 OCT 44

To be Tried by Field General Court-Martial

(J. A. CALDER) Brigadier
Comd., 1 Cdn Inf Bde

In the Field
7.Nov.1944

FIELD GENERAL COURT-MARTIAL

C7A95 (In lieu of AZA3) 40/PAS/1097 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H20701	PRIVATE	Henry B.	DINGWALL	SASK LI (MG)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 7 Nov 44 endorsed by me, ~~[illegible]~~. To be tried by Field General Court-Martial.

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[illegible]~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(AA 49, RP 106(B). 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	A.F. MITCHELL (Must be named. RP 106.)	RCR (Unit.)

MEMBERS.

Captain	To be detailed by	Host & PER
Lt (Rank.)	To be detailed by (Named or detailed. RP 106.)	SASK LI (MG) (Unit.)

WAITING MEMBER.

Lt (Rank.)	To be detailed by (Named or detailed, if any. RP 106.)	Host & PER (Unit.)
~~[illegible]~~ (Rank.)	~~[illegible]~~ (Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

Date 7 Nov 44

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(J. A. CALDER)

Commanding 1 Canadian Infantry Brigade

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

~~LABORATORY REPORT~~ MEDICAL OFFICER'S CERTIFICATE

I certify that. H2701. Pte
Kerrigan H. H. (SL:1) is
fit to stand trial by Court
Martial.

Nov. 8. 1944

C. H. Crosby Capt RCAMC
NO. Officer

~~Date Specimen received~~ .....
~~Date Report despatched~~ ..... ~~Station~~ .....
~~Officer Laboratory~~

Opening address by prosecution

D.7 The prosecution will prove the following medical testimony that the manner in which the bullet struck the hand of the accused shows that it was caused by a wilful act on the part of the accused. The prosecution will also prove that the discharge of the rifle took place shortly after the platoon was warned to prepare to move up to go into action. The manner of discharge shows that it could not have gone off accidentally in the hands of the accused.

1st witness for the prosecution.

D.7 The accused has been warned of this additional witness in accordance with R.P. 76.

Capt C H Crosby R.C.A.M.C. sworn states.

I am Capt C. H. Crosby in charge of the surgical division of 5th C.C.S. The diagram below I now recognize has been a patient under my treatment since about 30 Oct. On 6th Nov I examined the wound of the accused. The wound is a through & through wound of the right hand the entrance wound being on the palm surface and the exit wound being on the dorsum portion of the hand.

Adj

The entrance wound is in the middle of the palm of the hand. The wound is approx. straight through the hand. He has a relatively small entrance wound in the palm of the hand and a larger, jagged exit wound on the back of the hand causing a compound fracture of the third bone of his ~~hand~~ right, that is to say the third metacarpal. ~~Smith~~ It is impossible at this time to give an accurate estimate of how long the accused will be unfit for active service. In my estimation it will be a minimum of two months. I can not say at this time to what extent the injuries to the accused will affect his future efficiency as a soldier.

No cross examination.

RP 83B complied with.

2nd witness for prosecution.

~~Sworn to~~ Oath

H 103059 Pte Makiekiwicz J. S.L.I.

Sworn states.

I am H 103059 Pte Makiekiwicz Joseph a soldier of the 2nd L.I. (M.G.) 10th Bde. 2 Bty mortars.

Oath

I now recognise ~~Pte Dingwall~~ the accused as the cook's helper in the kitchen when I met. The accused and I are in the same platoon. On the afternoon of 16 Oct I was standing by the 15 cwt kitchen truck when I heard a shot I turned around and saw Pte Dingwall holding his right hand. Cpl Donaghy applied first aid. I picked up Pte Dingwalls rifle and extracted an empty cartridge. I closed the bolt of the rifle and placed it back on the kitchen truck. Before the shot going off I saw the accused cleaning his rifle. He was sitting down with the rifle in one hand and cleaning it with the other. This was about 5 minutes before the shot was fired. During this 5 minutes I was finishing cleaning and putting my kit away. I was standing about the middle of the left side of the truck. From where I was standing at this time I could not see the accused. When the shot went off I immediately turned around and saw Pte Dingwall holding his right hand. There was no one else around. I don't remember the accused saying anything at this time. I didn't ask any questions about the shot and I was not interested at the time afterwards did Pte Dingwall say

Cpl

anything to me in regard to the
incident. I didn't know anyone had
seen what happened. The magazine was
fully loaded when I examined the rifle.
~~I then~~ The accused made no attempt to render
~~did anything~~
first aid to himself.

Cross examination.

Q. 1. On 16 Oct did pl. receive orders to move

A. 1 yes.

Q. 2. At what time in relation to incident did
order come.

A. 2. The order came a minute or two before the shot
was fired.

Q. 3. When you saw Pte Hayward cleaning his
rifle was that before or after the order to
move.

A. 3. Before.

Re examination.

Q. 1. Was every one present in the platoon
warned that they would move

A. 1. yes.

Q. 2 Were you with the accused when he
received the order

A. 2. No.

RP 53B complied with

Offd

The prosecutor and defending offr. decline to make a closing address.

E-3 4

To The President

F.G.C.M. - H 2070 Pte. Dingwall H.D.

Plea for mitigation of sentence

1. Sir, in request for mitigation in sentence to H 2070 Pte. Dingwall, H.D., for so negligently handling his rifle as to cause it to be discharged and thereby injuring his right hand, I wish to submit to the court the following facts concerning the accused.
   (a) He enlisted voluntarily for active service overseas 1 Oct 40
   (b) After spending a year in Canada as a reinforcement for The Queen's Own Cameron Highlanders of Canada, he was sent overseas 9 Oct 41, and was posted to the Q.O.C.H. of C. almost immediately.
   (c) He remained on strength Q.O.C.H. of C. until 19 Aug 42 when he was [illegible] admission to 14 Edm. Gen. Hosp. suffering from shrapnel wounds in the left hand and in the head, sustained during the Dieppe raid.
   (d) On discharge from hospital 27 Oct 42, he again rejoined the Q.O.C.H. of C., field unit.
   (e) He remained with the unit until Sep 43, at which time he was S.O.S. on attending a course in England.
   (f) After completion of the course, while on strength 2 C.I.R.U. awaiting return to the Q.O.C.H. of C., he was transferred to 1 C.B.R.D., B.N.A.F., 7 Nov 43, as a reinforcement for the Saskatoon Light Infantry.
   (g) On 5 Jan 44 he was posted to the Sask. L.I., C.A.O.F., Field unit, and remained there in the same Coy. and the same Platoon, continuously until 16 Oct 44.
   (h) During more than four years of active service Pte. Dingwall has had no crime.
   (i) His father is deceased and his mother is living in Canada.
   One brother has been killed in action with the R.W.K. in France
   One brother is now serving with the S.S.R. on the Western Front.
   One brother is now serving with the R.C.A.S.C. on the Western Front
   One brother is now serving with the 5th Can. Armd. Div. in Italy.
   One brother is at home with his mother, and running the farm.

2. I submit herewith statements as follows.
   (a) Statement as to character and efficiency as a soldier, signed by Lieut. D.A. Rankin, Sask. L.I. of whose platoon Pte. Dingwall served for seven months.
   (b) Statement as to service, signed by Officer i/c, Can. Sec. G.H.Q., 2nd. Echelon, A.A.I.

3. The accused has been injured due to negligence on his own part, but in mitigation of sentence I would ask the court to consider his excellent record as a soldier in more than four years of Active Service, also the facts as stated above, Sir.

Lieut. Allen Lieut
Defending Officer

o/p 4

M.F.B. 355
22M—5-41 (573-3)
H.Q. 1772-39-620
A.F.B. 266

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-20401	Pte	Dingwall, H.B.	Sask. L.I. (MG)

1. The following is a fair and true summary of the entries in the ~~Service and General Regimental and Squadron Battery Conduct sheets or~~ Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For		times		times
For	Nil	times	Nil	times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ ~~Air Force Act~~ ~~A.F.A. 73~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and Nil days in military Air Force custody, making a total of Nil days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service or attestation paper is~~ 27 yrs.

6. The date of his ~~commission~~ attestation specified in his ~~record of service or attestation paper~~ Oct. 1, 1940.

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to no air force decoration, or air force reward (or is in possession of or entitled to)~~ State any ~~air force~~ military decoration or reward. 1939-43 Star, CVSM

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

Ex "B" A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated , and in his regiment (or corps), the rank of dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank Unit Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of Nov 1944

Capt & Adjt
Sask L.I.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

No. H-20704 Name DINGWALL, H.D. Sqn., Battery, or Company "D" Coy Corps Sask. L.I. (MG) Date of enlistment

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No.

G.C. Badges Signature O.C. Company, etc.

Service or Proficiency Pay

M.F.M. 6 (A.F.B. 142) 1597-7-41 (1512-39) H.Q. 1272-39-1441

Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				TEMPORARY SHEET					

certified true copy from Regt'l books in my custody

Capt & Adjt
Sask. L.I.

Ex "D" Coy

Summary of Evidence in the Case of No H20704 Pte Dingwall H.D.
1 Bn. Saskatoon Light Infantry (M.G.)

By direction of the C.O. the accused was sworn and the following evidence taken on oath and in the hearing and presence of the accused.

1st Witness No B5185685 Sgt Wallace J.A. 1 Bn Saskatoon Light Infantry (M.G.) having been duly sworn states.

At approx 1330 hrs 16 Oct 44 I was sitting on the back of the 15 cwt kitchen truck of No 15 Pl talking to Pte Dingwall who was cleaning his rifle, when the order to move was given by my pl. 2 i.c. Lieutenant R.A. Brackman. Upon hearing the order to move I jumped from the truck and proceeded to our kitchen trailer to get my tunic, as I was going forward with our 2 i.c. on a recce. I had not left the kitchen truck more than 30 seconds when I heard a shot. I immediately turned around and saw Pte Dingwall grasping his right hand with blood pouring from it. First aid was given immediately and then he was evacuated to a local R.A.P.

The accused declines to cross examine the witness.

Signed. Sgt. Wallace J. A.

2nd Witness No H 108059 Pte Makichkunech J. 1 Bn. Saskatoon Light Infantry, having been duly sworn states.

At approx 1330 hrs 16 Oct 44 I received orders to move from Lieut R.A. Brackman. Just after that I heard a shot. I turned around and saw Pte Dingwall holding his right hand. I was standing along side the 15 cwt kitchen truck of 15 Pl at the time, with my back to it. I looked up Pte Dingwall's rifle which was lying on the ground behind the kitchen truck and found one spent cartridge in the breech. I closed the bolt and put the rifle back in the truck.

The accused declines to cross examine the witness.

(Signed)

J. Makichkunech

Sgt

The accused having been cautioned in accordance with RP 41(1) reserves his defence.

Taken down by me this 19th day of October in the presence and hearing of the accused. RP 41(1), 60(1)(a) (f) and (g) have been complied with.

L. E. Jarvis Capt.

By direction of C.O. 1 Bn Saskatoon Saskatoon Light Infantry (MG) further evidence is to be taken on oath and previous witnesses are to be re-examined

Re-examination. 1st Witness, B.O.R. 856 Sgt Wallace J.A. having been duly sworn

Q1. What you were talking to Sgt/Pte Dingwall about in the dug with his rifle

A1 He was holding his rifle between his legs & rolling it on the piece of felt. 2 x 4 flannelette. L.H.

Q2 Was the bolt open or closed ~~and felt~~

A2 I did not notice.

Q3 How far away were you from Pte Dingwall when you heard the shot.

A Between 12 and 15 yds.

Q4 Could you see him at the time

A No Sir.

Q5 Do you know if Dingwall's rifle was loaded

A No Sir

Q6. What did Dingwall say after you heard the shot.

A. He swore but said nothing else

Q7 What did he do? Right Left.

A. Grasped his hand & walked around to the side of the trench

Q8. When you heard the shot where exactly was Dingwall

A Walking around behind the trench.

Q9 When you last saw Dingwall holding his rifle where was his hands.

A. His left hand was on the upper band & he was rolling the stock with his right hand. muzzle down L.H.

Q10 Where in Dingwall's right hand hand the bullet passed.

A Right through the palm.

Q11 Did Dingwall make any remarks as to how the rifle went off.

A No Sir.

Q12 Did he make any statement at all.

A No Sir

Q13 Sgt Wallace have you anything further to add to your testimony

A No Sir

Sgt

The accused declines to cross examine the witness.

(Signed) J. A. Wallace Sgt.

Re-examination of the 2nd Witness H10300 Pte Mahuchuck J. having been duly sworn.

Q1 Before you heard the shot did you know what Pte Dingwall was doing in the trench.
A He was cleaning his rifle.
Q2 What part of it.
A. Rubbing the blocky barrel with a piece of flannelette.
Q3 Do you know if the bolt of the rifle was open or closed.
A No Sir.
Q4 When you were standing by the trench when you heard the shot could you see Pte Dingwall.
A No Sir
Q5 What did you do when you heard the shot.
A I turned around and saw Pte Dingwall holding his right hand
Q6 Exactly where were you standing at the time you heard the shot.
A On the left side of the trench.
Q7 When you turned around could you see Dingwall
A Yes.
Q8 Before you heard the shot what were you doing.
A. I had just finished cleaning and was collecting my small packs to put on the truck.
Q9. What did Dingwall say when the shot went off.
A. I can't remember.
Q10 Did he give any explanation as to how the rifle went off.
A No.
Q11 Did you ask him
A No
Q12 What part of Dingwalls right hand did the bullet enter.
A The palm of his hand.
Q13 Who gave him first aid.
A Cpl Dingley.
Q14 Why did he give Dingwall first aid treatment
A He was the first person with a shell dressing handy.
Q15 Is there anything further you wish to add to your testimony.
A No Sir

The accused declines to cross examine the witness.

(Signed) J. Mahuchuck

Offd

Page 4

No 5 Canadian Casualty Clearing Station
R.C.A.M.C.

19 Oct 44

J Witness

Lieut. E. Shaw, 5 Cdn C.C.S., R.C.A.M.C., being duly sworn states:

I was on the 16th Oct 44 and still am the Administration Officer of 5 Cdn C.C.S., R.C.A.M.C. I hereby certify that the following is a true extract from the Field Medical Card (AFW 3118) relating to H.20701 Pte Dingwall, H. of the S.L.I.:

16.10-44 1930 hrs NZ CCS Surg Team

Operation - Small bullet entrance wound palm of hand. Edges blackened with ? powder. Large exit wd dorsum of hand with cmpd fracture metacarpal III. E&E wds excised. Penicillin powder in wound. Below elbow split plaster

sgd W.I. Cawkwell, Capt
NZMC

E Shaw Lieut

The accused declines to cross-examine the witness.

E Shaw Lieut
Administration Officer
5 Cdn C.C.S., R.C.A.M.C.

a/s/y

The accused having been cautioned in accordance with RP 74(1) reserves his defence

Taken down by me this 19th day of October 1944 in the presence and hearing of the accused. RP 74(1), (d)(e)(f) and (g) have been complied with.

L. E. Davis Capt.

60 N
Pte Dingwall J

O. H. M. S.

M. F. B. 270

Correspondence to be PINNED here.

601

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this Seventh day of June, 19 42.

Whereas it appears to me, the undersigned, an officer in Command of 6 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military [illegible] in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer];

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable

*[I am unable to appoint—
*(1. Three Officers to form the Court.)
*(2. A Field Officer as President.)
*(3. Three Officers having more than one year's service.)
for the following reasons, namely:—]

PROCEEDINGS REVIEWED

9 Sep 42

President.

Rank.	Name.	Regiment.
Major	E.H.Rees	Camerons of C

Members.

*Rank.	Name.	Regiment.
Capt.	R.J.Wilkinson	S Strk R
Lieut.	E.R.Eaton	Fus M R
(Waiting Member) Lieut.	R.B. MacNeil	Camerons of C

Must be signed personally by the Officer lawfully in command at the time, and all Officers in attendance on the Court to be named

*Signed W.W. Southam Brig
Commanding 6 Cdn Inf Bde
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
L 12533 Pte. Dingwall, N.J. 6 Bask R	First Charge - A.A.Sec.40 See charge sheet attached	Not Guilty	Guilty 90 Days Detention	Confirmed W.W.S.
H 20147 Pte. Ferguson, H. Cameron of C	First Charge - A.A. Sec 5(2) See charge sheet attached	Not Guilty	Guilty	Confirmed W.W.S.
	Second Charge - A.A. Sec 5(2) See charge sheet attached	Not Guilty	Guilty	
	Third Charge - A.A. Sec 40 See charge sheet attached	Not Guilty	Not Guilty	
	Fourth Charge - A.A. Sec 15 See charge sheet attached	Guilty	Guilty 180 Days Detention	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) W.W. Southam Brig (Signed) D. H. Ross Major
Commanding President
Convening Officer (d)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 9th. day of June 1942. and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 10th. day of June 1942.

D. H. Ross. Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~I direct that the soldier named in the margin be not committed to prison until further orders.~~ W.W.S.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this Fifteenth day of June 1942
W. W. Southam Brig
Confirming Officer.

Promulgated and extracts taken in the case of L-12533 Pte Dingwall N.J.
(a) (Dated) 17 June 1942 (Signed) M.A. Adams Capt
for Lt. Col. D.S.O. R.C.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

9 June 42

MEDICAL CERTIFICATE

This is to certify that L 18838 Pte. Dingwall, W.J. is fit - ~~or unfit~~.

to undergo trial by Court-Martial.

Examined on ample - Sd duty to 14 June 42

Tyl Hayles Capt
Medical Officer

Fr. A.
D.H.

Elects trial by Court Martial

CHARGE

Army Form B 252
(See King's Regulations)

"B" C'oy. S.Sask.R. C.A.(O) — Regiment / Battery / Squadron / Troop or Company

CHARGE against No. L-12 533 Rank Fte.

Name Dingwall N.J.

Place In The Field Date of Offence 21 May 42

OFFENCE The accused W.O. A.S. being a member of the C.A.(O) is charged with conduct to the prej udice of good order and military discipline in that he, in the field, when ordered by C.S.M. Mather F. to keep quiet, failed to do so, by mimicing the tone and words of the order for some time after they were given.

A.A.Sec.40

Names of Witnesses:—

C.S.M. Mather F.

L/Sjt. Allan D.S.

Remanded for C.O.

Signature of O.C. Battery, Squadron, Troop or Company) E.W. White Major

Punishment Awarded) Elected F.F.C.M.

By whom Awarded) A.T. Hampton Major

Adjutant.

P.T.O.

South Saskatchewan Regiment

I,L-12533,Pte. Dingwall N.J. request that Lieut.C.Fritz act as my defence in my court-martial.

dated 6 Jan 42 Dingwall N J

CHARGE SHEET

The accused, No. L 12533, Pte. Dingwall, N.J., 'B' Coy, S Sask R, is charged with:-

First Charge
A.A. Sec.40

W. C.A.S., being a member of the C.A.(C/S) is charged with conduct to the prejudice of good order and military discipline in that he, in the field, when ordered by C.S.M. Mather, F., to keep quiet, failed to do so, by mimicing the tone and words of the order for some time after they were given.

Evidence taken down at Field General Court Martial of L.12533 Pte Dingwall N.J. 1st Battalion South Saskatchewan Regt. C.A.O.S.

Witnesses for prosecution

1st witness — L-112550 L/Sgt Allen, D.S. S.S.R. having been duly sworn states:
"I, Donald Stuart Allen state that on 21 May 42 I was acting Pl. Sgt. No. 10 Pl. B Coy S.S.R. At Approximately 0830 hrs. I warned No 10 Pl, for parade and called the marker. As I placed the marker on the road about 30 yrds from the tents I heard the members of one tent talking. I could not distinguished their words but I did hear CSM Mather,F. telling them to stop grumbling and back talk or he would put them up on orders.

At about 1745 hrs. the coy was called on parade and there was some mimicing of CSM Mather and myself by No. 10 Pl. The CSM the warned them again to stop or some of them would be on orders.

The Pl.moved down the road about 350 yrds,then halted and broke off the men sitting down if they wished. I was at the rear end of the pl.and about five minutes later I heard the accused talking.I did not know what he was saying or if he was mimicing anybody, but CSM Mather came down and spoke to him. I did not know at that time what CSM said to the accused.

QUESTION No. 1- Was there any direct order by the CSM for any particular man to keep quiet?
ANSWER - No. Sir.
QUESTION No. 2- How close for you from Pte Dingwall at [illegible] time?
ANSWER - About 15 Yrds.
QUESTION No. 3- How far was the CSM?
ANSWER About 8 or 9 yrds. [illegible]
QUESTION No. 4- Then for 5 or 6 yrds the CSM heard what was said and you could not?
ANSWER - That is right as I was talking.

- -

2nd witness — L-12543 Sgt Passmore,C.H. S.S.R. having been duly sworn states:
" I, Clifford Herbert Passmore state that on 21 May 42 I was acting Pl. Comdr. No 10 Pl. S.S.R. At about 0800 hrs. I heard CSM Mather warn my Pl. that any more mimicing of N.C.O.'s would cause defenders to be placed on orders. I had heard three or four members mimicing L/Sgt Allen just before the CSM orders but could not state who they were. About 1000hrs. we formed up [illegible] the Coy. and at 1830 hrs we had a break off at the side of the road. While halted I heard the accused mimicing some one who took to be L/Sgt Allen. Major White and the CSM also heard and the CSM went and spoke to pte. Dingwall and on his return told me that he had warned the accused for orders.
Q-,No. 1- Has L/Sgt Allen any particular mannerism in his speech?
A No. 1- Yes Sir he drawls.
Q- No. 2- Are there any others in the pl. who drawls?
A- No. 2- No Sir.
Q- No 3- Could the pl. all hear the CSM orders about keeping quiet?
A- No. 3- Yes Sir.
Q- No 4- Do you maintain that Pte Dingwall was speaking in a ridiculing tone of voice?
A- No. 4- Yes Sir.

3rd witness

L-13086 CSM Mather, F, S.S.R. having been duly sworn states: I, Frank Mather state that on 21 May 42, I was CSM B Coy of the S.S.R.-At about 0830 hrs I ordered L/Sgt Allen to get No. 10 Pl. on parade. He ordered in my presence the section of which the accused is a member to get ready, and immediately the section started to mock him. I warn the section that the next man I heard mimicing would be placed under arrest.

At 1800 hrs I fell in B Coy for the march to new billets, some of No. 10 Pl. were smoking which I ordered to be stopped. The accused mocked my tone and worlds. I told him to keep quiet. As soon as they were broken off after about a 300 yrds march the accused once more mocked or mimiced the orders I had given him. I then warned him for orders.

Q- No. 1-Could you repeat some of the accused remarks?
A- No. 1-He said he had the right of free speech, nobody could stopped him talking and that he could beat any man handed out.
Q- No. 2-Who was it made the statement?
A-No. 2-It was Pte Dingwall.
Q-No. 3-How long after the break started did you go down to silence Dingwall?
A-No. 3-About two minutes.
Q-No. 4-Is there any regular trouble in this Pl.
A-No. 4-There has been a troublesome group in No.10 Pl. Dingwall is one of its leaders.
Q-NO 5-How close were you to the accused.
A-No. 5-About 12 feet and could hear all he said.

- - - - - - - - - - - - - - - - - - - -

4th witness

Major E.W.White B Coy. S.S.R. having been duly sworn gave evidence as follows:
"I, Elmer William White state that on the 31st May 42 I was commanding B Coy S.S.R. About 1800 hrs The Coy. was broken off the side of the road waiting for transport to move us to our new billets. I was talking to CSM Mather at the front of the Coy. just ahead of the No. 10 Pl. I heard a certain amount of talk in No. 10 Pl. but paid no attention to it until the CSM went to the accused and told him to shut up or he would lay charge against him. When the CSM came back I asked him what was the trouble. He said the accused had been ragging L/Sgt Allen and that he had warned him previously to stop it.

Shortly after this I heard the accused talking in a manner which indicated to me that he was not taking the CSM's worlds seriously. He was evidently mimicing in a exagerated manner the tone and worlds of the CSM.

Q-No. 1- Could you distinguish the CSM worlds to the accused?
A-No. 1- Yes, I was only 15 feet away.

Statement by accused not on oath.

The accused having been duly cautioned in accordance with rule of prodedure (4)(c) make the following statements.
I, L-12533 Normand John Dingwall state that on 21 May 42 I was a Pte soldier No. 10 Pl. B Coy S.S.R. at about 0900 hrs L/Sgt Allen warned us to get ready for parade and there was the usual amount of grumbling in back talk among the men. CSM Mather heard the grumbling because he warned the Pl. to stop it and get on parade when told.

After supper we gotready to move to new billets and there was some grumbling in the Pl. We moved of about 300 yrds and were broken offto wait for the trucks. The boys were all talking with each other in a sort of drawl similar to L/Sgt Allen. I said "You better fall in the Pl. or I'll be late." Dick Marcus told me to shut up that I talk to much. CSM Mather came back to the front and told me that I was up for orders the following morning and to shut up.

1st witness for the defence

L-13269 Pte Harcus. R.R. 10 Pl. B Coy S.S.R. having been duly sworn states:
"I,Pte Harcus R.R State that on the 21st May 42 I was a Pte soldier of B Coy S.S.R. At about 1800 hrs the CSM told us to stop smoking and talking.
Q-1- Had Sgt Passmore given you permission to smoke?
A-1- I Dont remember Sir.
Q-2- How close were you to Pte Dingwall.
A-2- I was right behind him Sir.
Q-3- Did you hear CSM Mather tell Dingwall to shut up.
A-3- No,Sir.
Q-4- When Dingwall spoke, was it his normal voice?
A-4- No Sir, he was talking loudly.
Q-5- Is the discipline good in the Pl?
A-5- Yes Sir.
Q-6- Are you in the habit as a Pl. of making fun of the N.C.O's?
A-6- As a joke Sir, we do as we know them well.
Q-7- Did you hear any mimicing in the Pl.
A-7- I was not paying attention.
XxS-
- -

2nd witness

L-13532 Pte McKellar W.C. 10 Pl. B Coy S.S.R. having duly sworn gives evidence as follows:
~~I, Pte McKellar W.C.~~
Q-1- What happened before you fell in on the morning 21 May 42?
A-1- CSM Mather told the Pl. to keep quiet.
Q-2- After supper, what happened at the fall in?
A-2- When the Pl. fell in we were late and the CSM told us to be quiet and get on parade.
Q-3- At break off, what happened?
A-3- We were all talking. Pte Dingwall said to Pte Harcus "(Fall in the parade or we will be late)".
Q-4- Do you usually have horseplay during a break off?
A-4- Yes Sir.
Q-5- Did you hear the CSM's orders to keek quiet?
A-5- Yes Sir.
Q-6- How far were you from Pte Dingwall?
A-6- About ten feet Sir.

Q -

3rd witness

L-10049 Pte Gall,C having been duly sworn gave evidence as follows:
Q-1- What occurred in the morning 21 st of May 42 before parade?
A-1- Lots of jokings Sir. The CSM told us to shut up.
Q-2- When men were warned to stop smoking did you hear any remarks.
A-2- No Sir.
Q-3- Had the CSM spoken to any one previously?
A-3- Yes Sir, but I dont know whom as he was behind me.
Q-4- What did Pte Dingwall say?
A-4- Pte Dingwall said to Pte Harcus (Fall in the Parade or we will be late)
Q-5- Was the joking that you heard directed at any one in particular?
A-5- No Sir.
Q-6- What type of joking was it?
A-6- Imitations of drawls like Rochesters.

- -

Closing address for defence

After having heard evidence given by both sets of witnesses I can not see any proof that Pte Dingwall mimiced N.C.O's maliciously or in any way in danger the Pl. It is human nature to parrot. The men were broken off and were just joking and the charges brought against the accused can not be justified.

Closing address by Prosecution

The actions on the accused strikes at the foundation of all discipline of a Unit. The defence has attempted to show that the accused did not mimic. The charge as laid down is that having been told to keep quiet the accused continued to talk. In this Coy. The CSM has been newly appointed and has been attempting to repair the damage done by his predecessor by enforcing strict obedience of orders. In this Pl. there has been a troublesome group and the CSM decided to eradicate it. The accused tried to put one over. The defence has brought forward no witnesses to prove Pte Dingwall innocent. I do not think that this man is a bad character but is a victim of previous lack of discipline.

Plea of defence for leniency for accused.

For the stated Crime I do not think the accused is guilty of any crime against discipline or the Army Act. The N.C.O. should not have put him on orders and when the accused asked for trial by Court Martial he thought the Court would take the same view point. At the most I plead for an admonishment.

No. H125733 Name DINGWALL N.J. Rank Pte Corps S.S.R.

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine

Date of enlistment 27 Mar 40 | Sheet No. 1 | G.C. Badges | Signature O.C. Company, etc. E.W. WHITE CAPT | Service or Proficiency Pay | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of letter dated, under which tried	By whom awarded	Remarks
Shilo	17-6-40	Pte		A.W.L. 1 day 11 hrs 30 min A.A. 15	Cpl Winn	2 days C.B.	19-6-40	Capt E.W. White	Forf. 6 days, 2 days pay 1st offence
Shilo	3-7-40	Pte		Refused to obey an order to clean L.M.G. A.A. 9	L/Cpl Channells	3 days Det.	5-7-40	Capt J.E. Wright	2nd offence
Shilo	11-7-40	Pte		Insubordinate Language A.A. 8	L/Cpl Thomson L/Cpl Channells	10 days Det	12-7-40	L/Cpl J.E. Wright	3rd offence
Shilo	17-7-40	Pte		Refusing a lawful Command A.A. 9	L/Cpl DARVIN Pte NOSOLOFSKI	3 days Det	19-7-40	E.W. White, Major	
Shilo	12-7-40	Pte		A.W.L. 13 hrs 20 min A.A. 12	Lt DWYER Cpl Winn	5 days C.B.	23-8-40	E.W. White Major	
Toronto	6-11-40	Pte		Conduct - Neglect to prej good order and Mil Discp. A.A. 40	Cpl Richardson	3 days C.B.	8-11-40	E.W. White Major	
Monreal	7-5-41	Pte		Conduct to the prejudice of good order and Military Discipline. A.A. 40	Lt Swinton	7 days C.B.	10-5-41	E.W. White Major	

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of other disposal along with total	By whom awarded	Remarks
Morval Bks	25-6-41	Pte.		conduct to the prej. of good order and Mil. Discipline charged	Sgt. Foster	12 days Det.	27-6-41	Capt. J.E. Wright	(E.W.W.)
Seaford	22-7-41	Pte.		Insubordinate Language A.A.R.	C.S.M. Briggs	Reprimanded	24-7-1941	Major White	(E.W.W.)
In the Field	15-12-41	Pte.		A.W.L. 21 hrs. 45 mins A.A. 15	C.S.M. Briggs	168 hrs detention forfeits 1 days pay	15-12-41	Major H.T. Kempton	E.W.W.

Certified a true copy F. Jack Ramsay Lieut

Summary of Evidence in the case of
#L12033 Private DINGWALL, Norman John
1st Battalion, South Saskatchewan Regiment.
Canadian Army Overseas.

Accused requested Field General Court Martial.
By direction of the Commanding Officer the
Summary of Evidence is taken on oath.

1st Witness #L12026, C.S.M. MATHER, Frank, South Saskatchewan Regiment, having been duly sworn states as follows.

I Frank Mather, state that on 21 May 42 while C.S.M. of "B" Company of the South Saskatchewan Regt. that at about 0830 hours I ordered Lance Sergeant Allen D.S. to get #10 Platoon on Parade. He ordered, in my presence, the Section of which the accused is a member, to get ready and immediately the Section started to mock him. I warned the Section then that the next man I heard mocking him would be placed under arrest.

At 1800 hours I fell in "B" Company for the March to new Billets, some members of #10 Platoon were smoking, which I ordered to be stopped, immediately the accused mocked my tone and words. I ordered him to 'Keep Quiet'. As soon as they were broken off, after approximately a hundred yards march, the accused once more mocked & mimicked the orders I had given him to keep quiet.

I then warned him for Orders for the following morning.

Question 1. You said you ordered the Section that were in keep quiet?
Answer 1. I ordered the whole Platoe of all Sections of #10 Platoon to keep quiet.
Question 2. You said a few of the men of #10 Platoon were smoking and you ordered them to put their smokes out and that it was done?

F.M.

. . I mimicked the tone of your voice?

Answer #2 I know that part of the Platoon was smoking and that I roared them to stop.

Question #3 Why should I mimic your voice at that time because I don't smoke and it wouldn't make any difference to me?

Answer #3 I don't know.

Question #4 You say that you told me to keep quiet.

Answer #4 Yes.

Question #5 As we were sitting along side of the road waiting for the trucks were all the boys talking & yelling when you roared me for order.

Answer #5 They were. H. Mather CSM.

2nd Witness

L12550, Lance Sergeant ALLAN, Donald Stewart South Saskatchewan Regiment, being duly sworn states as follows.-

I, Donald Stewart ALLAN, state that on 21 Aug 42 I was acting Platoon Sgt of # 10 Platoon in "B" Coy of the S. Sask. Regt. At approximately 0830 hours I warned # 10 Platoon Platoon for Parade and called for a Marker. As I was placing the Marker on the road about 30 yards from the tents I heard the number of one tent talking. I did not hear what they were saying but I did hear C.S.M. Mather, I tell them that they must stop the grumbling and 'back talk' or he would put them up on orders. The Platoon fell in and I did not hear anything that was mentioned during the day. Then at approximately 1745 hours the Company was called on Parade and there was some mimicing of myself and C. S. M. Mather F. by # 10 Platoon. C.S.M. Mather, F. warned the Platoon again that if the mimicing didn't cease there was going to be some of them on Orders.

The Platoon then moved off, down the road about 350 yards and we were halted and then broke off and told to sit down.

H.S.A.

of me wished. I was at the rear end of #10 Platoon and about four minutes later I could hear the accused talking. I do not know what he was saying or if he was menacing anybody but just at that time C.S.M. Mather, V came down and spoke to him. I did not know at the time just what the C.S.M. said to the accused. Later I was informed that he had been placed in a charge.

Question"-
Sgt Allen you did not hear C.S.M. Mather tell me to be quiet after we went on parade?

Answer" No. Not you in particular.

3rd Witness H. S. Allan

L125543 Sgt. PASSMORE, Clifford Herbert, South Saskatchewan Regiment, having been duly sworn states as follows-

I, Sgt Clifford Herbert PASSMORE, state that on 21 May 42, due to the absence of my Platoon Officer, I was acting as Platoon Commander of #10 Platoon. At approximately 0900 hours on 21 May 42, I heard C.S.M. Mather V warn my Platoon that any further mimicking of N.C.O.s would cause the offenders to be placed on Charges. ~~This~~ I had heard three or four members of my Platoon mimicking Sgt Allan just previous to the C.S.M.'s order, but I could not state definitely ~~who~~ ~~were~~ they were. During the day there was nothing unusual heard by me, or reported to me, about the actions of my Platoon.

About 1000 hours we formed up as a Company and at 1030 hours we were stopped and broken off at the side of the road. While we were there I heard the accused mimicking someone, whom I took to be Sgt Allan. The Major, Major White, E.V. and the C.S.M. also heard it and the C.S.M. went down and spoke to Private Dingwall and on his return he told me that he had warned the accused for Orders.

C.H.P.

The accused declines to cross examine the witness.

C H Passmore

4th Witness.

Major E. W. White, South Saskatchewan Regiment. having been duly sworn states as follows -

I, Elmer William White, Company Commander of "B" Coy of the South Saskatchewan Regiment state that on 21st May 42. about 1800hrs the Company was broken off at the side of the road waiting for transport to move us to our new billeting area. I was talking to C.S.M. Mather at the front of the Coy and just in front of the Platoon which was formed up in Column of Route. I heard a certain amount of talk going on in the Platoon but as this was quite normal I paid no attention to it until C.S.M. Mather got up and went back to the accused, and told him [redacted] he had been warned before to shut up or he would lay a charge against him. When C.S.M. Mather came back to where I was sitting I asked him what the trouble was. He said the accused had been nagging Pte Allen and that he had warned him previously to stop it.

Shortly after this I heard the accused talking in a manner which clearly indicated to me that he was not considering the C.S.M.'s remarks seriously. He was evidently mimicking in an exaggerated manner the tone and words of the C.S.M.

The accused declines to cross examine the witness.

E W White major

The accused having been duly cautioned in accordance with Rule of Procedure 4(E) makes the following statement.

I, Norman John Dingwall a private of the South Saskatchewan Regiment hereby state, that I am a member of #10 Platoon of 'B' Coy. On the 21 May 42 about 0800 hours C.S.M. Mather warned Lt Lt. Allan to get the Platoon on Parade. Lt Lt Allan warned us to get ready and there was the usual amount of grumbling and 'back-talk' among the men. C.S.M. Mather, apparently heard the grumbling, because he warned the Platoon to stop at and get on Parade when told. This was all that was said in the morning.

We then carried on with our training during the morning by sections and nothing more happened in this connection. In the afternoon we continued our training as a Platoon until about 1630 hours when we had supper.

After supper we started to get our packs ready to move to new billets and there was some grumbling in the Platoon, but no mention of R.S.M. at this time. We moved off down the road about 300 yards then we were broken off to wait for the trucks. The boys in the Platoon were all talking with each other in a sort of a drawl, similar to Lt Lt Allan's speech. This was a habit which we had got into from the time we had been put on with the Platoon.

C.S.M. Mather came from the front of the Platoon to me and told me that I was up for orders in the morning and was 'shut up'. I remarked to the boys that

N3D Dingwall

would not say anything that he could use against me and I did not say anything more. N J Dingwall

Certified that Rule of Procedure 4 (c) (d) (e) (f) & (g) have been complied with.

Taken down by me in the presence and hearing of the accused this 24th and 25th day of May 1942, in the Field.

Jack T. Ramsey Lieut.
#3 Provost Co of
attached South Sask Regt.

L-12533 Pte Dingwall N.J.

1. A/m soldier is 22 years of age as per his N.F.B. 14.

~~2.~~ 2. He was awaiting trial 18 days

H Adams Capt
S. Sask. R.

Calais
9 June 42
In the Field

Ex. B
D. A.R.

GG·117

GNR DINSDALE W.F

GG-117 1

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this ninth day of June, 1943.

Whereas it appears to me, the undersigned, an officer in Command of [illegible] Canadian Artillery [illegible] Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

*[I am unable to appoint

*[(a) Three Officers to form the Court.]

*[(c) A Field Officer as President.]

*[(c) Three Officers having more than one year's service.]

for the following reasons, namely:—]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

President.

Rank.	Name.	Regiment.
Major	P.S.O. McWilliam	6 Cdn Fd Regt

Members.

Rank.	Name.	Regiment.
Capt	A. Middleton	5 Cdn LAA Regt
Lt.	R.T.H. Borland	6 Cdn Fd Regt
Acting Bombdr	Lt. [illegible].D. Stevenson	4 Cdn Fd Regt

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [illegible] Lt-Col

*Commanding 2 Cdn Div

Convening Officer.

2

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
H.66734 Gnr William Frank Dinsdale, 4 Cdn Fd Regt	First Charge A.A. Sec 15(1)	Guilty	guilty 60 days detention & to pay costs of apprehension £2-1-6 11 June 43 [illegible] A/C.R.A., 2 CDN. DIV.	Confirmed [illegible] Lt-Col

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*)

(Signed) [illegible] Lt-Col (Signed) [illegible]
[illegible] Commanding 4 Cdn. Fd. Regt.
Convening Officer (e) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 11th day of June 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~ n/a
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 11th day of June 19 43
[illegible]
President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (*d*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 370 of 1918 have been~~ complied with.

Signed this day of 19
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~ n/a

Signed this 14 day of June 1943.
[illegible] Lt-Col
Confirming Officer

Promulgated and extracts taken in the case of H66734 Gnr Dinsdale, W.F.

(*a*) (Dated) 15 June 1943 (Signed) [illegible] Capt.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

13

B2

CHARGE SHEET

The accused H66734 Gnr. William Frank DINSDALE, 2 Bty, 4 Cdn Fd Regt RCA a soldier of the Canadian Army (Overseas) is chareged with:

FIRST CHARGE
Sec 15(1)
Army Act

W.O.A.S. "ABSENTING HIMSELF WITHOUT LEAVE",
in that he, in the Field, absented himself without leave from 2359 hrs 16 May 43 until apprehended at 1250 hrs 5 Jun 43.
Time absent 19 days 12 hours and 50 mins.

Cost of Apprehention £2-1-6

William R. Fleury
(W.E. Fleury) Lt-Col
Commanding Officer
4 Cdn Fd Regt RCA

9 day of June 1943
In the Field

9 day of Jun 1943
In the Field
To be Tried by F.G.C.M.

Sandwell LtCol Brigadier
A/C.R.A. 2 Cdn Div.

MEDICAL CERTIFICATE (K.R.(Can) 557)

I certify that I have this morning examined No. H66734 Gnr. Dinsdale W.F. of 4 Cdn Field Regt RCA and, that in my opinion he is fit to undergo trial by Court-Martial.

Station In the Field

Date 11 June 43

Medical Officer
4 Cdn Fd Regt RCA

13

BR

CHARGE SHEET

The accused H66734 Gnr. William Frank DINSDALE, 2 Bty, 4 Cdn Fd Regt RCA a soldier of the Canadian Army (Overseas) is charged with:

FIRST CHARGE
Sec 15(1)
Army Act

W.C.A.S. "ABSENTING HIMSELF WITHOUT LEAVE",
in that he, in the Field, absented himself without leave from 2359 hrs 16 May 43 until apprehended at 1250 hrs 5 Jun 43.
Time absent 19 days 12 hours and 50 mins.

Cost of Apprehention £2-1-6

William R. Fleury
(W.E. Fleury) Lt-Col
Commanding Officer
4 Cdn Fd Regt RCA

9 day of June 1943
In the Field

9 day of June 1943
In the Field
To be Tried by F.G.C.M.

Sandbell DCol Brigadier
A/C.R.A. 2 Cdn Div.

1a

I, H66734 Gnr. William Frank DRINSDALE, 2 Bty, 4 Cdn Fd Regt RCA desire the services of, if he is available, to defend me in my trial by Court Martial.

_____

_____

This _____day of_____ ___1943

MEDICAL CERTIFICATE (E.R.(Can) 557)

I certify that I have this morning examined No. H66734 Gnr. Dinsdale W.F. of 4 Cdn Field Regt RCA and, that in my opinion he is fit to undergo trial by Court-Martial.

Station In the Field

Date 11 June 43

Medical Officer
4 Cdn Fd Regt RCA

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A Field General Court
**Form of Proceedings for ~~General and District~~ Courts-Martial

Proceedings of a Field General Court-Martial held at Amendola Camp on the 11th day of June 1943 by order of Lt. Col S H Dobell Commanding 2 Corps Dist dated the 9th day of June 1943.

President, Major P.C. McMillan 6 Coln Fd Regt

Members, Capt A Nibberton 3 Coln RASC
Lieut R.E.E. Bolard 6 Coln FR

, ~~Judge Advocate~~.

Trial of* H 66737 Gnr William Frank DINSDALE

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~

, ~~waiting member takes his place as a member of the Court~~.

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Capt L M Harvey 4 Coln Fd Regt

~~Counsel~~ or defending officer† Lieut S.G.M. Grange 4 Coln Fd Regt

At 1145 o'clock the Trial commences.

The order convening the Court is read, and is marked "X" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Q1

Answer by accused. No A1

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

M.F.P. (C)
Art. 4.

4

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Lieut WD Stevenson
Lieut TE Pack
Lieut GE Lenox

Charge-Sheet

Instruction. *If the accused has elected to be tried under Army Act, sec. 48 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the ~~[first]~~ charge against you, which you have heard read? *Question to the accused.* Q2

Guilty *Answer.* A2

~~Are you guilty or not guilty of the second charge against you, which~~ you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

C

Proceedings on Plea of Not Guilty

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

The prosecutor makes an opening address [hands in a written address, which is read, marked , signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution.

being duly sworn, is examined by the prosecutor.

-7

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused H66734 Gnr William Frank Kendal

is found guilty of Absence without leave

*The summary (~~or abstract~~) of evidence is read, marked CC2, signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment? Q3

Answer. The accused in mitigation of punishment says:— No A3

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

8

DD

Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.* Q4

Answer. A4 yes

Evidence as to character.

Cpl Mitchell SC C19646

having been duly sworn states

As acting 2nd of the sub section of which Gnr Dunsdale is a member, I find him an exceptionally fine soldier. He has given me no trouble and he is qualified in his work and is a good worker.

Since he has been with us his crime sheet is perfect.

Question How long has Gnr Dunsdale been in your sub sec. Q5

Ans, Appx a year sir. A5

D

The prosecution is closed.

Defence

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer.

Question. Do you intend to call any other witness in your defence?

Answer.

Question. Is he a witness as to character only? *Answer.*

INSTRUCTIONS TO THE COURT

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[Hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

~~Pvt. Mitchell~~ Barnes

~~Laning~~

Closing address by the ~~prose~~ defense.
Statement of mitigation

Lieut Young states

I would like to point out to the Court a couple of facts with respect to the crime of the accused. He has been with the 2nd Bty for over a year, during which time he had only one minor offence. This is his first serious AWL offence since he joined the army. The defense submits that the accused's crime, on going AWL, was one of lack of will power. When he was in good company he behaved like a soldier.

E

Finding*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused [illegible] guilty of the charge.~~

~~Does~~

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

~~*The Court being re-opened, the accused is again brought before it.~~

Capt L.A. Harvey is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* yes Q6 A6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked ER, E3, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes Q7 A7

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* yes Q8 A8

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* yes Q9 A9

~~Cross-examined by the accused.~~

[Observation.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No Q10 A10

The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence the accused to Sixty (60) days detention Sentence.
and pay costs of apprehension (£2-1-6)

Apprehension documents pinned + marked F2

Statement of EVIDENCE in the case of:-
No H66 438 Gnr. DINSDALE. W.F.
3rd FIELD BTY. 4th FIELD REGT. R.C.A.
ARUNDEL PARK, SUSSEX.

Sir At LEEDS on the 5th JUNE 43 about 1250 hours
I was on duty in the ROBIN HOOD public house
VICAR LANE, accompanied by Cpl. HURBY, C.H. Police
when I saw the above named soldier. I asked
him if he was in possession of a leave pass
permitting him to be in LEEDS at the time stated.
He said he was on 48 hr Leave and had lost his
pass. Upon further questioning he admitted that he
was absent without leave from his Unit. I arrested
and conducted him to the GARRISON ADJUTANTS
GUARD ROOM, GIBRALTAR BARRACKS, LEEDS where I
handed him over to the N.C.O. in charge detained.
I obtained his particulars as above verbally and
verified same from his P.B. & A.B.

J.E. Verity 565
1st Class Provost Sgt.
C.H. Police.

LEEDS
6/6/43

REMARKS

Sir I have read over and corroborate the above
Statement.

W. Sugarley 478.
1st (Class) Provost Sgt.
C.H. Police.

LEEDS
6/6/43

151st/259

Army Form B 252
(See King's Regulations)

CHARGE

2nd FIELD REGT THE ROYAL CANADIAN ARTILLERY. Regiment
Battery
~~Squadron~~
~~Troop or~~
~~Company~~

2nd FIELD.

CHARGE against No H.66434 Rank GNR.

Name DIMSDALE. W.F.

Place ARUNDEL PARK. Date of Offence ?

OFFENCE W.D.A.S.

Absent from ? until apprehended by the MILITARY POLICE at the ROBINHOOD Public House, VICAR LANE, LEEDS. on the 5th JUNE 1943 about 1.250 hours.

Names of Witnesses
SGT. J.E. VERITY. C.M. POLICE.
CPL. H. MURBY. C.M. POLICE.
L/CPL. HOWARD. GREEN HOWARDS
(STATEMENT ATTACHED).

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

151 HQ. BRIGADE

...ARREST UNDER REGULATION 14A (1) (a) (i.).

Dinsdale, W.F.

I certify that No. H 66734 Rank Gnr Name
Unit R.O.A. was arrested at Leeds.
On 5/9/43 at 12-50hrs and at the time of his arrest he was
wearing Military Uniform.

The signature of Provost Marshall A.P.M. or other officer into whose custody the a/m person was taken on arrest.

Captain,
Garrison Adjutant,
Gibraltar Barracks, Leeds. 2.

...When this charge has been dealt with, this F.S. 252 should be forwarded ...gh your usual Military Channels to the 'A' Branch of the formation by whom ...e administered (i.e. Division, District, Brigade or Area).
...rity is King's Regulations para 1940 para 502 (as also Northern Command Orders of 1942 or Local Command Orders).

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No H66734 Rank Gnr Name Dinsdale, W.F. Unit 4 Fd Regt

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit From London from Leeds

Date	Particulars (¼ portion)	Amount £	s	d
8 June 43	Escorts return fare from LONDON To Leeds		14	3
	Prisoners single fare to LONDON From Leeds		14	3
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares (¼ portion		4	4
	Total £	1	12	10

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

(W. FERN) CAPT D.A.P.M. LONDON AREA

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps London.

File No. 19/107. . FR

Officer Commanding,
2nd. Btry. 4th. Field Regt. RCA.
Re:- H-66734 Gnr. DINSDALE W.F.

1. Forwarded for your information and necessary action, please, and disposal under C.A.R.O. No. 388 dated 9 Oct. 40.

Capt.
(W.F.) D.A.P.M.
London Area.

London
7-June 43.

Thx Compliments

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 466734 Rank Gnr. Name Linsdale, H. S. Unit 47th Regt. R.C.A.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
8 June 43	Escorts return fare from LONDON To Peterborough		3	10
	Prisoners single fare to LONDON From Peterborough			
	Prisoners fare from London To		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Lt.-CAPT.
(W. FERN) D.A.P.M.
LONDON AREA

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-55
40/F & S/483

SUMMARY OF EVIDENCE

Summary of Evidence in case of No. H66734 Gnr William Frank Dinsdale, 2 Fd Bty, 4 Fd Regt a Soldier of the Canadian Army (Overseas). The C.O. directs that the evidence be taken on oath.

The accused is informed of his rights.

FIRST WITNESS for the Prosecution, C18610 Bdr Clark, E.T. having been duly sworn states:

I was in charge of rear party at Avisford house during absence of L/Sgt Begley who was on leave till 2359 hrs 16 may 43. Lt Welsh issued a pass to gnr's Snow and Dinsdale from A.D. on 14 May 43 to 2359 hrs 16 May 43. They were reported absent to me at 2359 hrs 16 May 43 by the guard. I reported their absence to L/Sgt Begley on the morning parade at 0800 K 17 May 43.

The accused delines to cross examine.

(Signed) Bdr. E.T. Clarke

SECOND WITNESS for Prosecution, C18528 L/Sgt Begley, H.R. having been duly sworn states:-

I returned from leave 2359 hours May 16/43 and took over charge of rear party at Avisfor House from Bdr Clark E.T. On the morning of May 17 on the 0800 hr parade Bdr Clark informed me that Lt Welsh had issued 48 hour passes expiring at 2359 hrs Sunday 16 May 43. All had reported in except Gnrs Snow and Dinsdale. I notified the R.S.M. by phone and sent a note to the B.S.M. by D.R. I was at Avisfor House till may 23, 1943 during that period neither one reported in.

The accused declines to cross examine.

(Signed) H.R. Begley L/Sgt.

THIRD WITNESS for the Prosecution, C19502 B.S.M. Wibe, A.J. having been duly sworn states:-

I am Battery Sergeant Major 2 Fd Bty 4 RCA. I was with the main party of the Battery which joined the rear party in our present area Arundel Park on 23 May 43. We held a Battery parade at 1400 hrs 23 May 43 and I recieved report that Gnr Dinsdale W.P. and Gnr. Snow R.P. were absent. They continued to be absent from each subsequent parade and I did not see them again until they arrived in camp under escort at approx 1600 hrs 8 Jun 43.

The accused declines to cross examine.

(signed) Arthur J. Wibe

The accused having been duly cautioned in accordance with R.P. 4E says

"No Sir".

(Signed) W.P. Dinsdale

Certified R.P. 4E complied with.

(L.M. Harvey) Capt.
Officer detailed to take summary.

In the Field
8 Jun 43.

Summary of evidence in case of No H66134 Gnr William Frank Dinsdale 2nd Fd Battery, 4 Fd Regt a soldier of the Canadian Army (Overseas). The C.O. directs that the evidence be taken on oath.

The accused is informed of his rights.

First Witness for the Prosecution:-
C18610 Bdr Clark F.T. having been duly sworn states:

I was in charge of rear party at Aneford House during absence of T/Sgt Begley who was on leave till 2359 hrs 16 may 43. Lt Welsh issued a pass to gnrs Snow and Dinsdale from A.D. on 14 may 43 to 2359 hrs 16 may 43. They were reported absent to me at 2359 hrs 16 may 43 by the guard. I reported their absence to T/Sgt Begley on the morning parade at 0800, 17 may 43.

The accused declines to cross examine.

Bdr. F.T. Clark

Second Witness for Prosecution:
C14528 T/Sgt Begley H.R. having been duly sworn states:
I returned from leave 2359 hours May 16/43

and took over charge of rear party from Bdr Clark E.T. On the morning of May 17 on the 0800 hrs parade Bdr Clark informed me that Lt Weddell had issued 48 hour passes expiring at 2359 hrs Sunday 16 may 43. All had reported in except Gnrs Snow and Dinsdale. I notified the RSM by phone and sent a note to the B.S.M. by D.R.. I was at Amesford House till May 23, 1943 during that period neither one reported in.

The accused declines to cross examine.

H.H. Sept 4/43

Third witness for the prosecution: C 19502 B S M Wilke AS having been duly sworn states:

I am Battery Sergeant Major 2 Fd Bty H R C A. I was with the main party of the Battery which joined the rear party in our present area Arundel Park on 23 May 43. We held a Battery parade at 1400 hrs 23 May 43 and I received report that Gnr Dinsdale W E and Gnr Snow R F were absent. They

continued to be absent from each subsequent parade and I did not see them again until they arrived in camp under escort at approx 1600 hrs 8 June 43.

The accused declines to cross examine.

Arthur J. Wicks

The accused having been duly cautioned in accordance with RP4E says "No Sir"

W. Ashendale.

Certified RP4E complied with

L Harvey Capt.
Officer detailed to take summary.

In the Field
8 June 43.

LIST OF WITNESSES FOR THE PROSECUTION

C19610 Bdr. Clarke, E.T.

C19528 L/Sgt Begley, H.R.

C19502 B.S.M. Wibe, A.J.

OFFICERS UNDER INSTRUCTION

LIeut G.M. Welsh

Lieut T.E. Dack.

LIST OF EXHIBITS

Letter showing time of apprehention

C.M.H.Q. 1000/55 showing cost of apprehention

Lt. S Grange detailed to defend
H66734 Gnr Dinsdale WF.

M.F.M. 6

No. H66734 Name Dinsdale, William Frank | Battery, or Company | Corps RCA | Date of enlistment 3 Feb 41 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunken-ness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order Remanding with trial	By whom awarded	Remarks
Brandon Manitoba	28-7-41	Gnr.		WOAS, AWL in that he was absent from Barracks from 1500 hrs 28-7-41, to 1200 hrs 29-7-41 time absent 36 hrs (AA 15(1)	Sgt Simmons L/Bdr Stephens	Forfeit 8 days pay	29-7-41	O.C. 70 Fd Bty	
Brandon Manitoba	19-10-41	Gnr.		WOAS, AWL in that he was absent without leave from Barracks from 0700 hrs 19-10-41 to 0945 hrs 19-10-41 time absent 2 hrs 45 mins (AA Sec 15(1)	Sgt Simmons				
In the Field	17 Nov 42	Gnr.		AA 40 unshaven on morning parade 17 Nov 42	TBSM Mann JP	4 days C.B.	18 Nov 42	Maj Steuart Jones	

CERTIFIED TRUE COPY

L Hamley Capt

(P.T.O.)

17 E2

H66734 William Frank DINSDALE 4 Cdn Fd Regt RCA

19 Single Nil

3 Feb 41

6 6

Sharney Capt

11 June 3

X 15

CPL DION G.H

Correspondence to be PINNED here.

X 15.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 24th day of December, 1942

Whereas it appears to me, the undersigned, an officer in Command of R.C.A.S.C. 1 Canadian Corps, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [illegible]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

[illegible]

Proceedings Reviewed
Reviewing Officer
2 Feb 43

352

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	E. Partington	64 Cdn Gen Tpt Coy

Members.

Rank.	Name.	Regiment.
Captain	M B Bell	C.T.Sup Coy
Lieutenant	J R Rezek	C.T.Amn Coy

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed E W McQueen
(E.V.McQueen) Colonel
Commanding R.C.A.S.C. 1 Canadian Corps
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D-36396 Corporal George Henri DION 85 Canadian Bridge Company R.C.A.S.C.	FIRST CHARGE Sec 40 A.A.	Not Guilty Guilty	Guilty To be reduced to the ranks Bartington major President 28 Dec 42.	Confirmed W.C.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) — no

(Signed) W.V. McQueen (Signed) Bartington major
(M.V.McQueen) Colonel
Commanding R.C.A.S.C. 1 Canadian Corps
Convening Officer (e) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of December 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. ~~The officers under instruction~~)

* Omit if not applicable.

were duly sworn.

Signed this 28th day of December 1942.

Bartington major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 782 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 29th day of December 1942

W.V. McQueen Col.
Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) 29th, Dec. 1942 (Signed) Alex Ferguson Major
O.C. No. 85 Can. Bridge Coy. R.C.A.S.C.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

B2. Ebbington Major President

CHARGE SHEET

The Accused, D-86396 Cpl. C. H. DION of 86 Cdn. Bridge Coy. R.C.A.S.C., Canadian Army Overseas, when on active service, is charged with

FIRST CHARGE
Army Act
Sec 40

AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on or about 29 November, 1942, did make and was involved in a disturbance within the Camp Area.

(Alex Ferguson) Major
Officer Commanding
86 Cdn Bridge Coy RCASC

Field
23 Dec 42

To be Tried by Field General Court Martial

(M.V.McQueen) Colonel
D.D.S.T.
1 Cdn Corps

Field
24 Dec 42

NO. 85 CDN. BRIDGE COY. R.C.A.S.C.
CANADIAN ARMY OVERSEAS

The present is to certify that I have this day examine No. D-36396 Cpl. Dion, G. H. of 85 Cdn. Bridge Coy. R.C.A.S.C. and find him fit to undergo trial by F.G.C.M.

W. [illegible]
Medical Officer

Unit

Field
Date: 28 Dec 1942

Darlington Major
President

A Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field
on the 28th day of December 1942 by order of
Colonel M V Mc Queen
Commanding 1 Canadian Corps R.C.A.S.C.
dated the 24th day of December 1942

President.
Major E. Partington 6 H Cdn Gen Spt Coy RCASC

Members.
Captain M B Bell 1 Cdn C.T. Sup Coy RCASC
Lieutenant J R Rozee 1 Cdn C.T. Amn Coy RCASC

Trial of* D-36396 Spl G H Dion
85 Cdn Bridge Coy RCASC

, ~~Judge Advocate~~ .

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~
~~to serve owing to~~
Pursuant to R.P. 106 Footnote 5 it was considered necessary that Lieut J.R. Rozee should not be a member of the court.
~~waiting for duty, take the place as a member of the Court.~~
The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut H.C. HAWES 85 Cdn Bridge Coy RCASC

~~Counsel for~~ defending officer† Lieutenant G.A.R. KNOTT 85 Cdn Bridge Coy RCASC.

At 1315 o'clock the Trial commences.

The order convening the Court is read, and is marked "M" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*
NO SIR.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

The President, members ~~and judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Interpreter is duly sworn.
D 123363 Cpl LESSARD B
85 Can Bridge Coy RCA.S.C.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Not Guilty *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

~~The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.~~

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No.

The prosecutor makes an opening address [~~hands in a written address which is read, marked~~ , ~~signed by the President, and attached to the proceedings~~]

The prosecutor proceeds to call witnesses.

First witness for prosecution. F 87082 Pte WOODWORTH W.J
85 Can Bridge Coy RCASC

being duly sworn, is examined by the prosecutor.

Q. Do you recognize the accused
A. yes
Q. Were were you on night 29th Nov 42
A. Canteen, Warden Park
Q. What happened there
A. I was having a drink at the table when I heard a racquet behind I turned around and saw Cpl Dion and Pte Cooperman standing facing one another. Pte Bousfield was holding Pte Cooperman and Cpl Huard came in and broke them. They went out and I dont know where they went to. ~~Cpl Dion~~
Q. Exactly what did you hear.
A. Heard talking and a chair slammed. Cpl Dion held a chair over his head and Cooperman was in front of him with his fists clenched I never saw any blows struck
Q. What did Cpl Dion do after Cpl Huard came ~~on~~ around
A. I did not hear the accused say anything nor see him do anything
Q. Is the canteen quiet normally
A. It is when the boys are all sober.
Q. Were they all sober that night
A. No
Q. you distinctly heard the noise of the argument above the other noise of the canteen
A. Yes.
Q. Did you see the accused (2) Pte Bousfield & Cooperman leave the canteen
A. yes But I do not know in what order they left

C 2

Q. On your way to your hut did you see the accused, Cooperman or Bousfield
A. No
Q. Did Cooperman or Bousfield live in the same hut with you
A. No.

Cross examined by defence
Q. Had the disturbance started before you turned around.
A. Yes.
Q. Was anybody holding Cpl Dion
A. I didn't see anyone.

Examined by court
Q. When the accused was holding the chair over his head did he appear to be threatening Pte Cooperman.
A. No — He didn't seem to be
Q. Can you explain why he was holding the chair
A. No
Q. What condition were you in.
A. I was Pretty full

R.P. 83(B) have been complied with.

Second Witness for prosecution } B88102 Pte Bousfield H.
88 Can Bridge Coy R.C.A.S.C.
being duly sworn is examined by prosecutor.

Q. Do you recognize the accused
A yes
Q. Where were you on night of 4th Nov 42
A Canteen, Warden Park
Q. What did you see there
A. I was too drunk to see very much. I recall there was an argument in the canteen between Cpl Dion and Pte Cooperman. The argument was broken up by Cpl Huard
Q Where were you at the time you first saw the or heard the argu
A About in the middle of the Canteen.
Q. Was the noise above the the noises in the canteen
A. yes.
Q What picture had you got when you first saw the argument
A. Cpl Dion and Pte Cooperman arguing
Q. Did you leave the canteen with Cooperman that night
A. Yes.

Q. Did the accused leave before you.
A. I am a little hazy on that point. I believe he did.
Q. Did you see the accused after leaving the Canteen
A. I did not
Q. Did you and Cooperman go looking for the accused
A. I lost Cooperman in the darkness. I don't believe I had any intention of looking for anyone
Q. ~~What~~ Was the accused present in the hut when you entered
A. No.
Q. What time did you go to the hut
A. It's all hazy. I do not know
Q. When you were in Section hut were you hit with any missile
A. Yes but I don't know who threw it.
Q. Did you know Cooperman was hit over the head with a stick
A. Yes but I don't know who did it.
Q. Did the accused put in an appearance at the hut between the time the shots were fired and the time that the ambulance came.
A. I didn't see him.

R.P. 83(B) have been complied with.

2nd Witness for prosecution } L-7651 Pte RAY E. C.W.
18 Car Bridge Coy RCASC
being duly sworn is examined by prosecutor

Q. Do you recognize the accused.
A. Yes.
Q. Where were you on night of 29th Nov 42
A. Canteen Marden Park
Q. What exactly did you see then
A. All I saw was the R.P. corporal standing between Pte Cooperman and Cpl Dixon
Q. Did you hear any loud noise or unusual noise
A. No — nothing unusual
Q. Did you hear any threats passed between the accused and Pte Cooperman.
A. No
Q. Where were you when the shots were fired in Theatre Hut.
A. On my bunk.

Examined by Court. - C/.

Q. Were you intoxicated on night 29th Nov 42
A. Yes.

Fourth Witness for Prosecution } B87649 Cpl Thompson H.F
85 Cdn Bridge Coy RCASC
being duly sworn is examined by prosecutor

Q. Do you recognize the accused
A. Yes.
Q. Where were you on night 29th Nov 42
A Canteen Warden Park
Q. Tell the Court exactly what you saw
A. The first disturbance I saw was Cpl Dion strike Pte Cooperman Pte Cooperman struck Cpl Dion and they were parted by the provost Corporal. After they were parted Pte Bousfield attempted to strike Cpl Dion but was held back. A few minutes later the canteen was closed and I left

Q. Were you sober
A. I only had one glass of beer and consider myself sober.
Q. Was it an unusually loud noise which attracted your attention to the scuffle.
A Yes it was a shuffling noise.
Q Do you remember what words were passed between the accused and Cooperman.
A. No I cant remember.
Q. After you left the canteen did you see the accused again
A. No.

R.P. 83(B) have been complied with

Fifth Witness } D121938 Cpl HUARD W.D.
85 Cdn Bridge Coy RCASC
being duly sworn is examined by prosecutor

Q. Did you see the accused on night 29th Nov 42
A. Yes at Canteen, Warden Park.
Q Did you see the accused engaged in any fight in the canteen that night
A Yes At about 2115 hrs I saw the accused in a clinch with Pte Cooperman I was at the other end of the canteen and I came up and broke it up.
Q. Were there any others who tried to take part in the fight
A. A few minutes later Pte Bousfield went up and had a few words with Cpl Dion I also broke that up.
Q After you stopped the fight what action did you take
A. I told Cpl Dion and the rest of the men from E Section to go back

Q this hut
Q. Why did you not strike the others who were involved sat also
A. I felt that there would be another fight outside the Canteen. Pte Cooperman was pretty well under the weather and the ladies in his section would side with him and start another fight.

Q. Did you hear any words in the argument as to how it started
A. No - I don't know how it started
Q. Where were you when you heard the rifle shots
A. In the Canteen

R.P. 88(B) have been complied with

The Defence placed a motion before the court under R.P. 32 that a 'Prima Facie' case has not been established by the prosecution and that the case be dismissed.

The court disallows the motion of the Defence and places the accused on his defence.

D

The prosecution is closed.

Defence.

R. P. 40 was complied with.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. YES

Question. Do you intend to call any other witness in your defence?

Answer. YES

Question. Is he a witness as to character only? *Answer.* No As to facts

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says:†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

D 2

First

D-36396 Cpl DION G.H
83 Can Bridge Coy RCASC
being duly sworn, ~~states~~ examined by defence.

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

Q. On 24th Nov were you in the Canteen
A. yes
Q. Who was with you
A Pte Bourgie and Pte Leonard
Q. What happened while you were seated at your table
A. I was in the middle of the canteen when some of the boys of my section called me. I went to their table, we had a few liters and started to sing "Alouette". The first thing I knew somebody gave me a punch in the back of the neck. I did not see who struck me but when I got up from my chair the nearest man was Pte Cooperman. I did not know him before. I stood up and took a swing at him, then the R.P. Corporal told us to go back to our hut. I left the canteen.
Q. After you hit him did he hit you
A. I got hit on the to nose but dont remember who hit me.
Q. What did you do after the Cpl Heard interfered.
A. We left the canteen

Cross examined by prosecutor

Q. Was Pte Lemieux with you in the Canteen
A. yes.
Q. Was he connected with the affray later in the night
A. yes.
Q. You do not know who hit you but you got up and hit the Cooperman.
A. yes.
Q. Did you go to your hut after ordered by the R.P.
A. No
Q Were you in the hut prior to the shooting
A. No.
Q. Why did you not go to the hut.
A. To avoid trouble in case they came to the hut
Q What made you think that they would come to the hut and cause trouble
A Pte Bousfield told me to come outside and fight"
Q Was Cpl in this ~~hut~~ when ordered you not take steps to stop

Q. ~~Where did you go instead of going to the hut~~

Examined by Court.

Q. Where did you go after you left the Canteen
A. About 150 yds from there.
Q. At what time did you ~~not~~ go ~~to~~ to the hut
A. About 3 o'clock in the morning
Q. Were you in charge of the hut
A. Yes, it was my first night in charge.
Q. Were you drunk
A. I was not drunk but I was feeling pretty good.
Q. Did you hear the shots
A. I heard some noise but did not realize it was shots from a rifle.

R. P. 83(B) have been complied with.

Second witness for defence } D 128310 Pte LEONARD G.R.
55 Can Bridge Coy R.C.A.S.C.
being duly sworn is examined by defence.

Q. Were you on the Canteen on 29th November 40 with Cpl Dion.
A. Yes.
Q. What happened when you were sitting at the table
A. We were drinking beer and singing "Alouette". Pte Cooperman came to the table and told Cpl Dion to stop singing. Cpl Dion said "go away, I don't want to speak to you" Cooperman took Cpl Dion by the collar and struck him in the face ~~Cpl Dion~~ and knocked him down. Three Englishmen started to wrestle with him and Cpl Huard came up and said "it's not fair to fight three against one. The three Englishmen were Bousfield, Cooperman and Woodworth. Cpl Huard seperated them and Cpl Dion returned to his table.

Cross examined by Prosecutor.

Q Are you sure of the identity of the three Englishmen
A yes.
Q. Did you see Cpl Dion get up and swing at Cooperman
A. No- He didn't have a chance to

R.P. 83 B's have been Complied with

Third Witness for Defence } D-123428 Pte BOUGIE G.R.
83 Can Budge Coy RCASC

being duly sworn is examined by defence.

Q. Were you in the Canteen, Marden Park, on 24th Nov 42 at a table with Cpl Dion.

A. Yes.

Q. Did you see anyone hit Cpl Dion

A Cooperman

Q. Had Cpl Dion done anything to Cooperman first

A. No.

Cross examined by prosecutor

Q. Did you see Cpl Dion attempt to strike some one else

A. No.

Examined by Court.

Q were you drunk or sober on that night

A. I was feeling good

Q. Did you see Cooperman grasp Cpl Dion by the Collar

A. Yes.

Q. Was that the cause of the trouble.

A. No. we were singing in French. Cooperman came over told ~~him~~ Dion to shut up and grasped Cpl Dion by the collar.

R.P. 83 (B) have been complied with.

The Court closed for consideration of finding

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused D16196 Cpl G H. Dixon is guilty of the charge

Darlington Major President

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

LIEUT R G DAVIDSON Adjutant 20th Bridge Coy RAE(E), is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* YES

The above statement ~~[with the schedule of convictions and of cases~~ in which trial has been dispensed with] is read, marked X, Y, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

~~Cross-examined by the accused.~~

Question to the accused.

Do you wish to address the Court? *Answer.* Yes.

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused D 36396 Cpl George Henri Dion ~~sentence~~ to be reduced to the ranks. Sentence

Barrington major
President.
28 Dec 42

SUMMARY OF EVIDENCE IN THE CASE OF: D-36396 Cpl. Dion G.H., No. 85 Cdn. Bridge Coy. R.C.A.S.C., a soldier of the Canadian Army Overseas on active service.

The Commanding Officer directs that the evidence be taken under oath.

FIRST WITNESS: F-87082 Pte. Woodworth W.J., having been duly sworn states:

"I am Pte. Woodworth, W.J., No. 85 Cdn. Bridge Coy. R.C.A.S.C.

Ptes. Cooperman, Bousfield and I went to the Canteen together on the 29 Nov. 1942 at approximately 1630 hrs. We sat around talking and drinking beer. We did not go to the Mess Hall for supper but had sandwiches in the Canteen. Everything was quiet and peaceful until suddenly I heard a quarrel and on looking around saw Pte. Cooperman and Cpl. Dion facing one another. Cpl. Dion was holding a chair over his head and Cooperman standing with his hands clenched. Pte. Bousfield was holding Pte. Cooperman from behind as if to prevent him from striking Cpl. Dion. There were several others standing nearby, taking no part in the quarrel; these I did not recognize. I got up from where I was sitting with the intention of investigating when Cpl. Sevigny who was sitting at the table with me told me to sit down which I did. I then saw Cpl. Huard of the regimental police break up the quarrel and order those involved to leave the Canteen. I remember Ptes. Cooperman, Bousfield, Cpl. Dion and one other O.R. leave the Canteen. The O.R. I later found out to be Pte. Lemieux. They did not leave together and I don't know in what order they left. Everything was then peaceful from that time until closing time at 2130 hrs. I left the Canteen at closing time in company with Pte. Reay and proceeded to "G" Section lines. I stopped off in Pte. Reay's hut and sat talking to him while he was preparing for bed. Someone, I don't know who, opened the hut door and shouted that Pte. Cooperman had been shot over in "G" Section hut. Pte. Reay and I rushed out and hollered "where is he?" and Pte. Bousfield replied "over here". On arriving at the hut I saw a bed upset in the middle of the floor and Pte. Cooperman lying on the floor near the centre of the hut next to the wall. Pte. Bousfield told me to go for the M.O. which I did.

The accused declines to cross-examine the witness.

SIGNED
F-87082 Pte. Woodworth W. J.
85 Cdn. Bridge Coy. RCASC.

SECOND WITNESS: B-85102 Pte. Bousfield H. No. 85 Cdn. Bridge Coy. R.C.A.S.C., having been duly sworn states:

"I am B-85102 Pte. Bousfield H. of No. 85 Cdn. Bridge Coy. R.C.A.S.C.

On 29 Nov. 1942 Pte. Cooperman and I went to the Canteen at approximately 1600 hrs. We sat around talking and drinking with other men who we knew and during this time drank considerable beer. I don't remember going for supper and became drunk. Later in the evening my attention was drawn to a quarrel between Cpl. Dion and Pte. Cooperman. I saw these two men facing one another but did not see any blows struck.

SECOND WITNESS (Cont'd.)

"They just appeared to be quarreling. Nearby was a table around which were seated 4 or 5 other ranks (French - Canadian). I stepped between the table and the participants in the quarrel and told those seated at the table not to interfere but to let them fight it out. I recall seeing Cpl. Huard of the Regimental police approach the participants in the quarrel and everything then became orderly again. Until I left the Canteen at 2145 hrs. in company with Pte. Cooperman everything seemed to be quiet and orderly. We proceeded down the road towards our quarters during which time I lost Pte. Cooperman in the darkness. The next thing I remember was hearing Pte. Cooperman calling to me. His voice came from the direction of an "E" Section hut. I met Cooperman at the door of the "E" Section hut (the same hut where the shooting took place) and we entered together. We made our way to the center of the hut and exchanged words with some of the personnel present. What was said or who were present I do not remember. We then started to leave by the same door when we were both struck by some missile which I believe was thrown from the outside. I slammed the door shut. Cooperman left bythe other door and I went outside through the door the missile was thrown in. After standing for a few minutes in the darkness I heard Cooperman calling to me as though he was outside at the other end of the hut. On arriving there I saw Pte. Cooperman and Clelford entering the hut so I followed them in. When inside the shots rang out so I dove under a bed and took cover. When the shooting was over I found out that Pte. Cooperman had been shot so I rendered first-aid.

The accused declined to cross-examine the witness.

Sgd. B-85102 Pte. H. Bousfield.
85 Cdn, ridge Coy. R.C.A.S.C.

THIRD WITNESS: L-7651 Pte. Reay L. having been duly sworn states:

"I am Pte. Reay L., No. 85 Cdn. Bridge Coy. R.C.A.S.C. On 29 Nov. 1942 I went alone to the canteen at about 1800 hrs. and had quite a number of beers. Latervin the evening there was considerable noise and suddenly things became very quiet and on looking around I saw Cpl. Huard of the Regimental police standing between Cpl. Dion and Pte. Cooperman. I left the Canteen with Pte.s Woodworth and Clelford who took me to my hut. They helped me off with my shoes and I was lying in my bunk when someone I did not see who entered the hut and said "Hap, come here quick" and Clelford left the hut. About a minute or so after Clelford left the hut we heard shots fired but paid no attention until we heard a commotion on the road outside the hut. We went outside and was attracted by the light and noise from a "E" Section hut. On arriving there we found Pte. Cooperman lying on the floor wounded and someone asked for my field dressing.

The accused declined to cross-examine the witness.

Sgd. L-7651 Pte. C.W. Reay
85 Cdn. Bridge Coy. R.C.A.S.C.

FOURTH WITNESS: B-89649 Cpl. Thompson H.F. having been duly swern states:

"I am B-89649 Cpl. Thompson H.F., No. 85 Cdn. Bridge Coy. R.C.A.S.C.
On the 29 Nov. 1942 at 2100 hrs. I went to the Canteen for a drink. At approximately 2115 hrs. everybody appeared to be happy and there was considerable singing. I was talking with Pte. Reay at the far end of the counter when my attention was attracted by a commotion near the front of the canteen and I saw Cpl. Dion and Pte. Cooperman standing facing one another. I saw Cpl. Dion swing at Pte. Cooperman and Pte. Cooperman in turn swing at Cpl. Dion. The Provost Cpl. then separated them and Pte. Bousfield attempted to swing at Cpl. Dion but was held by other men standing by the bar. Things then became quiet and the Canteen closed a few minutes later at 2130 hrs.
The accused declined to cross-examine the witness.

Sgd. B-89649 Cpl. Thompson H.F.
85 Cdn. Bridge Coy. R.C.A.S.C.

FIFTH WITNESS: Cpl. Huard, W.D., Reg't. Police Corporal, having been duly swern states:

"I am D-121938 Cpl. Huard, W.D., Reg't. Police Cpl. No. 85 Cdn. Bridge Coy. R.C.A.S.C.
On 29 Nov. 1942, while on duty in the N.A.A.F.I. Canteen at 2115 hrs. my attention was attracted by a disturbance. On looking around I saw Cpl. Dion and Pte. Cooperman fighting. I immediately broke up the fight. Ptes. Bousfield and Clelford went over to Cpl. Dion and exchanged words with him. I also stopped this argument and told Cpl. Dion and these with him to leave the Canteen and go to their hut. They obeyed my order and I did not see Cpl. Dion again that night.
The accused declined to cross-examine the witness.

Sgd. D-121938 W. Huard Cpl.
85 Cdn. Bridge Coy. R.C.A.S.C.

STATEMENT TO THE ACCUSED:

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

STATEMENT OF THE ACCUSED:

On 29 Nov. 1942 I was sitting with some friends in the Canteen drinking. Someone up behind me and struck me on the back of the neck. I did not see who struck me but on looking around I saw someone who I later found out to be Pte. Cooperman, he was the nearest person standing by me.

STATEMENT OF THE ACCUSED: (Cont'd)

I do not know why he struck me as I had never spoken to him before. I got up and took a swing at him and he hit back at me. Cpl. Guard of the Reg't. police then came up and told me to go to my hut. I went outside and to the back of my section lines.

Sgd. D-36396 Dion, G.H., Cpl.
85 Cdn. Bridge Coy. R.C.A.S.C.

I certify that Rules of Procedure A, C, D, E and F have been complied with.

Taken down by me in the presence of the accused at Coalhurst Camp, No. 85 Cdn. Bridge Coy. R.C.A.S.C., this 22nd day of December, 1942.

Sgd. H.C. Hawes, Lieut.
No. 85 Cdn. Bridge Coy.
R.C.A.S.C.

Partington Major
President

WITNESSES

Prosecution	F-87082	Pte. WOODWORTH W.J.	No. 85 Cdn. Bridge Coy. RCASC
	B-85102	Pte. BOUSFIELD H.	No. 85 Cdn. Bridge Coy. RCASC
	L-7651	Pte. REAY L.	No. 85 Cdn. Bridge Coy. RCASC
	B-89649	Cpl. THOMPSON H.F.	No. 85 Cdn. Bridge Coy. RCASC
	D-121938	Pte. HUARD W.D.	No. 85 Cdn. Bridge Coy. RCASC

Defence

Nil

I, D-36396 Cpl. George-Henri DION, No. 85 Cdn. Bridge Coy. RCASC, desire the assignment of an officer to represent me at my trial by F.G.C.M. Lieut. J.B Patton if available

Field 23 Dec. 42

Enl'y [redacted] Sapper

No. D-36396 Name Dion George Henri Rank Lieutenant Sqn., Battery, or Company 25 Cdn. Bridge Coy. RCASC Corps Date of enlistment 23-7-40 G.C. Badges Service or Proficiency Pay

M.F.M. 5 (A.F.W. 3193) (1154—7-41) (1224-20) H.Q. 1072-19-1402

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order forwarding with trial	By whom awarded	Remarks
Sheet 2 destroyed on completion of two years service on 23 July 42 in accordance with CADRO 310 Last entry 21-4-41									

Certified true [illegible] Lieut.

A/Sqn. No. [illegible] Co. R.C.A.S.C.

P.T.O.

Exh X Hartington major President

M.F.B. 355
5M-10-39 (2492)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-36396	Cpl.	DION George Henri	86 Cdn. Bridge Coy, R.C.A.S.C.

1. The following is a fair and true summary of the entries in the ~~Conduct sheets~~ Service and General ~~Regimental and Squadron, Battery~~ Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with:

	Within last 12 months	Since enlistment
For	none times	A.W.L. A.A. Sec. 15(1) One times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.

~~Note. If the charge is for drunkenness the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, summary awards under Air Force Act~~ A.F.A. 22 Section 47 of the Army Act and dispensations with trial under A.A. 72 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for~~ beginning on the ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for ~~6 22~~ NIL days in civil custody, and ~~7 NIL~~ days in military custody, making a total of ~~7~~ ~~7 22~~ ~~6 NIL~~ days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service in~~ attestation paper is 26 yrs 11 months 20 days

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service in~~ attestation paper 23 July 1940

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon~~ service for the purpose of determining his pension

9. ~~The accused is in possession of or entitled to~~ military ~~air force~~ military ~~in possession of or entitled to~~. State any air force decoration ~~allowed~~ awarded.

10. ~~(If the accused is a present officer.)~~ The accused before he was made a warrant officer last held the regimental rank of

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force, the rank of~~ ~~Permanent Force~~ ~~, and in his regiment (or corps), the rank of~~ ~~dated~~ ~~dated~~

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

30 Dec. 41 Date of promotion.

In the rank of Cpl. 11 mos. 14 days years.

In the rank of years.

In the rank of years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

~~Air Force~~

~~Of convictions by a court-martial or civil court, of summary powers under section 47 of the~~ Army Act, and of cases in which trial has been dispensed with of accused, Number Rank

Name of Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22nd day of December 1942

Lieut.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

YY 37

PTE DION J.A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-59251 Pte DION, Jean Alphonse - 4 CGPC

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 8(1)	Not guilty	Guilty.	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 54, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in case of Kit see RP 44 fn 6.)

FOT. As per record and/or sentence for ~~[illegible]~~ beginning, (date) (1)

(1. Insert sentence being varied, or delete, if not applicable. See RP 46(A). Information should be found on Mif B355 or AF B296.)

Time in confinement awaiting present trial—a total of 4 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on Mif B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for two (2) years.

(Sgd) ~~[illegible]~~ Judge-Advocate, if any. 17 Dec 43 Date awarded. (Sgd) F.D. Lucie Blee President. (RP 45, 92.)

(See back of Convening Order as to assembly and dispersal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and Sentence Confirmed, but I remit six (6) months' detention.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) SS

(1. AA 57A. Delete if not used.)

(Sgd) ~~[illegible]~~ DRCE

Date 22 DEC 1943 Commanding D GP CDN RFT UNITS Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-59251 Pte. DION, J.A.	24 Dec 43.	A.B. Goodings (H.B. Goodings) Maj, Offr i/c Records Commanding 4 Cdn Gen Pioneer Coy CA(O)

DO #54 d/24 Dec 43.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

YY-37

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier G. Francoeur Comd "D" Gp, CRU dated 16 DEC 43.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prsnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names	Surname.	Unit.
D-59251	Pte	John Alphonse	DION	4 CGPC

Proceedings Reviewed

[signature] Capt
Reviewing Officer (J.A.G.) C.M.H.Q.
5 Jan 44

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 17 Dec 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

FOT. A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr~~, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for verbs and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

FOT. A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

FOT. A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1330 hours trial commences.

FOT. A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Lieut Rivoire as interpreter? Ans No

The Interpreter is sworn.(1) Do you object to Sgt Barton, WE as shorthand writer? Ans No.
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col.	J.D. Pinsedie	4 CIRU
Member	Capt.	D.J. Kinsdon	3 CIRU
Member	Lieut	J.A. Eason	3 CIRU
Judge-Advocate			
Prosecutor	Lieut	W.B. Reid	4 CIRU.
Defending Offr	Capt.	W.H. Law	4 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans Yes. Is the Defending Offr a lawyer? Ans Yes.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea.(1) FOT.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

FOT. A9. The accused is ~~are~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

FOT. A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D 2 E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc., offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 82) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur on a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 2. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which, in your interest, the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. .....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of ~~Guilty~~ in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E on p 3.~~

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No.(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~(no)~~ (no) opening address.(1) NOT.
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the~~ NOT. charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, ~~accordingly~~, the trial will proceed on the former, but the accused is (are) found Not Guilty on ~~the latter charge(s).~~(4)
(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. D. neither. Do you intend to call witnesses on your behalf? Ans. Yes. Are they witnesses as to character only? Ans. No.
(1. RP [redacted] 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(4).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is ~~(are)~~ recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).) NOT.

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2) NOT.
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans. Yes. attached.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Nothing by counsel.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) NIL
(1. When several accused tried separately see RP [redacted]. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

The accused, D-59251 Private Jean Alphonse DION, on the strength of 4 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas, is charged with.

WHILE ON ACTIVE SERVICE

FIRST CHARGE SECTION 8(1) ARMY ACT

Striking his Superior Officer, being in the execution of his office.

in that he,

In the Field, at 0745 hours, 11 December 1943, struck with his fist in the face Lieutenant John Louis BRAIVE, 1 Canadian Armoured Car Regiment, who was at that time Orderly Officer.

In the Field
15 December 1943

(J.H. Donnelly) Capt.,
A/Officer Commanding,
4 Cdn Gen Pioneer Coy CA(C)

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

IN THE FIELD
16 DEC 1943

(G. Francoeur) Brigadier.
Commander,
"D" Group, Cdn Rft Units.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D-59251	Pte		Jean Alphonse	DION	4 CGPC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 DEC 43 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col.	F. D. Tweedie	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Captain	to be detailed by CO	3 CIRU
A Lieutenant	to be detailed by CO	3 CIRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.) Brigadier. (Rank.)

Date 16 DEC 43

Commanding "D" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

951

MEDICAL OFFICER'S CERTIFICATE

K.R. (Can) para 557

I certify that I have this morning examined No D 59251,
Name Pte Dionne J.A. and in my opinion he is fit
to undergo trial by Court Martial.

In the Field
Date: 17 Dec. 43.

H. Henderson Capt.
Medical Officer,
4 Cdn Gen Plen Coy C.A. (O)

A.D.C.

1st Witness for the Prosecution) D-53701, Pte. (A/Cpl.) J.H. DICK, 1 CACRU sworn states:

Sir, on 11 Dec 43 at 0745 hrs. this man Pte. Dion, came into the mess with a group of men and the cook refused to feed the boys, being ten minutes after meal parade was called. Pte. Dion turned to Lt. Breive and asked him about breakfast, and while he was asking him he began shouting. So Lt. Breive told Pte. Dion to calm down or he would put him in the Guard Room. So then Pte. Dion said put me in the Guard Room, then took a swing at him, and ran away down the mess hall. Pte. Dion, I mentioned, is that man there (pointing to the accused). I was standing on the same side of the counter about four feet away when this occurred. The accused was using English as far as I could make out. The Orderly Officer was using English when he asked him to calm down. The cook refused to feed him and took the food and went to the cook house. When Pte. Dion first came up the cook was at the counter, clearing away the food. I did not hear the Cpl. cook say anything. While the Cpl. cook took his food, Pte. Dion turned to the Orderly Officer. I would not say that he was much excited. He started shouting at the Orderly Officer. The more he talked, the more excited he got. The Orderly Officer was very calm at first, but as Pte. Dion was shouting he had to raise his voice and then Pte. Dion struck him on the side. He took a swing at him. I did not see him strike him. I only saw him swing at the officer.

It is the opinion of the Court that it is not necessary to comply with Rule 83 (B).

2nd Witness for the Prosecution) B-60790, Pte. (A/CPL.) N. Denholm, 1 CACRU, sworn states:-

On 11 Dec 43 at 0745 hrs. Saturday morning I was in the dining room for my breakfast noticing a group of men standing back a bit and found out that they were a little late for their breakfast, and the cook would not feed them. As it happens, I am the night despatcher for transport and as a rule I am late for breakfast in the morning. As I went up for breakfast, theOrderly Officer asked what I was doing there, and I explained it to him. I explained the circumstances and he told the cook to give me my breakfast and heard quite commotion behind, so I turned around and saw Pte. Dion arguing with the Orderly Officer asking what his complaint was. I was paying very little attention at thetime, but could not help but hear the argument. It was about Pte. Dion being late for breakfast. Some works followed, but I could ~~not~~ hear very clearly what the Orderly Officer said. "Don't shout at me like that or I'll have to put you under arrest". Pte. Dion said "Put me under arrest" and struck the officer. I was standing right beside the Officer and could not help seeing his fist hit him on the face.

Cross-examination.

The Orderly Officer put Pte. Dion under arrest immediately and went out of the dining room. He walked out. I heard a little argument between the Cpl. cook and Pte. Dion, but I could not understand it. I was attracted by the commotion and turned around. Pte. Dion appeared to be very excited. The conversation I heard was in English.

By the Court. The Orderly Officer was Lt. Breive. I would not say it was a real blow, but was merely a push (witness demonstrates).

It is the opinion of the Court that it is not necessary to comply with Rule 83 (B).

707.

3rd Witness for) C-15038, Tpr. Forbes, C., 1 CACRU, sworn states:
the Prosecution)

While I was on breakfast duty around 0745 hrs., there was an argument over breakfast parade as there always is. This happened on 11 Dec 43. The Orderly Officer told Pte. Dion that if he didn't keep quiet he would put him under arrest, and he said to him put me under arrest, and then he hit the officer in the face. The Orderly Officer was Lt. Breive. I recognized the accused as that man sitting there (pointing to the accused). The blow seemed to stagger him back some. I do not know whether he hit him hard or not. I would say that it was an overhand blow. I could not say that his fist was clenched. It happened in a flash.

Cross-examination.

After the blow the accused ran down the mess hall. He seemed excited. There were a number of men late. When I first came in there was food on the counter. When I first saw the accused he was talking to the cook. He seemed to be excited. I did not hear what was said. Up to the time the Orderly Officer got up there, the accused was pretty well worked up.

It is the opinion of the Court that it is not necessary to comply with Rule 83 (B).

4th Witness for) Lt. John Louis Breive, 1 CACRU, sworn states:
the Prosecution)

I arrived in CACRU some three days before the incident took place and I was detailed as Orderly Officer on 11 Dec 43. That morning at breakfast I was keeping order in the mess hall. We had quite a large parade, and the men had to queue up. Breakfast is normally over at 0730 hrs. and about 0745 hrs. five or six people arrived for their meals. I spoke to several of them and asked why they were late, and I received the answer that they had slept in, and the Cpl. cook refused to serve them, and the accused became excited demanding why he can't have his meal. I intervened and tried to explain to him that I was the Orderly Officer, and if he had a legitimate complaint I would look after it. He continued to shout and I asked him to quiten down. He carried on and this time I warned him if he didn't addressed me properly I would put him under arrest. He then said place me under arrest and struck me in the face. He immediately ran away. I have never seen this man before. The man I refer to is the accused, the man right here (pointing to the accused). He did not hit me terribly hard. If I had not ducked, I would have got it in the eye, but I got it on the cheek, and it was more or less a glancing blow.

Cross-examination.

The conversation was in English. When I started talking to him I realized he was French. I speak and understand French. I had to raise my voice a little to make myself understood. The plates were being washed, and there was the usual kitchen noises. Following the blow, he actually ran away. Some of the people who came in late were fed because they were on duties in which they could not eat at regular meal hours. I ducked and I only got a glancing blow. It did not hurt me much. He must have had his fist coupled up.

It is the opinion of the Court that it is not necessary to comply with Rule 83 (B).

The case of the Prosecution is closed.

J.D.

1st witness for) Capt H. Hersnon.
the defence)

I am Medical Officer of No 4 CBPC, of which the accused is a member. I am acquainted with the accused. He was brought to my attention in my professional capacity. What I know of Pte Dion is not only from my examination but also from his medical record as I have received it from the previous unit, and as a matter of fact he is a member of No 4 CGPC because of his nervous condition. Pte Dion came to the 4 Pioneer Coy from No 2 CIRU where the medical officer had found him tense, fidgity and somewhat apathetic apparently of average intelligence. He considered it advisable to sent him before a Psychiatrist. It was a Capt Gould, and he obtained history from the accused of both his family and his own person. There is the family history of nervousness and the patient himself is nervous. He was unable to attend school because of that condition. After a year and a half at school, the doctor advised to take him out and to teach him reading and writing at home. He had shown other marks of nervousness and instability. He was a bed-wetter until the age of 13. He had worked in various jobs for about a year and a half, and at that time he had had about 5 or 6 jobs. He lost them because of his nervous instability. From what I know of him, I know from the slightest provocation he becomes tense, very nervous, and highly strung, and whoever happens to be near him is liable to be hit. I feel that he is incapable of judging at the time what he does and that his actions are purely ~~fi~~ reflexes. He does not realize the importance of his act nor the consequence. In my opinion, once the accused has been given a stimulus, he will strike anyone who is near him and is not capable of restraining himself. A loud shout would provide the stimulus if he thought that something was going to be done to him. The report from the N.C.O.'s who have had him on the range is that he is entirely irresponsible and it was considered dangerous to send him on the ranges.

Cross-examination.

Personally I do not know of any incidents in which he has struck someone ~~since~~ other than the one before the Court, but other incidences have been reported to me. I should caution that after his stimulus and the accused strikes somebody he does know that he is striking someone, but does not realize the importance of his act. Under ordinary circumstances, he knows right from wrong. Under irritation he does not. When he is irritated, he has no idea of what he may be doing that it is wrong.

It is the opinion of the Court that it is not necessary to comply with Rule 83 (B).

2nd Witness for the Defence) L-27582, Cpl. Gordon, G.L., 4CGPC, sworn states:

I am in the same Company as the accused. I know the accused. I have been the Cpl. in charge of him for approximately 6 months. As a worker, I have found him very good, but he is nervous and very excitable. When he is working with any of the other chaps he seems to be very excited and goes through various motions.

Cross-examination. - Nil.

The Defending Officer reviews the evidence and submits that although the facts are established, the evidence shows that the accused is not responsible mentally and should not be punished for an offence which under the circumstances he was incapable of realizing the act that he had committed.

The Prosecutor reviews the evidence and submits that the accused has not established a defence that he is not guilty and his mental condition is such that the defence would have to prove insanity.

1st Character Witness) Lt. R.F. Dionne, 4 CGPC, sworn states:

The accused is in my Company. I have known him for approximately 6 months in the capacity of superior officer. As a soldier we never had any complaint as far as carrying out his duties. His character has been good and his N.C.O.'s have always reported that he was willing to carry out any duties asked to perform. I have never had any reports of disrespect for his superiors.

Cross-examination - Nil.

The Court is closed.

LIST OF WITNESSES

List of witnesses in the case of D-59251 Private Jean Alphonse DION, attached to 1 Canadian Armoured Corps Reinforcement Unit, on the strength of 4 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

FOR THE PROSECUTION

1. B-53701 Private (Acting Corporal) Jacob Henry DICK, 1 Canadian Armoured Car Regiment, on the strength of 1 Canadian Armoured Corps Reinforcement Unit.

2. B-60790 Private (Acting Corporal) Norman DENHOLM, Headquarters 2nd Canadian Armoured Brigade, on the strength of 1 Canadian Armoured Corps Reinforcement Unit.

3. G-18083 Trooper Clyde FORBES, 4 Canadian Reconnaissance Regiment, on the strength of 1 Canadian Armoured Corps Reinforcement Unit.

4. Lieutenant John Louis BRAIVE, 1 Canadian Armoured Car Regiment, on the strength of 1 Canadian Armoured Corps Reinforcement Unit.

FOR THE DEFENCE

1. L-27582 Corporal George Louis GORDON, on the strength of 4 Canadian General Pioneer Company.

(1) I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken, In the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

Dated In the Field
this 15th day of
December 1943

Jean Alphonse Dion
Jean Alphonse DION

(2) I hereby acknowledge that I have been served with a true copy of an additional Summary of Evidence taken, In the Field, preliminary to my Court Martial.

(3) I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of.....

.....if he is available.

Dated In the Field,
this 15th day of
December 1943.

Jean Alphonse Dion
Jean Alphonse DION

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D-59251 Private Jean Alphonse DION, attached to 1 Canadian Armoured Corps Reinforcement Unit, on the strength of 4 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

FIRST WITNESS
FOR THE PROSECUTION

B-53701 Private (Acting Corporal) Jacob Henry DICK, 1 Canadian Armoured Car Regiment, on the strength of 1 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

At 0745 hours, 11 December 1943 we had closed down the meal parade when Private DION came in with other men, the cook refused to serve them. The Orderly Officer was present and he also said that it was too late for breakfast. Then Private DION started shouting at the Orderly Officer. The Orderly Officer told him to calm down or he would put him under close arrest and Private DION said, "Put me under close arrest", then he swung at him.

J.H. Dick Cpl.
(J.H. Dick) A/Cpl.

The accused declines to cross-examine this witness.

SECOND WITNESS
FOR THE PROSECUTION

B-60790 Private (Acting Corporal) Norman DENHOLM, Headquarters 2nd Canadian Armoured Brigade, on the strength of 1 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

I was in the Dining Room to get my breakfast at 0745 hours on 11 December 1943. I was standing and waiting to get served and I noticed that there was some argument about the men not being served. The Orderly Officer came up to see what the complaints were. He asked me what I was doing there at that time of the morning. Being night despatcher, I always come in late for breakfast. He turned around and started talking to Private DION. There was a little argument and the Orderly Officer said, "Don't talk to me like that or I will put you under close arrest". The next thing that happened, Private DION struck the Orderly Officer in the face with his fist.

N. Denholm
(N. Denholm) A/Cpl.

The accused declines to cross-examine this witness.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D-59251 Private Jean Alphonse DION. (Cont'd)

THIRD WITNESS
FOR THE PROSECUTION

G-18083 Trooper Clyde FORBES, 4 Canadian Reconnaissance Regiment, on the strength of 1 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

At 0745 hours, 11 December 1943 there was an argument on meal parade. The Orderly Officer told Private DION to quiet down or he would put him under close arrest. I heard him saying, "Put me under close arrest," afterwards he struck the Orderly Officer in the face. Then Private DION ran out.

C. Forbes

(C. Forbes) Tpr.

The accused declines to cross-examine this witness.

FOURTH WITNESS
FOR THE PROSECUTION

Lieutenant John Louis BRAIVE, 1 Canadian Armoured Car Regiment, on the strength of 1 Canadian Armoured Corps Reinforcement Unit, an Officer of the Canadian Army Overseas, having been duly sworn states as follows:

On the morning of 11 December 1943 at 0745 hours, I was inspecting the men's breakfast and keeping the queue under control when at this time Private DION arrived for breakfast. He was 15 minutes late and the Corporal cook refused to serve him. He started to shout and demanded why he couldn't get his breakfast. I intervened and tried to explain to him that I was the Orderly Officer and that if he had a legitimate complaint I would handle it. He continued to shout and I warned him to quieten down. He carried on and I warned him again that if he didn't address me properly I would put him under close arrest. He replied, "Place me under close arrest" and then struck me under the face. He immediately ran away.

J.L. Braive

(J.L. Braive) Lieut.

The accused declines to cross-examine this witness.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D-59251
Private Jean Alphonse DION. (Cont'd)

FIRST WITNESS
FOR THE DEFENCE

L-27582 Corporal George Louis GORDON, on the strength of 4 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

Private DION has been working under me for a period of six months. In all that time he has been a very good worker. I wish to state that this man has a very nervous condition and in my opinion he is not responsible for his actions when excited.

G.L. Gordon Cpl.
(G.L. Gordon) Cpl.

The accused declines to cross-examine this witness.

The accused was cautioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused has been duly warned in accordance with Rules of Procedure 4(e) and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c) (d) (e) and (f) have been complied with.

Roger F. Dionne
(Roger F. Dionne) Lieut,
Officer Detailed to take the Summary.

In the Field
15 December 1943

MFM 6

No D-5925 Name DION, J.A. | Sqn, Battery, or Company | Corps C.A.(O) | Date of enlistment 9 Sep 41 | Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet: N/A | No and date of last drunk: N/A | Period not reckoning towards freedom from extra fine: N/A | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (injecting with date)	By whom awarded	Remarks
PISMENT DESTROYED - 0 Mar 42 - NO CASES OF DRUNKENNESS									
Field	8-4-42	Pte		Conduct to the prej etc. in that he, unshaved on parade AA Sec 40	L/C Moffat	5 days C.B.	8-4-42	Maj C.E. Brodean	
Field	9-4-42	Pte		" " " " " " " "		Admonished	10-4-42	Maj C.E. Brodean	
Field	23-7-42	Pte		Neglect to the prej ec. in that he, Was improperly dressed on Parade. A.A. Sec. 40	Sgt Hawley Sgt.Bobin	27 days F.P. Ex B J.D.L.	27-7-42	Lt-col HCA Harvey VD	27 days pa 149(1)(b)

(PTO)

Files	Date of offence	Rank	Cause of detention	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24-9-42	P.		Conduct to etc. in that he when told not to smoke, persisted in doing so. A.A. Sec. 40	L/S Gogne Sgt.Sennerville	10 days pay	25-8-42	Lt-col. HCA Harvey	10 days pay 149(2)
Field	9-10 42	Pte		AWL 1 hr, 40 mins. AA Sec 15(1)	Cpl.Laurin	14 days C.B.	10-10-42	Lt-col. HCA Harvey	
Field	19-10 42	Pte		Conduct to etc. Talking on parade A.A. Sec. 40	L/S. Theriault Sgt.Sennerville	7 days C.B.	20-10-42	?	
Field	13-2 43	Pte		Disobeying a lawful comd, refused to take up his position in Pay Parade. A.A. Sec. 9(2)	Sgt.Wade Sgt.Goulet	3 days pay	15-2-43	Major Worsick	3 days pay 149(2)

CERTIFIED TRUE COPY OF THE ORIGINAL DOCUMENT IN MY CUSTODY

(J.H. Donnelly) Capt.,
A/O.C. - 4 Cdn Gen Pioneer Coy C.A.(O)

STATEMENT AS TO CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

1. The following is a fair and true summary of the entries in the Regimental Conduct sheet of the accused, exclusive of convictions by Court Martial or a Civil Court, and of cases in which trial has been dispensed with:

Number D-59291 Rank Private Name Jean Alphonse DION

4 Canadian General Pioneer Coy

SINCE ENLISTMENT		WITHIN LAST 12 MONTHS
5	A.A. Sec 40.	Nil
1	A.A. Sec 15 (1)	Nil
1	A.A. Sec 9(2)	1

~~Number of instances of gallantry or distinguished conduct...~~

2. The accused is not under sentence at the present time.
3. The accused has not been previously convicted by a Court Martial or a Civil Court.

4. The accused has been in confinement, awaiting trial on the present charges for 0 days in Civil custody and 4 days in military custody, making a total of 4 days in custody of which 0 days were spent in the hospital.

5. The Present age of the accused according to his attestation paper is 21 years, 157 days.

6. The date of his attestation specified in his attestation paper is 9 Sep 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 years, 97 days.

8. The accused is entitled to deferred pay or gratuity in respect of 2 years, 97 days.

9. The accused is entitled to reckon 2 yrs, 97 dys. service for the purpose of determining his pension, etc.

10. The accused is in possession of or entitled to no military decorations or military reward.

SCHEDULE OF CONVICTIONS BY COURT-MARTIAL

Schedule of convictions by a Court-Martial or a civil court and of cases in which trial has been dispensed with of the accused.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regt'l books in my custody.

In the Field
Date: 15 Dec 43

(G. Craven) Lieut.,
4 Canadian General Pioneer Company

40-83

Pte. Dion J. L.

O. H. M. S.

M. F. B. 270

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D135038 Pte Joseph Leonard DION

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 40	Not Guilty	GUILTY	
2nd (AA Sec 15 (2))	Guilty	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) → ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 2 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one year.

(Sgd) ..... Judge-Advocate, if any. Date awarded. 29 Nov 44. (Sgd) J.G. Lamb Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(3), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further~~ orders.(1) H

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date: 2 Dec 44 Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D135038 Pte Joseph Leonard Dion 10 Cdn Bde Coy RCASC	2 Dec 44	Captain 10 Cdn Bde Coy RCASC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 40-83.

3 FEB 1945 CANADIAN MILITARY HEADQUARTERS

FIELD GENERAL COURT-MARTIAL

CPA96 (To take place of CPEA3) 40/P & S/Misc. 40(1) C4/38B

Convened by Order of Lt. Col. D. Douglas Comd RCASC 4 Cdn Armd Div dated 28 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.
D135038	Pte	Joseph Leonard	DION

PROCEEDINGS REVIEWED

[illegible] Capt. 11 Feb 45

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 29 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 14/104

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(if~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(2)

(1. AA 49, As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to an interpreter? Ans ..... The Interpreter is sworn.(1). Do you object to ..... The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.G. Lamb	4 Cdn Armd Bde Coy
Member	Capt	H.C. Nancekeville	10 Cdn Inf Bde Coy
Member	Capt	D.C. Dingwall	4 Cdn Armd Bde Coy
Judge-Advocate	Major	H.N.E. Curry	Gen List att HQ 2 Cdn Corps
Prosecutor	Capt	C.F. Prevey	10 Cdn Inf Bde Coy
Defending Offr	Lieut	L.G. Cohen	10 Cdn Inf Bde Coy

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused ..... before arraignment makes(s) (no) ~~no~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such pleas, the witnesses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~were~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 30, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C D, B, E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*iii*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 2. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No.(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1)~~ The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on ~~the~~ charge(s). The accused is ~~(are)~~ so informed, ~~and he (they)~~ ~~change(s) his (their) plea(s) on~~ ~~(charge(s)). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 17(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B3 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No.(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*b*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the first charge(s), ~~and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on~~ the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answers and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Yes as a witness. Do you intend to call witnesses on your behalf ?
Ans Yes. Are they witnesses as to character only ? Ans No.
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF AAS. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*c*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is ~~(are)~~ recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President ~~announces the findings, if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.(1) ~~He~~ The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, ~~and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*a*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 43, *117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No, nor to call witnesses.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~copies~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 4. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes through my Defending Offr.(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. *When several accused tried conjointly see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its powers, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-55, 68, 118, 119(*A*), *KR Can* 308, 330, 363-366, *Overseas RO* 309, 2323, *RP* 46. *As to sentences assigned for civil offences by the law of England see AA* 41(3), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(2), 60(1), *KR Can* 364. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and dispersal of escort after trial see insert on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D135038 Pte. Joseph Leonard DION, 10 Cdn Inf Bde Coy, RCASC, a soldier of the Canadian Army Overseas, is Charged With:-

First Charge
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,
in that he,
in the field, on 26 Nov 44, improperly and without authority used Canadian Military Vehicle No. C4869772 for private purposes.

Second Charge
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,
in that he,
in the field, on 26 Nov 44, at 2200 hrs, did absent himself without leave, from his unit, 10 Cdn Inf Bde Coy, RCASC, until he surrendered at 0055 hrs, 27 Nov 44.
(Absent 2 hrs, 55 mins.)

In the field;
HOLLAND -
27 Nov 44.

C R Waller
Major,
(C. R. Waller) Major,
Officer Commanding -
10 Cdn Inf Bde Coy, R.C.A.S.C.

TO BE TRIED BY FGCM

(D. Douglas) Lieut.-Colonel
CRASC, 4 Cdn Armd Div.

Field.
28 Nov 44.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/P&S/1697 (2nd/3)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D135038	Pte.		Joseph Lennard	DION	10 Cdn Inf Bde Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 26 Nov 44, endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior~~ qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Unit.)
Major	J.G. LAMB	4 Cdn Armd Bde Coy

(Must be named. RP 106.)

MEMBERS.

(Rank.)		(Unit.)
Capt	H. C. Mancekevill	10 Cdn Inf Bde Coy
Capt	D. C. Dingwall	4 Cdn Armd Bde Coy

(Named or detailed. RP 106.)

WAITING MEMBER.

(Rank.)		(Unit.)
Lieut.	G.B. Macfarlane	10 Cdn Inf Bde Coy.

(Named or detailed, if any. RP 106.)

JUDGE-ADVOCATE.

(Rank.)		(Unit.)
Major	H.N.E. CURRY ~~[illegible]~~ GEN LIST	HQ 2 Cdn Corps.

(Must be named, if any. RP 106.)

On Active Service in the Fd

at HULL AND (Country.)

Date 28 Nov 44.

(D. Douglas)
(Signed personally. RP 105 fn 2.)

Lt.-Col (Rank.)

Commanding RCASC, 4 Cdn Armd Div.
Convening Offcer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this date examined No. D135038 Pte. DION, J.L. of 10 Cdn. Inf. Bde. Coy, RCASC and in my opinion he is ~~unfit~~ fit to undergo trial by Court-Martial.

Station in the Fd, Holland.

Date 29 Nov 44

J. Barclay Capt

Medical Officer

D3 Evidence for the Prosecution D3

First Witness M20823 Sgt E.G. Burrell. 10 Coy
for the Prosecution 2nd Bde Coy RASC sworn:

I am Coy HQ sgt. 26 Nov 44 I was Coy HQ duty NCO. My duties were to take a tattoo roll call at 2100 hrs of Coy HQ personnel and attached personnel. At 2100 hrs I went down to the hospital building where some of my platoon sleep. I called the roll in the presence of Cpl Bernard C. The accused whom I recognise did not answer his name. I proceeded back to Coy HQ and on the way I dropped into the club room which is near our HQ and the accused was not there. I checked at the park directly across from Coy HQ and the accused was not there. I then marked him AWL. At this time I had occasion to check the whereabouts of my Norton m/c No. C.H.869772. My m/c was not in the DR park. I went back to the hospital and checked the front yard but my motorcycle was not there. I had last seen my m/c at 1230 hrs 26 Nov 44 parked near the kitchen. My tent corporal driver had been checking it over in the morning and I supposed that he had parked it there. After checking if the tent corporal should have put it in the DR park and reported to me. It was normally kept in the DR park. I handed in the tattoo report with the name of the accused as absent also one m/c missing. I handed this to the duty officer Lieut Macfarlane at approx 2230. About 3 minutes later my Sq. Major C.R. Walker came into the Coy Orderly Room. The report was shown to him. On his instructions I remained up at Coy HQ awaiting the return of the accused. At the same time on instructions I woke up Cpl Bernard to remain at the hospital. At 0015 hrs 27 Nov 44 while I was sitting in the Coy Orderly Room I heard a m/c coming up the road. I went out and stood on the edge of the sidewalk and saw a m/c turn into our Coy HQ DR park. I walked across the road and there sat Pte Dixon getting off my m/c No. C.H.869772. I asked him where he had been and he said 'Viborg'. I then placed him under close arrest.

Coy HQ is located on a family farm road. The kitchen is at the right corner if facing the Coy HQ. The Orderly Room is on the left. Both the windows of the kitchen and the orderly room look out on the main road. The DR park is directly across the

Road from Coy HQ. It is a small driving between two buildings. Coy HQ has four 4 wheels vehicles. They are parked in the Courtyard of the hospital. The only vehicles parked near Coy HQ are five light vehicles parked near the DR park. There are no other vehicles parked in the road in the DR park. When I last saw my m/c at 1730 hrs 25 Nov it was parked approx 20 yards from the vehicles and was right near the windows of the kitchen. This was about 60 yards from the DR park. There is a fence around Coy HQ, there is an entrance near the kitchen and an entrance, a gateway, in the centre opposite the door of Coy HQ. On the left of Coy HQ is a church and on the right is a road with a high fence. When I saw my m/c at 1730 hrs 25 Nov it was within the Coy lines there are no other vehicles except the two I have mentioned. When I found my m/c missing I searched the entire Coy HQ area thoroughly with a flashlight and it was not within the lines. There is a guard consisting of one sentry at Coy HQ all night. There is also one sentry at the hospital where the vehicles are. The guard at Coy HQ holds after the DR park. He can see the DR park. The main road is about 12 feet wide. From Coy HQ gate to the DR park is about 14 feet. On 25 Nov at 2 I had given the accused specific instructions that he was not to ride my m/c without my permission. I did this as I found that he had been taking the m/c without my permission. On 26 Nov at 2 I did not give the accused permission to use my m/c. I had not given the accused any duty to perform after 1800 hrs 26 Nov at. When the accused returned I asked him where he had been and he said Tilburg and he gave no further explanation.

Cross exam: I had instructed that my m/c was to go to the Corporate Platoon and accordingly on 25 Nov I had instructed my lance corporal to take it to the hospital to put it in good order. It was to be ready by 26 Nov. On 26 Nov I attended Church parade and when I returned I detailed a DR to take my m/c to the Corporate Platoon at about 1100 hrs. The DR reported that the m/c was not [illegible]

in the DR park. The DR could not find it. I did not see it until it came into the DR park at 0058 hrs 27 Nov when the accused rode it in. I worried about my m/c but I assumed that my Ygpl was still working on it. I certainly did not know that the accused had my m/c all afternoon. On 25th at the kitchen I assumed that the Ygpl had my m/c. The accused has often parked my m/c outside the kitchen when he was using it with authority. I am not aware that the accused used my m/c the morning of 25th without my permission. When the accused brought the m/c in at 0058 hrs 27 Nov I helped the accused pull it up on the stand. I did not have a light but I recognized it as my m/c because of the style of saddle bag supports which is different than the others. The front head lamp was completely off. It was a bright moonlit night.

Re exam: I wish to change one point. I recall that the morning of 25th I saw the accused with my m/c. I did not give him permission. I told him that he was not to use my m/c without my permission. It was after that in the afternoon of 25th that I gave the Ygpl the m/c to carry out repairs.

Sgd [illegible]

Examined by the Court. At 0058 hrs 27 Nov there were 6 vehicles in the MT park. The Ygpl is a driver but is very good at mechanical work. It was about 1200 hrs 25 Nov that I told the accused he was not to use my m/c without my permission.

I wish to change my statement that the Ygpl had my m/c in the morning of 25 Nov. He did not get it until the afternoon.

RP 83(B) complied with.

Second Witness for the Prosecution — G50924 Pte M.A. Youngans HQ Pl 10 Ch Inf Bde Coy RE 25 Sqn

I am the water duties man. The night of 26 Nov 44 I was on guard duty from 2200 hrs 26 Nov until 0100 hrs 27 Nov. My duty was at the main gate at Coy HQ. At 0058 hrs 27 Nov a m/c drove into the DR park and Sgt Burrell went to the DR park and a few minutes later came back with Pte Dunn

whom I recognize as the accused. Sgt Burnell was only gone a few minutes.

Cross exam: none

Exam by the Court: I did not hear any other m/c coming into the QR guard at that time.

RP 83(B) complied with.

Third Witness for the Prosecution — 4644875 Cpl C. Bernard, HQ Pl. 10 CIB Coy RCASC, sworn

I am provost corporal 10 CIB Coy. The evening of 26 Nov at 2200 hrs Sgt Burnell came in to our quarters at the hospital. He called the roll. Pte Dion was not present. We checked the room and area around and Pte Dion was absent. He should have been there. On instructions I stayed up until 0200 hrs 27 Nov waiting for him to come in. At 0115 hrs 27 Nov I went to Coy HQ and saw the accused there in the guard room. When I searched the area of the hospital at about 2200 hrs there was not a m/c in the courtyard. I did not hear any m/c come in. On 26 Nov I did not give any work to the accused. I did not see him after 1645 hrs 26 Nov I had told the accused to fill and clean the provost lamps on the direction signs. I did not give him any work which would require the use of a m/c.

Cross-exam: I did not see the accused after 1645 hrs 26 Nov until I saw him at 0115 hrs 27 Nov in the guard room.

Re exam: none

By the Court — none.

Rule 83(B) complied with.

D4 The Defending Officer addresses the Court D4

① the evidence does not establish a prima facie.

② it appears to be a case of amnesia.

The Prosecutor addresses the Court.

① the evidence establishes the facts as charged

The Judge Advocate addresses the Court

① prima facie case is explained

② duty of prosecution is explained

③ the evidence is reviewed.

D6 Evidence for the Defence. D6

First Witness for the Defence D135038 Pte J L Dunn 10 Adm Sig Bde Coy RCPSC sworn:

I am the accused. My job is the provost corporal's assistant. I do a bit of everything. I work around the kitchen and get stuff for the kitchen. I was in the habit of taking Sgt Burrell's bike to get things like cabbage + carrots and potatoes. On 25 Nov I didn't use the bike in the morning as L/Cpl ~~Latour~~ Delannoy was working on it. For the afternoon I used it right around noon. I returned about 2 hours after. About 1400 hours. Sgt Burrell did not say anything to me when I used the m/c in the afternoon. The Sgt was aware that I was using the m/c because he was standing in the kitchen window when I left. I don't know whether he saw me when I came back at 1400 hrs. When I came back I left the ~~bicycle~~ m/c right beside the kitchen. I did not use the m/c after 1400 hrs. I don't know if any one used it. At 1400 hrs I ate and then I took the m/c over to the m/c park and left it there. I do not know if it had been repaired in the morning. The lights were broken on it when I was using it. I did not use the motor cycle again on the 25th. On the 26th Nov I used the m/c around 1000 hrs. The Sgt knew I was using it. He did not give me permission but I did not need permission because before that I never needed permission. I took the m/c whenever I liked. I came back about noon 26 Nov. The Sgt did not say anything to me about using it. About 1500 hrs 26 Nov I used it again + came back about 0055 hrs 27 Nov. I was back at the coy lines about 1915 hrs 26 Nov. I walked back from Tilbury and stayed about an hour and a half. I asked one of the guards where was Sgt Burrell. He had not seen him. I then walked to the sleeping quarters and asked Cpl Bowers where was Sgt Burrell. He told me he might be at the Orderly Room. From there I went to the cinema. When I came out about 2130 hrs I sat in a pub in the camp area and waited until 2300 hrs. Nobody came so I walked back to Tilbury and got the bike and brought it back. I did not bring the bike back at 1915 hrs because I could not get

OC

the bike started. I wanted to ask Sgt Burrell about it.

Cross exam: Did not ask anyone for permission 25 Nov. Did not ask anyone on 26 Nov. At 1000 hrs 26 Nov I went out for potatoes. I went about 2 miles. At 1500 hrs when I took the bike I was not on any duty. I was at a lady's house at Kilburg from 1500 hrs until I walked back at 1915 hrs. It was my duty to fill and clean the mortar bombs but I had a friend put them on. I saw Cpl Wilson and told him to tell Sgt Burrell not to worry about his bike. I was concerned about the bike. I went to the cinema. I was with the lady from Kilburg. I could not go into my quarters with the lady for roll call so I waited at the post [illegible] Sgt Burrell might come in.

Re exam: None

Exam by the Court: I left the bike in the lady's house in Kilburg. I will have been in the army 3 years next April. I knew that to go anywhere on a bike I had to have authority. About 6 or 7 weeks ago Sgt Burrell told me not to take the bike unless I got permission from him.

RP 83 (B) complied with.

Second Witness for the Defence C 33131 Cpl T.W. Delamere 10 CCS Coy RCASC sworn:

My job is looking after the vehicles at Coy HQ. On 25 Nov [illegible] I was asked by Sgt Burrell to fix his bike. This was in the afternoon. I got the use to fix about 1430 hrs. I took it about 1600 hrs from Coy HQ down to my billet at the hospital where I keep my tools. It did not come for it before. I had the use about half an hour [illegible] working on it. When I got it running I parked it in the court yard of the hospital. About 15 minutes afterwards

Pte Dixie came and told me that Sgt Burrell said he could have the m/c and as far as I know he took it. He said Sgt Burrell sent me after the motorcycle.

Cross exam: none

By the Court: none

RP 83(B) complied with.

Third Witness for the Defence — K 77207 Pte JA Smith 10 CIB Coy RCASC Sworn:

My job is truck driver. 25 Nov after 1800 hrs I never saw the accused. I did not see the accused talking with Sgt Burrell in the billets approx 1930 hrs Saturday night 25 Nov

Cross exam: none
By the Court: none.
RP 83(B) complied with.

CC

The Defending Officer addresses the Court.

(1) doubt as to authority

(2) implied authority

(3) accused used m/c with knowledge of sgt. on no. of previous occasions.

(4) used m/c regularly to obtain supplies

(5) why difference this time was late return

(6) why should this time be different?

The Prosecutor addresses the Court

(1) evidence shows accused used m/c for private purposes

(2) accused admits he had no authority

(3) admits he knew he should have had authority.

(4) has had military experience.

(5) punishments have been published in unit orders for similar offences — he must have known what he was doing

Ld

The Judge Advocate Sums up.

(1) The Court is reminded that only the First Charge is at present under consideration.

(2) The duties of the Court are explained.

(3) The duties of the JA are explained.

(4) The first charge is reviewed and the method of making a decision is explained to the Court.

(5) The essential elements of the charge are explained and defined.

(6) The evidence is reviewed and observations and the Court advised as to tests of veracity.

(7) The use of their military knowledge is explained.

(8) The duty of the prosecutor to prove guilt is explained.

(9) The rule as to reasonable doubt is explained and "reasonable doubt" is defined and explained.

(10) The Court is advised as to drawing reasonable inferences from proved facts.

The Court does not wish further advice.

The Prosecutor and Defending Officer do not wish further advice.

E-3 The Defending Officer addresses the Court E-3
in mitigation of punishment.

(1) The accused was allowed to drift into a position to commit the offence.

(2) He did not realize that he needed specific authority.

(3) He had never been properly checked.

(4) There had not been sufficient instruction given to the accused by his superiors.

(5) His former charges have been AWL for very short periods. Most of his lapses seem to have been caused by women.

(6) He was AWL this time only by accident.

cc

Exhibit A

SUMMARY OF EVIDENCE

in the case of

No. D135038 Pte. Joseph Leonard DION, HQ Pl, 10 Canadian Infantry Brigade Company, RCASC, charged with:

(1) AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

(2) ABSENTING HIMSELF WITHOUT LEAVE.

The CO directs that the evidence be taken on oath.

FIRST WITNESS -
M20523 Sgt. Burrell, E.G. Pl Sgt, HQ Pl, 10 Cdn Inf Bde Coy, RCASC, sworn, states -

I was on 26 Nov 44, and am still, Pl Sgt, HQ Pl, 10 Cdn Inf Bde Coy, RCASC. I am well acquainted with D135038 Pte. Dion, J.L., whom I recognize here as the accused. On 26 Nov 44 I was HQ Pl Duty NCO, at 2200 hrs I called the roll of HQ Pl personnel in their billets, Pte. Dion did not answer his name. I questioned the guard at the gate, he explained that he had not seen Pte. Dion. I then checked the Club Room on my way back to Coy HQ, I also searched another Public House, directly across from Coy HQ, and the accused could not be found. I then marked him absent. At this time I had occasion to check the whereabouts of my Norton M/C, W.D. No. C4869772, and found that it was missing. I then checked the area, at the men's quarters, very thoroughly, also the area around the Coy HQ Orderly Room, and the D.R. Park, and could not locate my M/C. I reported to my OC. The OC instructed me to remain up until Pte. Dion returned. I carried out this order, and at 0055 hrs, 27 Nov 44, I heard a M/C coming up the road. I left the Orderly Room and went outside. At this time a M/C turned into the D.R. Park, I approached the machine and found it to be my M/C, C4869772, and the rider was Pte. Dion. I then placed the accused under arrest. Pte. Yoemans was on guard at the time. Pte. Dion did not have a pass.

The accused declined to cross-examine the witness.

E.G. Burrell Sgt
(Signature of the Witness.)

SECOND WITNESS -
G50924 Pte. Yoemans, M.A. HQ Pl, 10 Cdn Inf Bde Coy, RCASC, sworn, states -

I was on 26 Nov 44, and am still with HQ Pl, 10 Cdn Inf Bde Coy, RCASC I am acquainted with D135038 Pte. Dion, J.L. whom I recognize here as the accused. On 26 Nov 44 I was on guard at Coy HQ from 2200 hrs 26 Nov 44 until 0100 hrs, 27 Nov 44. At 0055 hrs, 27 Nov 44 a M/C drove into the D.R. Park, Sgt. Burrell went over to it and a minute or so later he came by me with Pte. Dion, and went into the Coy HQ building.

The accused declined to cross-examine this witness.

M A Yoemans
(Signature of the Witness.)

THIRD WITNESS -
F64875 Cpl. Bernard, C. Provost Cpl, HQ Pl, 10 Cdn Inf Bde Coy, RCASC, sworn, states -

I was on 26 Nov 44, and still am, Provost Cpl, HQ Pl, 10 Cdn Inf Bde Coy, RCASC. I am well acquainted with D135038 Pte. Dion, J.L. whom I recognize here as the accused. I am in charge of personnel quartered in the rooms next to the Hospital, in which Pte. Dion sleeps. At 2200 hrs, 26 Nov 44, Sgt. Burrell called the roll, I was present at the time and Pte. Dion did not answer his name. I checked the room with Sgt. Burrell and Pte. Dion was not present.

The accused declined to cross-examine this witness.

[illegible]
(Signature of the Witness.)

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The accused: I have nothing to say at this time.

J-L Dion
(Signature of the accused.)

The accused declined to call witnesses in his own behalf.

I certify that RP 4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 27th day of November, 1944.

(Signature of Officer taking Summary) Captain,

Exhibit B

M.F.B. 355
ZIM—5-41 (372-3)
H.Q. 1779-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D135038	Pte.	Joseph Leonard DION,	10 Cdn Inf Bde Coy, RCASC.

1. The following is a fair and true summary of the entries in the ~~Service and Conduct~~ Regimental and Squadron Battery Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~and Appendix~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	4 times	A.W.L.	4 times
For	Conduct to the Prejudice	1 times	Conduct to the prejudice	1 times
For	Neglect to the Prejudice	1 times	Neglect to the Prejudice	1 times
For		times		times
For	~~Absence without leave, not distinguished from desertion~~		~~nil~~	

There are ~~nil~~ entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~nil~~

~~Particulars of the accused's~~ ~~previous~~ ~~convictions by a court-martial are as follows:~~

~~Extracts of the accused's Army Book 64 and Appendix with trial under Army Act 70 appear on the Charge Sheet.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence of~~

4. The accused has been in confinement awaiting trial on the present charges, for N/A days in civil custody, and 2 days in military custody, making a total of 2 days in custody, of which N/A days were spent in hospital.

5. The present age of the accused according to his record of service is 28 yrs, 8 months.

6. The date of his ~~enlistment~~ attestation specified in his record of service is 1 April '42.

7. ~~Particulars which the accused is allowed to make statements thereon:~~

8. ~~Particulars entered in records for the purpose of determining his pensionable~~

9. The accused is in possession of or entitled to no military decoration, or military reward. ~~State any military decoration or reward.~~ —

Canadian Volunteer Service Medal and Clasp.

10. ~~The accused is a person to whom Army Act~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Pilot Officer dated ..... and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit Regiment Name ..... of .....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which tried	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27th day of November, 1944. [signature] Capt., A.O., 10 Can Inf Bde Coy, R.C.A.S.C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No D135038 Name DION, J.L. Sqn, Battery, or Company — Corps R.C.A.S.C. — Date of enlistment 1 Apr 42 — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No and date of last drunk NA — Period not reckoning towards freedom from extra fine NA — Sheet No One — Badges — Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
			Original	sheet destroyed 1 Oct 42 - Nil entries nil cases of drunkenness		3 days C.B.	14 Feb 44	Capt. N.M. MacMillan	
Borden	14.2.44	Pte.		AA S. 40 SUBJECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE - Dirty Rifle	Cpl. Tisdall, T.W.				
Field	27.5.44	Pte.		WOAS, Absenting himself without leave: T.I. Absent - 1 day, 9 hrs and 45 mins. Sec 15 AA	M20523 Sgt. Burrell, E.G.	Auto forf 2 days pay. Forfs 6 days pay	31.5.44	Major G.R. WALLER	Total forf of 8 days pay
U.K.	11.6.44	Pte.	Nil	WOAS. AWL from 2230 hrs 11.6.44 until his return at 0730 hrs 12.6.44 T.I.A. 9 hrs Sec 15 AA	D127000 L/Cpl. Ferlman, E.	1 days Auto Forf pay. 21 days FP pun & pay	12.6.44	Major C.R. Waller	Auto Forf of 22 days pay.

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
At Sea	22.7.44	Pte.		WOAS, CONDUCT TO THE PREJUDICE OF G.O. & GOOD DISCIPLINE, insubordinate to an NCO, Sec 40AA	K75756 Sgt. Bollons, JR	7 days Fd Pun 7 days Fay	22.7.44	Capt. A.J. Blamey	
Belgium	14.9.44	Pte.		WOAS, AWL from 0700 hrs 14 Sep 44 until 0800 hrs 15 Sep 44. Total time absent, 25 hrs. Sec 15 AA	Lieut. C.D. Glover	28 days Fd Pun 28 days Auto Forf of Pay	15.9.44	Major C.R. Waller	Auto forf of 28 days pay. Total forf of 30 days pay
Belgium	19.10.44	Pte.		Sec 15 (1) AA. WOAS AWL for 1 day, 11 hrs. (Surrendered)	M20523 Sgt. Burrell, EG	10 days F.Pun 10 days F.Pay	24.10.44	Major C.R. Waller	2 days auto forf of pay - total of 12 days Forf pay.

CERTIFIED TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY

Capt
10 Cdn Inf Bde Coy RCASC

C.A.O.7.-1-62

ON HIS MAJESTY'S SERVICE

FASTEN Envelope by gumming this Label across Flap.
OPEN by cutting Label instead of tearing Envelope.

Pte. Dion, K.

1/14 CMHQ 40-7
40-7-8 5-43
(Series 'C')

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E14586. Pte DION ROBERT.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	SEC. 19 AA.	Guilty	Guilty	
2nd	SEC 40 AA	Not Guilty	Not Guilty	
3rd	SEC 40. AA.	Not Guilty	Guilty	
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for NA beginning on (date) NA. (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 22. days, of which NO days were spent in hospital.(1)
(1. See RP 44(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a Period of Six Months

(Sgd) Judge-Advocate, if any. 7 Dec 45 Date awarded. (Sgd) H.G. Pattison Major President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that [illegible] (1)
(1. AA 57A. Delete if not used.)

(Sgd) W.H. Calling Lt Col
H.Q. R.C.A.S.C. 3 Can. Inf. Div. (CAOF)
Date 12 Dec 45 Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused. D14586 Pte Dion R. Date. 13 Dec 45 Signature of Offr. Eric Reid Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

REPRODUCED AT CMHQ IN AE 160 & CAOF 1-69

CFAB6 (Replaces CF AF A3) 40 P & S 1698 (2004)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col W.H. Calling Comd 3 Div RCASC dated 7 Dec 45.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E14586	Pte	DION	ROBERT.	2/7 C.I.B. Coy. RCASC

PROCEEDINGS REVIEWED

24 DEC 45 A.J. Brody Maj Date 17 Dec. J. Huligueller Capt for A.D.J.A.

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Germany. on (date(s)) 7 Dec 45 (CAOF)

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (not) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (fit) to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by his CO.~~
(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Lt. WM. THERIEN as interpreter? Ans NO
The Interpreter is sworn.(1) He ~~is not sworn~~ and A-N-2330 Cpl. BRACEY, J. as shorthand ~~writer is sworn~~.
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans NO (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 46(E). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	H.G. PATTISON	2/3 DIV. Troops Coy.
Member	CAPT.	C.B. JARVIS	2/8 C.I.B. Coy.
Member	LIEUT.	A.R. MORRISON	2/9 C.I.B. Coy.
Judge-Advocate			
Prosecutor	CAPT.	R.A. LABELLE	2/7 C.I.B. Coy.
Defending Offr	CAPT.	E.P. McGOVERN	2/9 C.I.B. Coy.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See [illegible] p 3.)

A8. The accused ~~before arraignment tendered(s) (not guilty) (guilty) to the charge(s) and further pleaded(s) (not guilty) (guilty) to the charge(s).~~ (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and Finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused [illegible] the plea.)

A9. The accused is (not) arraigned (and ~~pleads~~) on all charges in the charge sheet.(1) The accused does (not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 26, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.D.4E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. CAOF 4/46

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without assent from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of witnesses see RP* 80, 90(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President [redacted] complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans *yes.* (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his [redacted] plea(s) of Guilty to Not Guilty on *1st Charge* charge(s). [redacted]

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C. a initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charge(s) dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans *NO* (1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the [redacted] charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the [redacted] charge(s), and allowed on the [redacted] charge(s); and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans *NO.* Do you intend to call witnesses on your behalf? Ans *NO* Are they witnesses as to character only? Ans *NO.*

(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF AR5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*a*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), [redacted] Not Guilty, and states to the accused that the finding(s) of the Court on the *1st & 3rd* charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and as to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~

(1. *AA* 54(*3*) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(*3*), *RP* 45, *117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans *no.*

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement[redacted] as to Character and Particulars of Service(1), and certified true copy [redacted] of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier[redacted] having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex *F* and Ex *D* respectively.(3)

(1. *MFB* 355 *or MFB* 294. 2. *MFM* 6. 3. *RP* 46. *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement[redacted] and Conduct Sheet(s), and in mitigation of punishment?(1) Ans *yes.*

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(*5*), *RP* 120(*A*).)

E5. The Court considers the sentence(s).(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him [redacted](2)

(1. *When several accused tried separately see RP* 56. *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566. *Overseas NO* 309, 2323. *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 40(2), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(1), *KR Can* 564. 2. *RP* 52. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, E14586 Pte DION Robert of 2/7 Cdn Inf Bde Coy RCASC CAOF a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
Sec 19
Army Act.

When on Active Service - Drunkeness,

in that he

In the field in Germany on 15 Nov 1945 was drunk.

SECOND CHARGE
Army Act
Sec 40.

When on Active Service - Conduct to the Prejudice of Good Order and Military Discipline

in that he

In the field, in Germany on 15 Nov 45 improperly obtained entry into the residence of Ernst Liebert, a German civilian and when leaving the said house broke several windows and damaged a door of the said house.

THIRD CHARGE
Army Act
Sec 40.

When on Active Service - Conduct to the Prejudice of Good Order and Military Discipline

in that he

In the field in Germany on 15 Nov 45 improperly attempted to obtain entry into the house of Herr Erich Harms, a German Civilian.

Close Arrest

(C.K. Reid) Major,
Officer Commanding,
2/7 CDN INF BDE COY.,
R.C.A.S.C. (CAOF)

In the Field,
Germany,
3 Dec 45.

To be tried by Field General Court-Martial

(W.H. Colling) Lt.-Col.
CRASC 3 Cdn Inf Div CAOF

5 Dec 45.

Exh C
H.C. Pattison

FIELD GENERAL COURT-MARTIAL

CFAPS (In lieu of AFAB) 60/FGCM/1697 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-14586	Pte.		Robert	DION	2/7 CIB Coy RCASC (CAOF)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 Nov 45 endorsed by me, (as to [illegible]), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ([illegible])

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I [illegible]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I [illegible]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	H.C. PATTISON (Must be named. RP 106.)	2/3 Div Tps (Unit.)

MEMBERS.

Capt.	C.B. JARVIS	2/8 CIB Coy
Lieut. (Rank.)	A.R. MORRISON (Named or detailed. RP 106.)	2/9 CIB Coy (Unit.)

WAITING MEMBER.

Lieut. (Rank.)	M.P. WILKINSON (Named or detailed, if any. RP 106.)	2 Cdn M.A.C. (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Germany (Country.)

Date 5 Dec 45

W H Calling (Signed personally. RP 105 (n 2).)

Lt.-Col (Rank.)

Commanding RCASC 3 Cdn Inf Div (CAOF)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

H.E. Matheson

This is to certify that I have medically examined
E14586 Pte Dion, R and find him fit to stand
trial by Court-Martial.

J. Harper Capt
Medical Officer.

7 Dec 45.

HQ 2/7 CDN INF BDE COY R.C.A.S.C. (CAOF)

7 Dec 45.

Opening address by the prosecuting Officer at Pte Dion's F.G.C.M. held at Alexandria Airport, Oldenburg at 1000 hrs 7 Dec 45.

Mr President and Members of the Court:-

"Reading the second charge, we find that the accused is charged under A.A. Sec 40 in that he improperly obtained entry into the house of ...First, let us consider the true meaning of the expression 'Entering a house': As defined by the Army Act on page 123 chapter 7 para 61: A person is considered to enter a house as soon as he introduces into the house any part of his body... and it goes on: a person is considered to break a house: if he opens by any means whatever any closed door, window etc. (this includes opening a shut window or door). The evidence which I will now produce will prove conclusively the charges as laid against the accused".

R. A. Labelle

(R.A. Labelle) Capt.,
2/7 CDN INF BDE COY.,
R.C.A.S.C. (CAOF)

Page 1

Statement made by Alexander Ewanin
of the Ewanin Lake Station. (Spuzzum
(Canada)

About 2.30 hrs on the night of 15th Nov 25
we heard the Police coming to the house
with a search warrant in his hand. I went and got
my G- in L. who speaks Eng. The
Police demand to see
Selmaster and sent him the warrant by
the man my husband.
Ques. Was he invited to the house.
Ans. He was not invited into the house
Ques. Was the door closed.
Ans. The door was closed but not locked.

H.B. Matthews Interp.

Page 2

He came into the big room where there were girls and children and in the big room there was a Christ child made into a doll for a girl who was ill. The Man took his child and went to the bed. He wanted to get into bed with the girl. The girl ran into another room.

He talked to the mother and then left the house quietly. He asked what he could do.

My Brother-in-Law's little boy came and said he wanted to come in, I opened the door to let him in and the soldier came in with the little boy. This time I sent the soldier out.

H. Watterson

Page 3

Ques. What happened when you first
the soldiers and
Ans. He broke all the doors down & ours.
& saw him from the bed room
Ques. Do you see the accused
Ans of war
Ques. Did you know or meet the
accused before
Ans No.

H. B. Patterson Major

Statement of Lieut. E.H. Goldrick. Liverpool.

After being duly sworn states.

I was sitting in the house and I heard some one come up to the door and by the way he was walking I thought him to be drunk.

He knocked on the door but we ignored that and he walked further down the hall to another door and repeated the performance. He returned and knocked on our door again. The second time I opened the door I thought he was going to shoot. When he came into the light I saw it was a revolver.

I heard him cock the weapon so I turned on the light and opened the door. After a struggle I got the weapon. He gesticulated, drew apparent a bit more easier. I then took his name and number and let him go but kept the pistol and told him I would turn it in.

H.E. Goldrick Surgeon

[illegible] returned with Capt. Tracy of the
Prov. Corps. and I turned the weapon over
to Capt. Tracy. There were recovered in
the chamber and there is four in the mag.

Ques. In what house were you captured
Ans. Near Hamin 10 Oprende market Apt 5th
Ques. Describe the car.
Ans. Yes. On the night of 5th May 45 I
took the particulars which were. 6th
Div. E 14586 of 3rd C.I.B. Coy 8 CASC.
and that is the same soldier

Compiled with R.P. 83 B.

H.C. Pattison Major

H.C. Pattison Major

2nd charge

Statement Made by Anton Erwin

Anton Erwin Pfedemarkt (Barrack) having being duly sworn states:-

About 2130 hrs on the night of the 15 Nov 45, a French Canadian Soldier came into the house with a pistol in his hand. I went and got my Brother-in-law who speaks English. the soldier demanded schnapps. We had no schnapps and sent him to another house. He was very drunk.

Q 1 Was he invited into the house?

A 1 He was not invited into the house.

Q 2 Was the door closed?

A 2 The door was closed but not locked.

He came into the big room where there were girls and children and in the big room there is a chesterfield, made into a bed, for a girl who was ill. The soldier took his pistol and went to the bed. He wanted to get into bed with the girl. The girl ran into another room.

I talked to the accused and he left the house quietly. I locked the door.

My Brother-in-law's little boy came along and he knocked at the door, I opened the door to let him in and the soldier came in with thelittle boy. This time I put the soldier out.

Q 1 What happened when you put the soldier out the second time?

A 1 He broke all the lower windows. I saw him from the hall inside.

Q 2 Do you recognize the accused?

A 2 Yes.

Q 3 Did you know or meet the accused before?

A 3 No.

3rd Charge

Statement of G 44900 L/Cpl Coldrick, E.A.

G 44900 L/C pl Coldrick, E.A. after being duly sworn states:-

I was sitting in the house and I heard some one come up to the door and by the way he was walking I thought him to be drunk.

He knocked on the door but we ignored that and he went farther down the hall to another door and repeated the proceedure. He returned knocked on our door again. He said if the door was not opened he would shoot. (When he came the light was out).

I heard him cock the weapon so I turned on the light and opened the door. After a struggle I got the weapon. He quietened down and appeared a bit more sober. I had taken his name and number and let him go but kept the pistol and told him I would turn it in.

He returned with L/Cpl Stacey of the Provost Corps and I turned the weapon over to L/Cpl Stacey. There was one round in the chamber and three or four in the mag.

Q 1 In whose house were you sitting?

A 1 Herr Harm's, 14 Pferdemarkt, appt 55.

Q 2 Do you recognize the accused?

A 2 Yes. On the night of the 15 Nov 45, I took particulars which were Pte Dion, E 145886 of 2/7 CIB Coy RCASC CAOF, and that is the same soldier.

STATEMENT MADE BY E14586 Pte DION, Robert 2/7 Coy
RCASC (CAOF)

Pte DION states:

On the afternoon of 15 Nov '45 I started to drink about 5 o'clock, later on I do not remember anything that transpired until I woke up in the Guard Room the following morning. That is all I have to say, Sir.

H.B. Patterson Maj

Plea of Mitigation of Punishment

7 Dec 45

Mr President, members of the Court.

1. The accused E 14586 Pte Dion Robert of 2/7 Cdn Inf Bde Coy RCASC CAOF has pleaded guilty to the charge of drunkeness. This man has nearly five years service in the Cdn Army and has been through the campaign starting in France and finishing here in Germany.

2. Everyone is entitled to some relaxation and as the accused was not on duty on the date stated I feel that he should be given the lightest punishment possible.

3. He has previously been charged with a few minor crimes but as this is his first offence of drunkeness I feel that the sentance should be lenient.

(E.T.McGovern) Capt.

2/7 CDN.INF.BDE.COY.RCASC (CAOF)

8 Dec. 45

H.C. Pattison Major

Received from President of the Court, Major H.C. Pattison, 2/3 Cdn.Inf.Div.Tps.Coy.RCASC (CAOF), a 9mm Belgian Browning, F.B. Radom Vis, model 35, pat. no. 15567, N.5827, one clip and seven cartridges which was produced at S-14586 Pte.Dion's F.G.C.M. and marked Exhibit "A".

R.A. Labelle

(R.A. Labelle) Capt.,
2/7 Cdn.Inf.Bde.Coy.RCASC.
C.A.O.F.

Summary of Evidence in the case of E14586 Pte Dion R., 2/7 Cdn Inf Bde Coy R.C.A.S.C. (CACF) Charged with:

1. Drunkenness (AA Sec 19)
2. Conduct to the Prejudice of Good Order and Military Discipline (AA Sec 40)
3. Conduct to the Prejudice of Good Order and Military Discipline (AA Sec 40)

By direction of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS. Ernst Liebert, Artist, AM Pferdemarkt (Barracke), Oldenburg, Germany having been duly sworn states;-

"I am Ernst Liebert. On 15 Nov 45, at approximately 2130 hrs, a Canadian soldier came to our house. Without knocking, he entered the house and the room where my wife, my parents-in-law, my brother-in-law and I were sitting. The soldier was visibly drunk and played with a pistol in his hands. He was also carrying a bottle under the blouse of his uniform. He asked us for Schnapps and when I told him we had none, he saw through an open door my sister-in-law, 21 years old, lying in bed in the next room. He went straight into the next room. My brother-in-law, Anton Erwin, and I followed him immediately. My sister-in-law only returned last April from a concentration camp and is lying in bed with lungs-tuberculosis since then. Apparently the soldier wished to go to bed with the girl, as he said among other things "Oh, a nice girl." My brother-in-law and I stood before him and tried to appease him by talking and trying to get him to go out. When the soldier approached her bed side with his pistol in hand, she became very excited, jumped out of her bed in her night dress and ran away in another room. All my relations had left the room except my brother in law and I, and after persuasion, we succeeded in inducing the soldier to go away. He left the house and we looked up the door. We turned off the lights and soon after the soldier began to curse and to knock on the door with his pistol. He also kicked the door, broke the door-latch and destroyed five window panes with his pistol. In the meantime, I went out through a back window and fetched two scottish soldiers who were with the civil police. They accompanied me home immediately but ta soldier had gone away in the meantime. Later on the Scotch patrol came for me and put me before the soldier which I recognized at once as the perpetrator.

Cross-examined by accused:

QUESTION 1. "Are you positive that I am the soldier who broke your door and windows?"

ANSWER 1. "Yes."

R. A. Lebrun Capt.

SECOND WITNESS

Anton Erwin, Artist, AM Pferdemarkt (Barracks) Oldenburg, Germany, having been duly sworn states:-

"I am Anton Erwin. On 15 Nov 45, at approximately 2230 hrs, a soldier entered the house. He was very drunk. He entered my brother-in-law's room and asked for whisky. He pulled a pistol out of his pocket and put it inside the blouse of his uniform. He left the room walked down the hall and the door of the next room being open and seeing my sister in law in bed, he entered the room. He expressed the desire of going to bed with her. I tried to explain to the soldier that my sister in law was very sick as she had recently only been released from a concentration camp and I told him that he was to go down the street and find himself another girl. As the conversation was carrying on, the soldier, taking the pistol in and out of his tunic but not pointing to anyone, walked to my sister in law's bedside. Frightened, she jumped out of bed and ran into another room. After a certain persuasion, we succeeded in getting the soldier to leave. I locked the door as soon as he was out of the house. A few minutes later, my brother in law's child knocked at the door to be let in. As the boy was coming in, the same soldier followed in and came back into the room. My sister in law had in the meantime returned to bed and upon seeing him reenter, ran into the next room. The soldier being very drunk, I forced him outside the house and locked the door behind him. We turned off the lights and the soldier began knocking on the door to be let in again. After knocking for a while and not being answered to, the soldier walked away from the door and smashed in the windows. Seeing this, my brother in law went out the back window to fetch the police. When the police arrived, the soldier had gone.

Cross-examined by accused:

QUESTION 1. "Are you positive that I am the soldier who broke your door and windows?"

ANSWER 1. "I can swear that he is the same soldier.

R.A. Interpreter Capt.

M106470 L/Cpl Schmick, S., having been duly sworn as interpreter declares the above to be a true translation of the evidence submitted by Anton Erwin.

R.A. Interpreter Capt.

THIRD WITNESS

4270881 Gnr McCaughey, A., 108 Battery, 79 Scottish Horse Medium Regt RA having been duly sworn states:-

"I am 4270881 Gnr McCaughey, A., 108 Battery, 79 Scottish Horse Medium Regt RA. On 15 Nov 45, I was duty Police Patrol at Oldenburg Main Police Station. At approx 2100 hrs a German civilian (Ernst Liebert) came to the station and asked for the British Patrol. He complained that a French Canadian soldier was at his house demanding SCHNAPPS at the point of a revolver. I immediately left for his house accompanied by another

THIRD WITNESS

patrolman. On the way down, another civilian (Herr Karn) stopped us and informed us that the same soldier armed with a pistol had been to his house and had broken the windows. On our arrival to both places, the soldier had gone and we ascertained the fact that windows had been broken in both places. I,then, afterwards, returned to the civil police station when later on during the evening, approximately 2230 hrs, I went out on road patrol. At approx 2300 hrs, on our way back to the police station, we saw a group of soldiers on the sidewalk and fearing trouble, I got out of my vehicle to investigate. We found a canadian soldier (Dion) intoxicated and covered with blood who according to himself had been beaten up by another Canadian soldier (Coldrick). He(Dion) then directed us down to the house where the fight had occured and upon arriving there, the other Canadian soldier (Coldrick) informed us that he had been threatened by this soldier (Dion) with a pistol and handed the pistol to the Cdn Provost present. Just about then, I reported to the Cdn Provost about this other disturbance earlier in the evening and he asked me to get this German civilian to identify the Canadian soldier. On arrival back to the house accompanied by the German civilian (Ernst Liebert), the civilian picked out the intoxicated Cdn soldier (Dion) right away as being the soldier who had been in his house earlier in the evening. The Cdn Provost and myself then drove this soldier to the Airport guard house.

The accused declines to cross-examine the witness.

R.A. [illegible] capt

FOURTH WITNESS

G44900 L/Cpl Coldrick, E., SAuxiliary Services Section, Beaver Club, Oldenburg having been duly sworn states;-

"I am G44900 L/Cpl Coldrick, E., 6 Auxiliary Services Section, Beaver Club, Oldenburg. On Nov 15, 1945 I G44900 L/Cpl Coldrick, E., was sitting in Herr Harm's house when someone staggered up and pounded on the door and wanted to be let in. As he was drunk, we ignored it and he went next door and repeated the procedure, only I heard him threaten to shoot unless he was let in. He came back to the door at [illegible]markt 14 where I was, and the family there hearing him threaten to shoot, turned out the light. He kicked on the door and then threatened to shoot it in. I heard him cock the weapon and then I turned on the light and opened the door before he could shoot. I managed to get the weapon from him after a struggle and held him to try and quieten him down. He finally agreed to go and leave the weapon with me. I examined his pay book and found his name, number and Unit to be S14586 Pte Dion, 2/7 Cdn Inf Bde Coy RCASC. I recognized him as he had been there on a night previous and kicked a piece off the door, but that evening I talked him into leaving without trouble. After checking his pay book, I saw him to the street as he appeared more sober and walked back to wash up as my nose was bleeding. I examined the weapon which was cocked, had one round in the chamber. Then about five minutes later, the same soldier came in with L/Cpl Stacey from The Provost Corps. I turned the weapon over

FOURTH WITNESS

over to him and explained why I let the man go and was going to report it when I was cleaned up a bit.

The accused declines to cross-examine the witness.

R.A. Mueller capt.

The revolver (9 mm Belgian Browning, F.B. Radom vis model 35 pat No. 15567 N.5897) one clip and seven cartridges referred to in the evidence of the above witness is attached hereto as exhibit 'A'.

R.A. Mueller capt.

FIFTH WITNESS

Anna Marie Harms, 21 years old, Pferdemarkt 14, Oldenburg Germany having been duly sworn states:

"I am Anna Marie Harms, Pferdemarkt 14, Oldenburg. On 15 Nov 45, at approx 0330 hrs, my mother, father, a friend of the family L/Cpl rnie Goldrick and myself were talking together in our sitting room. We heard someone coming up the stairs and knock on the door. We turned out the light and kept quiet in the room. As we did not answer, he went down the hall to another door. He was speaking but I could not understand what he was saying. We then heard a sound as is he was loading a firearm. With that, he came back to our door and produced the same sound as if he was again loading or cocking a firearm. He then said:"Open the door or I will shoot". Frightened my mother, friend and I went into the next room. I left the door open to see what would happen. The L/Cpl standing on the sofa by the door, turned on the light and holding the door handle unlocked it and opened it rapidly. He knocked the soldier's hand, the soldier lost his grip on the revolver and the pistol went up in the air, falling back on the L/Cpl's nose and onto the floor. The l/cpl immediately picked up the revolver and threw it on the sofa. They then started to fight and being scared I ran out of the room. I was going downstairs when I saw the Scottish patrol, one Cdn Provost, two civilian police coming which had been warned by our next door neighbor. The scuffle was over by then and all the members of the police went down the hall to talk to our neighbor who had called for them. By the time they returned to our room, the soldier who had been fighting with the L/Cpl had gone. The Scottish police left and came back a few minutes later with this soldier. They talked amongst themselves, the soldier washed the blood off him and they all left.

The accused declines to cross-examine the witness.

R.A. Mueller capt.

M106470 L/Cpl Schmick, S having been duly sworn as interpreter declares the above to be a true translation of the evidence submitted by Anna Marie Harms.

R.A. Mueller capt.

The accused was cautioned as follows:-

QUESTION: Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER: I do not wish to make any statement or to give evidence on oath.

R. A. Labelle Capt.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of 5 pages, was taken down by me in the presence of the accused and that RP 4 (c)(d)(e)(f) and (g) have been complied with.

R. A. Labelle Capt.
(R.A. Labelle) Capt.,
2/7 CDN INF BDE COY.,
R.C.A.S.C. (CACF)

In the field
3 Dec 1945.

LIST OF EXHIBITS

'A' (9 mm Belgian Browning Revolver FB Radom vis model 35 pat no18567 N.5897) one clip and seven cartridges)

LIST OF WITNESSES

For Prosecution

1. Ernst Liebert, Artist, AM Pferdemarkt, Oldenburg, Germany.

2. Anton Erwin, Artist, AM Pferdemarkt (Barracks) Oldenburg, Germany.

3. 4270881 Gnr McCaughey, A., 109 Battery, 79 Scottish Horse Medium Regt R.A.

4. G44900 L/Cpl Coldrick, E. 6 Auxiliary Services Section, Beaver Club, Oldenburg.

5. Anna Marie Harms, Pferdemarkt 14, Oldenburg, Germany.

For Defence

N I L

Ext A. Matthewman Supt.

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
R14586	Pte	DION R	2/7 CDN INF BDE COY RCASC CAOF

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, permission being given to the most senior officer in each corps, and to any rearguard, special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AWL (Sec 15 AA)	Nil times	two times.
For Conduct to Proj(AA Sec 40)	Nil times	five times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or* N/A

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for N/A beginning on the ____ day of ____

4. The accused has been in confinement, awaiting trial on the present charges, for ____ days in civil custody, and 21 days in military custody, making a total of 21 days, of which 6 days were spent in hospital.

5. The present age of the accused according to his record of service is 29 yrs

6. The date of his attestation specified in his record of service is 4-2-41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 58 mos

8. The accused is entitled to deferred pay or gratuity in respect of 58 mos service.

9. The accused is entitled to reckon 58 mos service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated ____ and in his regiment (*or* corps or department) the rank of N/A dated ____

(20000) W1.24000/1720 20,000 10/42 A.& E.W.Ltd. Gp.698
(20000) W1.23024/1439 15,000 5/41 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (*or as the case may be*)

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
N/A	N/A	N/A	N/A	N/A

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 5 day of Dec 43

W. H. Lowe Lt.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion.
In the rank of	.....
In the rank of	..... years.
In the rank of N/A	..... years .....
In the rank of	..... years. .....

(Instructions.—*If any matter in any of the above foregoing answers cannot be stated from the regimental books the foregoing must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the foregoing answers amended accordingly.*)

MFM 6

No E14586 Name Dion R | Sqn, Battery, or Company | Corps RCASC | Date of enlistment 4-2-41 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc R.Labelle, Lt.-Quarter

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (agreeing with UM)	By whom awarded	Remarks
Original Sheet destroyed on completion of six months service on 4-8-41 in accordance with CRO 319.									
Last Entry Nil. Cases of Drunkenness Nil. Last Instance: Nil.									
Field	2-10-41	Pte		A.A.Sec 15(1) AWL 4½ hrs	Documentary	7 days forf pay	2-10-41	Major Copeland	
Field	8-1-42	Pte		A.A.Sec 40 Struck Pte Willis who was on duty	Pte Willis	14 dys CB 7 dys pay	9-1-42	Major Macdonell	
Field	16-7-43	Pte		A.A.Sec 40 Neglected to keep fires alight	Sgt Thornewell Sgt O'Connell	11 dys CB 7 dys pay	15-7-43	Major Russell	
Field	2-8-43	Pte		AA Sec 15(1) AWL 14 hrs 50 mins	Documentary	7 dys CB 7 day pay	5-8-43	Major Russell	Forf 1 dys pay FR&I 169
Field	15-10-43	Pte		AA Sec 40 Improperly dressed (ie no head-dress, buttons of tunic undone	Capt Gosselin Lt Prentice	14 dys CB 10 dys pay	18-10-43	Major Coombs	

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Awarded the Cdn Volunteer Service Medal and Clasp wef 15 Jan 44.									
Field	7-44	Pte		AA Sec 40 Conduct to the Prej of Good Order and Mil. Disc. in that he did fail to appear on duty	L/S Guittard JA	7 dys ford of pay under FR&I 149 (2)	13-4-44	Capt NH Regan	
Field	15-11 44	Pte		AA Sec 40 Conduct to the pred judice of good order and mil disc. In that he did fail to shave for morning inspection	L/Sgt Guittard Lt NE	10 dys forf of pay under FR&I 149(2)	14 Nov 44	Capt NH Regan	

CERTIFIED TRUE COPY OF THE ORIGINAL 5 Dec 45

E. B. H. Cattanach Capt

HR-129

Pte Dionne E.J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B115428 Pte Ernest Joseph Dionne

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st		Not Guilty	Not Guilty	
2nd		Not Guilty	Not Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on ~~(date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial: a total of ____ days, of which ____ days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

~~Sentence Awarded by the Court:~~

~~Nil~~ Date

(Sgd) A.H. Duncan Capt 27 Dec 44 (Sgd) J.A. Forman Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 33(D) fn 6.46(A), 51-56, 120, MML pp 758-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(1). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd)
Date Commanding
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 50, KR Can 576, 577.)

Accused. Date. Signature of Offr

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4R-129

FIELD GENERAL COURT-MARTIAL

Convened by Order of A.C. in C. Mediterranean Theatre dated 24 Dec 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 107. As to reasons for showing (a) permanent or confirmed rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 508, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B115428	Pte	Ernest Joseph	Dionne	N.P.L. of C.

PROCEEDINGS OF TRIAL.

Holding the Trial in (country) Holland on (date(s)) 27 Dec 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 18/69.

A1. The President, Members, waiting Member, JA, if any, ~~and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance as procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 16, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ____ as interpreter? Ans. ~~The Interpreter is sworn.(1)~~ ~~Do you object to~~ ~~as shorthand writer? Ans.~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans. No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, ~~and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.A. Forman	93rd Highland.
Member	Capt	J.A.C. Woodcock	N. Stone R.
Member	Lieut	D.G. Dyson	R. Wag. Fus.
Judge-Advocate	Capt	A.H. Duncan	H.Q. 2 Cdn Corps
Prosecutor	Lieut	C.F. Walter	W.N.L. of C.
Defending Offr	Capt	D.R. Mayford	W.N.L. of C.

Questions by President: Is the Prosecutor a lawyer? Ans. No (2) Is the Defending Offr a lawyer? Ans. No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 23.)

A8. The accused ____ before arraignment makes(s) (no) ~~X~~ plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the adducement made in support or opposit, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A2 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 26, 102. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(3) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(4), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(5), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. _____ (5)

(1. RP 37(B). 2. RP 37(D) fn 5. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on _____ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on _____ charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete where or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex _____, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir. (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first & second charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the first charge(s), and allowed on the second charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. No Sir, neither. Do you intend to call witnesses on your behalf? Ans. Yes. Are they witnesses as to character only? Ans. Yes.

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 4.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the _____ charge(s), being subject to confirmation, will be promulgated later.~~(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. _____

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex _____ and Ex _____ respectively.(3)

(1. MFP 255 or AFB 296. 2. MML p 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. _____ (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect assessment of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provisos, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 53B, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 363-366. Overseas RO 309, 2323, MML p 162, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(7)(8), 56(1), KR Can 364. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. B115428 Pte Ernest Joseph DIONNE, The Highland Light Infantry of Canada, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Sec 41
Army Act

WHEN IN A PLACE NOT WITHIN HIS MAJESTY'S DOMINIONS, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, MANSLAUGHTER,

in that he

in the field in Belgium on 6 Nov 44 unlawfully killed Mr. A. Paulliez, 115-9 Kortrykschе Straat, Ghent.

SECOND CHARGE
Section 40
Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field in Belgium on 6 Nov 44 was improperly in possession of a P38 Automatic Pistol, a German weapon.

P W Strickland Lt Col

(P W Strickland) Lt Col
CO The HLI of Canada

In the Field
18 Dec 44

To be tried by Field General Court Matial:

R Rowley Lt-Col

(R Rowley) Lt-Col
A/Comd 9 Cdn Inf Bde

In the Field
21 Dec 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B115428	Pte	-	Ernest Joseph	Dionne	HLI of C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (*date*) 24 Dec 44 endorsed by me, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial ; (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. (RP 104(E). Delete, if none appointed.)

I also appoint as judge advocate the officer nominated hereunder.

PRESIDENT.

Maj (Rank.)	J A Forman (Must be named. RP 106.)	SDe G Highrs (Unit.)

MEMBERS.

Capt	J A C Woodcock	N Shore R
Lt (Rank.)	C H Dyson (Named or detailed. RP 104.)	H Wpg Rif (Unit.)

WAITING MEMBER.

Capt (Rank.)	A L Gordon (Named or detailed, if any. RP 106.)	4 LAA Regt (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	R P Milligan (Must be named, if any. RP 106.)	A G's Can Corps (Unit.)

On Active Service in the Fd

in Holland (Country.)

Dat 24 Dec 44

R Lowley Lt-Col (Rank.)

(Signed personally. RP 105 fn 2.)

(R Howley)

Commanding A/Comd 9 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

J A Forman Maj Pres

4/38A CFA 85 (In lieu of AFA 3) 40/F & E.1697 (6145)

J.A.T.

MEDICAL CERTIFICATE

I certify that I have this morning examined B115428 PTE DIONNE E.
of The Highland Light Infantry of Canada, and find him fit/~~unfit~~ to
stand trial by Court-Martial.

Date DEC 27/44

(Medical Officer)

D3 - B-116713 Pte Turner, C.E.F., N.S. of C.
having been duly sworn states:
I recognize the accused. I saw
him in Court. Around 6 Nov 44
when the unit was in Vent at
approx. 1130 one morning, I went
up to the apartment to get my
mess tins. Dionne, the accused
followed me up the stairs and
as I entered the apartment, I
noticed Mr. A. Pauldey, owner of
the apartment, was present & I
was talking to him as Dionne came
in. Dionne came into the room
and walked to the bedroom. As he
passed me I noticed he had a
weapon holster in his hand. It was
black leather, it looked like a
German pistol holster. I ask
Dionne to let me see it. He gave
it to me and I opened the holster
and took a pistol out. It was
a revolver. I noticed that it
was loaded. I do not know if
all the chambers were loaded. I
returned it to the case. I know it
was not a P38, German weapon,
because I have seen many P38
German weapons. It did not look
like any Canadian weapons I have
seen. Just as he came into the
room Dionne said he was going
to sell his P38. Dionne came out
of the bedroom with a P38
pistol in his hand. I asked to look
at it. He cleared the weapon

by removing the mag. and working the slide and handed it to me. He placed the mag on the table and left the room. It was a P38 German automatic weapon. I worked the action and pulled the trigger three or four times. I found that the safety catch worked opposite to what Dionne had previously told me. Mr. A. Pouliot was interested in the weapon. So I handed it to him. He examined the weapon but did not work the action. He just looked at it. He then turned around and took the mag off the table and placed it in the pistol and handed it to me. I put the safety catch on first as Dionne came back. I handed the weapon to Dionne saying it was safe. I am not sure whether I said on safe or first safe. Dionne took the weapon and pushed the safety catch up, cocked the weapon and pulled the trigger. I heard a report and a flash saw a flash in front of Dionne. Pouliot was standing to my right facing Dionne who was on my left and slightly forward and facing Mr. Pouliot. I was sitting down and the other two were standing. I heard Mr. Pouliot give a gasp and I turned towards him and

saw Mr. Pauilliz was clutching his heart with his hand. I noticed his eyes roll and he slightly turned and started to fall. Dionne said something and we both caught Mr. Pauilliz and lowered him to the floor. Dionne left the room saying he was going to get one of the stretcher bearers. I started to undo some of his clothes and then went into bed room to get my first field dressing. Just as I came back into room, Dionne entered with a stretcher-bearer of the Company. The stretcher bearer opened Mr. Pauilliz's clothing, and applied a dressing to his back. The police came. Thinks are rather jumbled, I can't remember exactly what happened then. I went to bed room and stayed there, for some time. When I came out of the bed room there were a lot of people in the room. I gathered up my equipment and left the apartment.

Cross-Examination — I noticed rounds in the chambers of the first pistol, not the P.38. - When I handed the P.38 to Dionne, I did not prove the weapon. I did not tell Dionne that Mr Pauilliz had put the mag in the pistol. When I told Dionne the pistol was at safe, I received no answer, he did not acknowledge

in any way that he heard me. I knew which was "safe" because I found out when I worked the action. I did not think Bonnie was going to fire the pistol. I am not certain of relative positions of Bonnie and Pauillier just before the weapon went off. I can't remember how he was holding the weapon when he cocked it. He was not pointing it at anyone. The unit policy at that time was that ~~German~~ captured German weapons were to be kept in our large packs. Both Bonnie and I had our large packs with us. Bonnie kept his large pack in the bedroom.

By Court: I do not know if it was Bonnie's P38 or not. I know of no order from the unit or anyone to turn in German weapons. So far as I knew at that time we were allowed to keep them. Since then I know we have been ordered to turn in all captured German weapons. I believe there are exceptions to that order.

Pros. Rest. Cross-examination waived.

Charles E. McFarren

A-37795 Pte Rivers, R.R. H.Q. 1 I.C.

having been duly sworn states:

I recognize the accused. Sometime when the unit was at Ghent, I don't remember the exact date, I had just received my dinner. Pte Bonne came over and asked

me where my kit was. I told him it was up in my room. He said get it & come quick there is a man that up in my room. I got my kit and went to Devines room. When I entered the room a mans body was lying on the floor on his face inside the room about five feet from door. I pulled off his vest & shirt and noticed a wound on his back. The witness indicated a spot on his back at the left side just at the lower ribs. I applied a first field dressing. Turned the man over and then I saw that he was dead. He had no pulse and his skin was off colour. There was a hole in his lower chest just off centre to left. It was not bleeding. I put a small patch on the wound. I saw that I could do nothing, so just waited for police to arrive. A P38 pistol was lying on the floor at the mans feet. I knew a P38 when I saw one. The next day at police station I saw a P38 pistol on the desk.

Cross Examination:

When I first entered the room Mr Devine and Mr Turner were there. When I first saw the man he had vest and shirt on but no coat.

By the Court: I had a whole course on general first aid in England in

summer of 1943. I became a unit stretcher bearer about July 8, 1944 and have been one ever since. I looked at the Main's eyes, the lids were open. He had eyes of a dead man. When I entered the room, Pte Turner was standing at Main's feet Dionne at his head. They were both highly agitated. The wound was a gun shot wound. The wound in his back was a ragged hole. There were no signs of a struggle in the room.

A.P. 83(B) Complied with. R. Rivers

D6 - Defence -

Lieut. J.W. Pollard, W.E.I. R.C. having been duly sworn states:

I have known Pte Dionne for some time. At one time he was a member of my platoon. During this time I found him to be a steady, honest man and a good soldier. He left my platoon to be batman for Capt Hall Major Kingman. I recommended him for that job. He was not a careless person. He was my platoon runner. I knew him approx 6 months. His standard of training was satisfactory.

A.P. 83(B) Complied with

J.W. Pollard

D6 - Summing up by Pros.

When Dionne came back, he should have made certain that it was clear before he handled it and made certain it was clear before he pointed it at anyone - and while handling he should have made certain it was not pointed at anyone. In these two instances he has shown negligence.

Address of Defending Officer:

It has not been shown that there was gross negligence on the part of the accused. It was a mere accident that the gun went off. I would like to refer the Court to what I submitted previously.

Summing up by J.A.

D.6. -

The evidence of the Prosecution does not establish a prima facie case against the accused in either charge.

On the first charge of manslaughter the prosecution has not proved gross negligence on the part of the accused. The evidence has shown that Pte Downie did prove the pistol before turning the pistol over to Pte Turner. The fact that Mr Pauling put the magazine in the pistol while Pte Downie was out of the room and that he was not informed of this fact when he took the pistol again was indirectly the cause of the shot being fired. Not because of any negligence on his part. The pistol was not turned over to him properly proved by Turner also. Therefore I feel that the accused Pte Downie was not guilty of the first charge under section 71 of manslaughter. The witnesses for the prosecution have not clearly established the happenings as to the position of the victim Mr Pauling.

On the second charge of unlawful possession the first witness Pte Turner has given evidence that at the time of the shooting it was permissable to have captured enemy pistols as long as they were kept in the large packs. The evidence has shown that the reason Pte Downie did have the pistol in question on was that he intended to sell it. Therefore I feel that the prosecution

-verdict of Not Guilty.

As to second charge all you have to do is ask yourselves Has the prosecution presented any evidence on which you could possibly find the accused guilty? If so, disallow the submission. If he has allow the submission and record a verdict of Not Guilty on the second charge.

H. J. Milligan Capt.
J.A.

The evidence of the Prosecution does not establish a prima facie case against the accused in either charge.

On the first charge of manslaughter the prosecution has not proved gross negligence on the part of the accused. The evidence has shown that Pte Downie did prove the pistol before turning the pistol over to Pte Downie. The fact that Mr. Pavilley put the magazine in the pistol while Pte Downie was out of the room and that he was not informed of this fact when he took the pistol again was indirectly the cause of the shot being fired. Not because of any negligence on his part. The pistol was not turned over to him properly proved by Downie also. Therefore I feel that the accused Pte Downie was not guilty of the first charge under section 41 of manslaughter. The witnesses for the prosecution have not clearly established the happenings as to the position of the victim Mr. Pavilley.

On the second charge of unprivileged possession the first witness Pte Farmer has given evidence that at the time of the shooting it was permissable to have caps and enemy pistols as long as they were kept in the large packs. The evidence has shown that the reason Pte Downie did have the pistol in question was that he intended to sell it. Therefore I feel that the prosecution

has not proved that Pte Dionne was in improper possession of a German automat in P.S.S. and that the accused is not guilty.

Defending Officer

H. L. Plumptre Capt.

D.J.- Comments by Judge advocate on submission by Def. Officer that prosecution has not established a prima facie case.

At this point in the case you are not called upon to decide the guilt or innocence of the accused. You are only asked to decide whether the prosecution has established a prima facie case. In other words has the prosecution adduced or presented sufficient evidence to put accused on his defence? Was the prosecution presented evidence on which you might find the accused guilty of the offence. I quote to you a definition of Criminal Negligence from M.M.L. page 119. Has the prosecution presented enough evidence to convince you that the accused might, not necessarily will, be found to have been Criminally negligent and thus caused the death of Pavillon? If you answer this in the affirmative you should dismiss the submission on the 1st Charge. If in the negative you should allow this submission and record a

D6 Summing up by Judge Advocate.

I again read to you the definition of Criminal Negligence as contained in N. W. L. at page 117. To find the accused guilty you must find that the accused was criminally negligent and thereby caused the death of Pauliby. You must find that his negligence, if any, came within the definition I have read to you.

That this might be negligence on the part of Pauliby has nothing to do with the guilt or innocence of the accused. I might say this last statement has been denied by some judges but I think it is now the accepted view by the courts.

The evidence in this case is clear and there is not much doubt as to the facts. It is for you to decide whether on the facts as you find established the accused was criminally negligent. Remember the negligence must be much more than the negligence in a civil action for damages. It must be so gross as to amount to a crime.

I would also remind you that the accused is innocent until proven guilty. The whole burden of proof lies upon the prosecution. You must give the benefit of all and any doubt to the accused. However it must be a reasonable doubt and not a fanciful one.

H. J. Milligan Capt

SUMMARY OF EVIDENCE in the case of

C115428 Private DIONNE, Ernest Joseph, "A" Company, The Highland Light Infantry of Canada, charged with:-

First Charge AA Sec 40 — Neglect to the prejudice of good order and military discipline in that he, in the field in Belgium on 6 Nov 44 negligently failed to prove a P/38 automatic pistol before pulling the trigger thereby causing it to be discharged and thereby killing Mr. A. Pauilliez of 115-9 Kortryksche Straat, Ghent.

Second Charge AA Sec 11 — Disobeying Standing Orders, in that he, in the field in Belgium on 6 Nov 44 was improperly in possession of two captured German pistols contrary to 21 Army Gp Overseas R O No 194.

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness — B.116713 Pte. Turner, C.E.N., a Regt'l Signaller attached to "A" Company, The Highland Light Infantry of Canada, sworn states:-

"On 6 Nov 44 I was billeted with Pte. Dionne at 115-9 Kortryksche Straat, Ghent. On that morning I went up to my room for my mess tins for lunch at approximately 1145 hrs. I was in the sitting room, talking to Mr. A. Pauilliez, owner of the house, when Pte. Dionne came in and mentioned that he was going to sell his German pistol. As he passed me to go into the bedroom, I noticed that he was carrying a revolver in a holster. I asked to see it, and he handed it to me as he went into the bedroom. I removed the revolver from the holster, looked at it, and put it back in the holster and laid it on a chair. When Pte. Dionne returned he handed me a P/38 automatic pistol which he had first cleared by removing the mag and working the slide. I cocked and fired the empty pistol a few times. I found that the safety catch worked directly opposite to what Pte. Dionne had had previously told me. Mr. Pauilliez was interested, so I handed him the weapon, which he took and looked at only. He took the magazine off the table and put it into the pistol, which he handed back to me. I put the safety catch on, and handed the pistol back to Pte. Dionne who had gone to the bathroom while Mr. Pauilliez was examining the weapon.

First Witness (Contd)

Pte. Dionne then pushed the safety catch up, cocked the pistol and squeezed the trigger, and the automatic went off. Pte. Dionne just stood there and Mr. Pauilliez appeared not to be shot, but then he clutched at his stomach and started to fall. Pte. Dionne dropped the weapon and both of us helped him to the floor. Pte. Dionne left saying he would get one of the stretcher bearers. I went into the bedroom and got a field dressing. I was just undoing Pauiliez's clothes when one of the company stretcher bearers, Pte. Rivers came in. Pte. Rivers dressed the wound with the field dressing."

Cross-examined by Officer Detailed to take Summary:-

Q. Was Pte. Dionne in the room when Mr. Pauilliez put the mag back into the weapon?

A. No sir. He was not in the sitting room.

Q. Did Pte. Dionne make any effort to prove the automatic when it was handed back to him?

A. No sir.

Cross-examined by accused:-

Q. Did you say anything to me when the automatic was handed back to me to indicate that the magazine had been put back into the pistol?

A. I only mentioned to you that the pistol was on "safe" as I handed it to you.

Charles E. N. Turner
.....
The Highland Light Infantry of Canada

Second Witness A.37765 Pte. Rivers, R.R., a Stretcher Bearer attached to "A" Company, The Highland Light Infantry of Canada, sworn states:-

"At approximately 1200 hrs 6 Nov 44 I had just received my lunch at the company cooker when Pte. Dionne ran up to me and asked where my kit was saying that there was a man shot in his room. I got my kit and went up to the room with Pte. Dionne. A civilian was lying on the floor and Pte. Turner was standing at his feet. I applied a field dressing to the wound on back, and turned him over to apply a dressing to the wound on his chest, and found that the man was dead. There was no pulse, no heart beat and the man's skin was pale, but I applied the dressing anyway."

The accused declines to cross-examine this witness.

R. Rivers
The Highland Light Infantry of Canada

The accused was cautioned as follows:-

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I will say nothing, sir.

I certify that the foregoing Summary of Evidence, consisting of three pages, was taken down by me in the presence of the accused and that RP 4 (c), (d), (e) and (f) have been complied with.

E. Chapman Capt
The Highland Light Infantry of Canada

Second Witness: A-37765 Pte. Rivers, R.R., a Stretcher Bearer attached to "A" Company, The Highland Light Infantry of Canada, sworn states:-

"At approximately 1200 hrs 6 Nov 44 I had just received my lunch at the company cooker when Pte. Dionne ran up to me and asked where my kit was saying that there was a man shot in his room. I got my kit and went up to the room with Pte. Dionne. A civilian was lying on the floor and Pte. Turner was standing at his feet. I applied a field dressing to the wound on back, and turned him over to apply a dressing to the wound on his chest, and found that the man was dead. There was no pulse, no heart beat and the man's skin was pale, but I applied the dressing anyway."

"I was present on parades held by "A" Company during the past three months and heard all ranks warned that anyone witholding captured enemy equipment would render themselves liable for disciplinary action. Pte. Dionne was present and could not have failed to hear the order."

The accused declines to cross-examine this witness.

R. Rivers
The Highland Light Infantry of Canada

Certified true copy of Canadian Routine Orders (21 Army Group) No 194 is attached as Exhibit "A".

E.H. Lugman Capt
The Highland Light Infantry of Canada

The accused was cautioned as follows:-

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I will say nothing, sir.

I certify that the foregoing Summary of Evidence, consisting of three pages, was taken down by me in the Presence of the accused and that RP 4 (c), (d), (e) and (f) have been complied with.

E.H. Lugman Capt
The Highland Light Infantry of Canada

194. - PIFFERING OF ENEMY EQUIPMENT

1. Cases have arisen in which captured enemy equipment has been taken by personnel in the theatres of operations. This has made subsequent examination of captured weapons, equipment and documents wither impossible or very difficult.

2. The attention of all ranks is directed to the fact that enemy property, whether weapons, equipment or documents captured by the Cdn Forces, is the property of the Allied Governments, and no personal right to the same exists in the captor.

3. Every assistance will be given to Intelligence personnel in the examination of captured enemy property.

4. Officers and other ranks withholding captured property will render themselves liable for disciplinary action.

(21 A Gp GRO 503/44 Adapted) (520/21 A/Gp/1-AG 4)
(Published as NBI)

BB-61

cpl DIONNE, 7

Correspondence to be PINNED here.

BB-61

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this First day of April, 19 43

Whereas it appears to me, the undersigned, an officer in Command of Second Canadian Division, Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

[redacted]

*Omit if not applicable.

*(1. [redacted]

*(2. [redacted]

[redacted]

Proceedings forwarded Reviewing Officer (A.G.H.Q.) 15 Apr 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	F.J. Gilmour	RCA att'd HQ 2 Cdn Div

Members.

Rank.	Name.	Regiment.
Capt. or Lieut.	(to be detailed by OC Tor Scot R (MG))	Tor Scot R
Capt. or Lieut.	(to be detailed by C, RCASC 2 Cdn Div)	RCASC.

*Signed (J.H. ROBERTS) Major-General

Commanding 2 Cdn Div

Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
E.14271 Cpl Francois DIONNE, 4 Cdn Inf Bde Coy RCASC	AA 15(1) (See Charge Sheet attached)	not guilty	Not guilty	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

Signed: (J.H. ROBERTS) Major-General (Signed)
Commanding 2 Cdn Div
Convening Officer (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 2nd day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, ~~and sentence~~ in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

* Omit if not applicable.

*~~(3. The interpreter)~~
*~~(4. The officers under instruction)~~

were duly sworn.

Signed this 2nd day of April 1943.

President of the Court Martial.

* See footnote (b) on page 702 M.M.L. 1929.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19 .

Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

C H A R G E S H E E T.

The Accused E-14271, Cpl. FRANCOIS DIONNE
4 Cdn Inf Bde Coy R.C. A.S.C., a Soldier in the Canadian Army Overseas, is charged with:-

SECTION 15(1)
ARMY ACT.

ABSENTING HIMSELF WITHOUT LEAVE

In that he

In the Field Absented Himself without leave from 1200 hrs on the 19th of March 1943 until 0800 hrs on the 21 Mar 1943.

TOTAL ABSENCE - 1 DAY, 20 HRS.

"IN THE FIELD"
22 Mar 43.

(L.A. DOWLING) A/O.C.
4 Cdn Inf Bde Coy
R.C.A.S. C. - C.A.A.F.

To be tried by F.G.C.M.

26 Mar 43

(J.H. Roberts) Major-General,
G.O.C., 2 Cdn Div.

B2 J. Fulmour.
Majr

E-14271

Cpl. DIONNE, F.

In the Field

2 Apr 43

A Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at In the field
on the 2 day of April 1943 by order of
Major General J. H. Roberts
Commanding 2 Can Div
dated the 31st day of April 1943

President.

Major F. J. Tilmans RCA attd HQ 2 Can Div

Members.

Lieut J. K. Douglas Tor Scot R (M &)

Lieut ~~H~~ H. T. Gray RCA S C

Trial of* E. 14271 Gnr Francois Dionne Judge Advocate
4 C I B Coy RCA S C

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that ~~ ~~is not available~~ to serve owing to ~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt K. S. Cuthbert 4 C I B Coy RCA S C

Counsel‡ or defending officer† Capt A H Hood 4 C I B RCA S C

At 1500 o'clock the Trial commences.

The order convening the Court is read, and is marked "A" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

The President, members and ~~judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (6) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read?

Question to the accused.

not guilty.

Answer.

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~

Question.

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~

Question.

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~

Question.

Answer.

~~The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 56 (B) are here complied with.~~

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

Instruction.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See K. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No Sir.

The prosecutor makes an opening address [~~hands in a written address which is read, marked ~~ ~~signed by the President, and attached to the proceedings~~]

The prosecutor proceeds to call witnesses.

First witness for prosecution. D-106943, Cpl Barrette O. 4 C.I.B. Coy. R.C.A.S.C.

being duly sworn, is examined by the prosecutor.

I am senior NCO in charge of personnel in H.Q. Plm. I have charge of nominal rolls & check tabs. I check men returning from Privileged leave. On the 19th March '43 the accused should have returned at 1200 hrs from a 48 hr leave. At 1230 I went to his hut to see if he had got back. I did not find him & I went again several times but could not find him. He reported to me on March 20/43 at 0700 hrs - I put him under open arrest. I produce the pass issued to him entering in the possession of the accused. I produce this express at 1200 hrs 19th of March 1943. (exhibit #1) Cross exam. He gave no reason for being late returning. It was his duty to surrender his pass to me & report as soon as he returned. RP 83(b) complied with.

C2

2nd Pros Witness

D121558 Pte Lagasse J.
4 C I B Coy R E A S C.
duly sworn states.

I know accused. I am in the R A P as helper. Cpl Dionne the accused is in charge. We live together & work together. I was at the R A P most of the time from 1200 hrs 19 March 43 until 0800 hrs 20 March 43 & slept there those nights. I knew accused had a pass & should be back at noon on Friday. He was not back in time. He returned the following Saturday morning at 8 o'clock. I remember Lance Corp Cliff Barrette check to see if the accused had returned. I was present. The accused told me he had been sick & had cramps. RP 83 (b) complied with

The accused is informed of his rights under RP 40

Pte P C O D

J L

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. Yes

Question. Do you intend to call any other witness in your defence?

Answer. Yes

Question. Is he a witness as to character only? *Answer.* No

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (ii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. ~~Have you anything to say in your defence~~?

Answer. ~~The accused in his defence says~~†

~~[hands in a written address which is read, marked signed by the President and attached to the proceedings.]~~

1st Defence Witness. E14024 Pte Daigle J.B. # 4 C I B Coy R C A S C. duly sworn. On the 18th March 43 I was in Cranbrook at Tunbridge Wells. I saw the accused there. I saw him at the Boarding house where I was staying 24 York Rd Tunbridge Wells. It was about the 6 o'clock

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court above.)

P.T.O.

D 2

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

in the afternoon Thursday the 18 March - I saw him again Friday morning 19th of March between 8 & 8.30 in his room. He was in bed Friday morning when I saw him. I asked Pte Devine to come with me during the morning to a Pte [illegible] Devine replied he could not [illegible] feeling ill. He said he was suffering from cramps. I also saw him Saturday morning about 8.30. He told me he was still ill. He appeared to me to be ill.

Cross Exam: The accused & I were the only soldiers from this unit staying at the Boarding house. The accused did not ask me to do anything for him. He did not ask me to call a doctor nor inform the unit that he was sick as far as I remember he saw me his passes pieces at 8 on Friday but I am not sure. He did not tell me what he was going to do about the pass at pieces.

RP 83(1) Complies with

D 3

2nd Defence Witness

The accused, Cfs Division 7 duly sworn states

I got a 48 hr pass on 17 March to go to Tonbridge Wells. I stayed there & slept at South end Wednesday night. Friday morning the 19th I had to get up at about 4 O'clock as I was sick. I had cramps & diahroe. I had told the landlady to wake me at 7.30 that same morning so I could take my train back to my unit & she did. But I couldn't get up. Then she came back at 9.30 & I told her I was sick & told her what it was that I had. Then she brought me some hot milk. A few minuts after a friend of mine came to see me as I was supposed to meet him at 8 O'clock. That was Pte Tommy Gagnon of my unit. I told him I was sick

HR

D4

I asked Pte Dagnall to phone the unit for me. He said he would. But on Saturday afternoon I went to the Mid England Cafe to eat my respirator & things around 5.15 & he was there & he told me he had forgotten to call up the unit & left him & went to the station & took the 1.52 train changed at Pollgate & Brighton. When I got to Brighton there was no connection to Chichester there was 10.15 at night. I went to the R.T.O. & reported & told him I was late already & I wanted to come to Chichester that night. The R.T.O. said he was sorry but there was no more trains all he could do was stamp my pass mark the hour & told me there was a next train at 6.11 next morning - that would be 21st April 7/5

arriving at Shoreham at 0715 hrs
& this is the train I ought to have
to walk from the stn to the
Camp. & I immediately reported
to Cpl Barrett
O.C.M. Exam. I have lead the visits in
the back of the pass. The only thing I
did was to try to get one of our
own boys telephone & the unit
that was finding the M.P.'s
in my room. When I later found
out that Gagnon had not phoned
my leave had already expired
so I did not try to phone but
got back to camp as quick as
I could. RP 83 (b) complied with

3rd Defence Witness ~~E 5~~ E14584 Pte Gagnon T.
H C I B Coy R C A S C duly sworn

I met accused on Thursday 18 th or
in Tunbridge Wells. We were going to
meet on Friday morning about 8 a

9 O'clock - We were going to meet at Mrs Englands Cafe - He was there. I went to his room where he slept. I saw him sick in bed. He asked me to phone the camp for him + I went out + stopped to drink + forgot all about it. Next saw him in the same cafe about 5 O'clock Saturday PM when I saw him I remembered + said I have forgotten to phone. Cross-Exam. He told me our phone number at camp but I knew the number.

RP. 83 (b) complied with

4th Witness for Defence

Charlotte Josephine Brodie of 24 York Road Tunbridge Wells duly sworn states

I have a rooming house + serves breakfast to lodgers. I know the Deceased by sight. He

Norma at my home a fortnight
ago. He stayed a Thursday &
Friday night. Thursday night
he was quite OK & talked & he
called about 7.30 Friday morning.
I called him next morning about
that time but he did not get
up. ..... him again about
9 & 9.30 he asked me to come in
& said he was ill & he looked ill.
He stayed in bed all day
Mon 6th. He did not ask me
to contact his wife but he did
seem worried about getting back.
He was worse at noon. He said it
cramps & thought it would pass.
There is a public telephone about
5 minutes walk from my home.

RP 83(b) complied with

7/6

28

The D.O. refers to A.G. of 15 Oct
note 1 para 5.

involuntary offence done to
Allies

The prosecution fails.

Careless because vos
definitely did but contends
that poss a reverse side to the
adventure which is to be followed
see Page 2

J Fulmour
Maj a
DAs

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused is not guilty of the charge.

The Court is reopened and the finding of Not Guilty is announced in open Court and the accused is released

F. J. Fulmour
Maj
Pres

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

SUMMARY OF EVIDENCE

In the case of E-14271, Cpl. FRANCOIS DIONNE, 4 Cdn Inf Bde Coy R.C.A.S.C., a Soldier in the Canadian Army Overseas.

The Accused is informed of his rights.

The C.O. directs that the evidence be taken on Oath.

FIRST WITNESS FOR THE PROSECUTION.

D-106943, Cpl. BARRETTE, O. 4 Cdn Inf Bde Coy R.C.A.S.C., being duly sworn states:-

I am D-106943, Cpl. Barrette, O. Adm. Cpl. H.Q. Platoon 4 Cdn Inf Bde Coy R.C.A.S.C. I am Senior N.C.O. in charge personnel H.Q. Platoon.
On the 19th March 1943 at 12.30 hrs I went down to the Accused's hut to see if he had returned from his 48 hrs leave which was finished at 1200 hrs on the 19th March. I found that he was not back yet.
He reported in to me at 0800 hrs on the 21st March 1943 I then placed him under open arrest and prepared a charge against him.
Between 1200 hrs on the 19th March and the time that he returned I visited his hut several times. He was always absent.
I present the 48 hrs pass which the Accused held. (Attached as Exibit "A")

O. Barrette
(D-106943, Cpl. BARRETTE, O.)
4 Cdn Inf Bde Coy R.C.A.S.C.

THE ACCUSED DECLINES TO CROSS EXAMINE THE WITNESS.

SECOND WITNESS FOR THE PROSECUTION

D-121558, Pte. LAGASSE, F. 4 Cdn Inf Bde Coy R.C.A.S.C. being duly sworn states:-

"I am D-121558, Pte. LAGASSE, F. 4 Cdn Inf Bde Coy RCASC. I assist the Accused in the R.A.P. I live in the R.A.P. along with the Accused. I was in attendance at the R.A.P. most of the time from 1200 hrs 19 Mar 1943 until 0800 hrs on the 21 March 1943. I did not see the Accused at any time during this period. He returned to the R.A.P. at approximately 0800 hrs on the 21st. March"
I remember Cpl. Barrette visiting the R.A.P. and asking me if the Accused had returned some time during Cpl. Barrette returned again, Sunday Morning the 21st. March before 0800 hrs for the same reason.

F. Lagasse
(D-121558, Pte. LAGASSE, F.)
4 Cdn Inf Bde Coy RCASC.

THE ACCUSED DECLINES TO CROSS EXAMINE THE WITNESS

PAGE TWO.

The Accused having been duly cautioned in Accordance with R.P. 4 (E) says:-

" I DONT WANT TO GIVE ANY EVIDENCE".

Cpl Dionne F
(E-14271, Cpl. DIONNE, F.)
4 Cdn Inf Bde Coy R.C.A.S.C.

Taken down by me in the presence of the Accused this 23rd. Day of March 1943. I hereby certify that Rules of Procedure 4 have been complied with.

(R.J. CREBER) Capt.
Officer Detailed to take the Summary of Evidence.

EXHIBIT "A"

of the whole Army Reserve is ordered every soldier of [illegible]
n immediately to his unit without waiting for instructions.

Regiment 4 Cdn Inf Bde coy R.C.A.S.C. Army Form B2165 (In lieu of A511)

ASS

No E14271 (Rank) Cpl (Name) Dionne F

has permission to be absent from his quarters/duty, from

1200 17 3 43 to 1200 [illegible] 3 43

for the purpose of proceeding to Tunbridge Wells

(Station) In the field

(Date) 17/3/43 Commanding [illegible] R.C.A.S.C. I.E.F.

cpl cpl

Provided he has not exceeded [illegible] leave is forthcoming [illegible] hours, unless notification to the contrary is received before going on leave. Leave may be curtailed or is necessary to enable purchase of a rail ticket at reduced fare. Detail allotment if not practicable.

CROWN COPYRIGHT RESERVED

HQ

23, 0

O. H. M. S.

TH. DIONNE, J.P.

M. F. B. 270

D-3651 Tpr John Thomas DIONNE
17 D.Y.R.C.H. (7 Rec'ce Regt)

23.0 'G'

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 28th day of August, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 3rd Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*(and that it is not practicable to delay the trial for reference to a superior qualified officer.)~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers ~~hereunder named~~ appointed or detailed hereunder.

* Omit if not applicable.

~~*(I am unable to appoint~~
~~(a). Three Officers to form the Court.)~~
~~*(a). A Field Officer as President.)~~
~~(b). Three Officers having more than one year's service.)~~
~~for the following reasons, namely:-)~~

PROCEEDINGS REVIEWED

Judge-Advocate: Captain R.A. Ritchie H.Q. 3 Cdn Div.

President.

Rank.	Name.	Regiment.
Major	V.C. Hamilton	~~No 8 C.W. 3 Cdn Div~~ 3 RD Cdn Fld Park Coy.

Members.

Rank.	Name.	Regiment.
Captain	J.B. Wynand	3 Cdn Div Petrol Coy, RCASC.
Lieutenant	D. MacClymont	C.H. of O. (MG)

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed L B Price
(C.H.Price) Major-General.
Commanding 3rd Canadian Division.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D-3651 Trooper John Thomas DICNNE, 17th D.Y.R.C. Hussars (7th Rec'ge Regt).	First Charge Section 15(1) Army Act	GUILTY	GUILTY	
	Second Charge Section 40 Army Act	GUILTY	GUILTY	
	Third Charge Section 40 Army Act	GUILTY	GUILTY	
	Fourth Charge Section 40 Army Act	NOT GUILTY	NOT GUILTY.	
	Fifth Charge Section 24 (2) Army Act	NOT GUILTY	GUILTY EXCEPT THAT HE WAS NOT DEFICIENT 1 Cap Badge 1 Beret 1 Button Stick 1 Jacket Safety 1 Steel Helmet 1 Pair Trews 1 Dressing Cotton 1 Vest Grey 6 MONTHS DETENTION AND TO BE FINED UNDER STOPPAGES OF PAY IN THE AMOUNT OF £2-0-6½ Dated in the field this 31st day of August 1942.	Confirmed C.B.P.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) C.B. Price (Signed) Wm. Cameron Major

(C.B.Price) Major-General, *Presiding.*
Commanding 3rd Canadian Division.
Confirming Officer (c)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

40

"B" 2 P.I.

CHARGE SHEET

The Accused, D-3651 Tpr JOHN THOMAS DIGGLE of the 17th D.Y.R.C. Armoured (7th Rec'oe Reg't) a soldier of the Canadian Army (Overseas) is charged with:-

FIRST CHARGE Section 18(1) Army Act — absenting himself without leave, in that he, in the Field, absented himself from 2359 hours 6 May 42 until apprehended at Manchester by the Corps of Military Police at about 0900 hours 8 Aug. 42, thereby incurring cost of apprehension and return from Manchester to the extent of £1-11-8
(Time Absent 93 days, 9 hours, 1 minute).

SECOND CHARGE Section 40 Army Act — Conduct to the prejudice of good order and military discipline in that he, in the Field, stated a falsehood to an R.C.O. of the Military Police by stating that he was on leave, knowing same to be untrue.

THIRD CHARGE Section 40 Army Act — An act to the prejudice of good order and military discipline in that he, in the field, was in possession and made use of a document purporting to be a genuine pass, signed by Captain W.C. Morton, well knowing that it was not genuine, so signed.

FOURTH CHARGE Section 40 Army Act — Conduct to the prejudice of good order and military discipline in that he, in the Field, was improperly in possession of 10 blank passes with Regimental stamp affixed thereto.

FIFTH CHARGE Section 24(2) Army Act — Losing by neglect his equipment and Regimental Necessaries, in that he on [illegible] was deficient of:-

	Actual Cost. £	s	d	Unexpired Wear £	s	d
Cap Badge			7½			
Beret		3	10		2	10
Button Stick			8			6
Drawers, Woolen		5	3		3	11
Knife, Table			9½			7½
Fork, Table			5			4
Spoon, Table			4½			3½
Jacket, Sweater		8	6		6	4
Carrier Water Bottle		1	11		1	5
Water Bottle		2	11		2	1
Steel Helmet		9	6		7	4
Tins, Mess		1	8		1	3
Shorts, Gym		3	10		2	10½
Vests, Gym		1	6		1	1
Drawers, Cotton		2	[illegible]		1	6
Mug, Enamel			[illegible]			[illegible]
	£	9	3	£	1 - 13	8

To be tried by
Field General Court-Martial.

E B Price
(C.E. Price) Major-General.
O.C. 3rd Canadian Division.

28 AUG 42

W.W. Ingman
(W.W. Ingman) Lt.-Col.
Commanding 17th D.Y.R.C.,
(7th Rec'oe Reg't) CA (R/O)

28 Aug 42

D 3651 Tpr. John Thomas DIONNE
17th D.Y.R.C.Hussars
(7th Rec'ce Reg't.) C.A. (O/S)

1. The marginally named Trooper has been medically examined by me this date, and I hereby certify that he is physically fit to undergo trial by Field General Court-Martial.

(J. Balfour) Captain
Medical Officer
17th D.Y.R.C. Hussars
(7th Rec'ce Reg't.) C.A. (O/S)

*Any printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field General Court-Martial held ~~at~~ In the Field on the 28th day of August 1942 by order of Maj. General C.B. PRICE Commanding 3rd Canadian Division dated the 28th day of August 1942

President.

Major V.C. ~~Hendrick~~ Hamilton 3 Fd. Pk Coy RCE.

Members.

Capt. J.B. Maynard 3 Div Pet Coy RCASC

Lieut. D. McCLYMONT LAA & O (No 5).

CAPT. R.A. RITCHIE RCA. Judge Advocate.

Trial of* D.3651. TPR. DIONNE. J.T. 17 DY RCH

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Lieut Donnelly 17 DY R.C.H.

~~Counsel or~~ defending officer† Lieut. H. Logan 17 DY R.C.H. (Trans Regt).

At 1600 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form B. 271
10M—6-40 (8715)
H.Q. 1772-39-224

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. *If the accused has elected to be tried under Army Act, s. 18 (8), the fact shall be here recorded.*

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Not Guilty *Answer.*

Are you guilty or not guilty of the fifth charge against you which you have heard read.

Not Guilty

The accused having pleaded Guilty to 1st, 2nd & 5th charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C

Proceedings on Plea of Not Guilty

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. NO

~~The prosecutor makes an opening address [hands in a written address, which is read, marked , signed by the President, and attached to the proceedings.]~~

THE PROSECUTOR STATES: "The prosecution has NO evidence to offer on the fourth Charge"

The prosecutor proceeds to call witnesses.

First witness for prosecution. D. 3586. Sgt RICKETTS. G. H.

being duly sworn, is examined by the prosecutor.

On the 13th of August I made a check of the ~~defendant~~ kit of the accused and found the following deficiencies. (The accused had a list which coincided with his kit on the charge sheet except for one sheet and one vest (grey). The pieces listed as "unexpired wear" on the charge sheet are the vocabulary pieces

RULE OF PROCEDURE 83(B) COMPLIED WITH

CALLED BY THE COURT.

CAPT W. G. DONNELLY.
Having been duly sworn. I am the adjutant of the 7th Recce Regt I produce herewith a certified copy of a court of Inquiry held on the absence of the accused on the 27th day of May 1942

RULE OF PROCEDURE 83(B)
COMPLIED WITH

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused D-3651 Pte John Thomas Dixon
is found guilty of 1st, 2nd & 3rd charges

*The summary (or abstract) of evidence is read, marked , signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction.

*If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

D

The prosecution is closed.

Defence

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. YES.

Question. Do you intend to call any other witness in your defence?

Answer. NO

Question. Is he a witness as to character only? *Answer.* N/A.

INSTRUCTIONS TO THE COURT

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv and 41 (A) (i) and (iii) will be similarly deal with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[Hands in a written address which is read, marked

signed by the President and attached to the proceedings.]

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

Instruction. The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

D. 3651. TPR JOHN THOMAS DIONNE

Slept camp on May 6 and when I left I know all my kit was there. I came back on Aug 9th. Sgt Tickel came to on Aug 13th to take a kit inspection. He had a list of my kit taken by Sgt Warren sometime in July. So he took a kit inspection right there and found a little more kit missing.

CROSS-EXAMINED.

Q. Did you leave your kit on your bed

A. Yes I took a chance on it. I did not ask anyone to look after it but if they had taken a kit inspection then I don't think anything would have been missing

BY THE COURT.

Q. How did you leave your kit when you went away?

A. Just on my bed.

RULE OF PROCEDURE 83(B) COMPLIED WITH.

E

Finding*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lieut J L Drinville 1/DYRH is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* I have N & B 96 + certified copy of M & M 6.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked H, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused.

The Defending Officer declines to cross examine

[Instruction.—If by reason of the nature of the service of the accused in a depot, mixed corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

Summary of evidence in the case of D-3651 Trooper JOHN THOMAS DIONNE of the 17th [illegible] of York's Royal Canadian Hussars (7th Rec'ce Reg't) CA (O/S).

By direction of the Commanding Officer, the Summary of Evidence is taken.

1ST WITNESS FOR THE PROSECUTION

D-3202 Cpl. Liot, G.D.V. of the 17th D.Y.R.C.Hussars (7th Rec'ce Reg't) CA (O/S) states:-
I am Section Corporal of second section. Tpr. Dionne was sleeping with that section. At 2359 hours 6 May 42 I reported him absent when I took Tattoo report.
Question:- Who did you give the report to ?
Answer:- To Cpl. Learie, who is Section Corporal of First Section.

The accused declines to cross-examine this witness.

D-3202 Cpl. Liot, G.D.V.

2ND WITNESS FOR THE PROSECUTION

D-3109 Cpl. Learie, P.J. of the 17th D.Y.R.C. Hussars (7th Rec'ce Reg't) CA (O/S states:-
I had two men in Cpl. Liot's hut. I went to get Tattoo report on remainder of my section on the evening of 6 May 42 at 2359 Hours. I was told by Cpl. Liot that Tpr. Dionne was missing.
Question:- Did you check for yourself that he was missing ?
Answer:- Yes sir.
Question:- Who did you pass this information on to ?
Answer:- To Sgt. Henderson, who was Orderly Sergeant.

The accused declines to cross-examine this witness.

D-3109 Cpl. Learie, P.J.

3RD WITNESS FOR THE PROSECUTION

D-3151 S.Q.M.S. Lyons, L. of the 17th D.Y.R.C. Hussars (7th Rec'ce Reg't) CA (O/S) states:-
Question:- Do you swear that the deficiencies of kit listed by you are correct in every detail ?
Answer:- Yes Sir.

The accused declines to cross-examine this witness.

D-3151 S.Q.M.S. Lyons, L.

L/Cpl. W.S. Taylor	Army Form B 252	Appendix "A"
Major G.V. Rowley	Certificate in accordance with A.A. Sec 165 (1)(JJ).	Appendix "B"
Lieut.H.F. Gerwen	Certificate showing cost of apprehension	Appendix "C"
D-6168 A/SSM Henderson, D.	Statement	Appendix "D"
	Army Form B295 Leave pass purported to be signed by Captain W.G. Morton	Appendix "E"
	Army Forms B295 - Blank leave passes with Regimental stamp affixed thereto.	Appendix "F"

Written statements of these witnesses evidence purporting to be signed by them have been read to the accused and are included in this summary of evidence.
Having regard to the exigencies of the service the attendance of these witnesses cannot in my opinion be readily procured.

[illegible] Lt.-Col.
Officer i/c D.Y.R.C. Hussars

The accused does not demand the attendance of these witnesses for cross-examination.

[illegible] Lieut.
Adjt.

The accused having been duly cautioned in accordance with Rule of Procedure 4 (c) "Do you wish to make any statement or to give evidence upon oath ? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence," reserves his defence.

Certified that Rule of Procedure 4 (c)(d)(e)(f) and (g) have been complied with.

Taken down by me in the presence and hearing of the accused this 19th day of AUGUST 1942 in the field.

Lieut. J.A.G. Dom. Forces.

EVIDENCE TO SUPPLEMENT DEFICIENCIES
IN THE SUMMARY
OF EVIDENCE

CAPT. W. G. DONNELLY having already been sworn states:

I am adjutant of the 7th Recce Regt and I know that there is no Capt W H Morton on strength of this Regiment nor has there been. The leave pass which is appendix E to the Summary of Evidence is not a genuine leave pass of this unit.

RULE OF PROCEDURE 83(13)
COMPLIED WITH.

6989

CHARGE

Army Form B 252
(See King's Regulations

17th Duke of York's Royal Canadian Hussars Regiment
B Squadron Battery / Squadron / Troop or / Company

CHARGE against No. 3/45 Rank Pte.

Name DIENKE J. T.

Place ..... Date of Offence .....

OFFENCE Whilst on active service

1 Absent from unit apprehended by the MILITARY Police in PETER STREET MANCHESTER 8. 8. 42 about 0930 Hrs

2 Stating a falsehood to an N.C.O. of the MILITARY POLICE

3 Being in possession of a document purporting to be a genuine leave pass and knowing it not to be genuine

4 Being in possession of 10 stamped blank leave passes

Names of Witnesses:—

No 790398 Pte W. J. TAYLOR C. M. POLICE

6690361 Pte W. HARDAL C. M. POLICE

Signature of O.C. Battery, Squadron, Troop or Company

A Rowley Major
A.P.M. Lancs. & Border District

Punishment Awarded .....

By whom Awarded .....

Adjutant.

P.T.O.

(2356) Wt. W2/4401/1365 250,000 11/40 E. & E. Ltd. Gp.27/6

Statement of **EVIDENCE** in the case of

D/3651 Tpr DIONNE. J. T.

B' SQUADRON. D.Y.R.C.M.

HASTINGS.

Sir,

At MANCHESTER on the 8th AUGUST '42 about 0900 hours I proceeded accompanied by W/Opl KENDALL C.M. Police & Pte/Sgt YATES C.M.P. where I saw the above named soldier. I asked him if he was on leave and he replied "Yes" and produced the attached leave pass. Not being satisfied I questioned him further and found the two blank stamped forms [illegible] the attached correspondence. He then admitted having been absent 4 months but refused to say who had sent him the letter. I arrested and conveyed him to the DRILL HALL BRUNSWICK GREEN and handed him over to the R.S.O i/c GUARD to be detained. He was then dressed in suitable uniform.

MANCHESTER
8. 8. 42

W. A. Taylor Capt
C.M. Police.

REMARKS

Sir,

I learned over and corroborate the above statement

MANCHESTER
8. 8. 42.

W. Kendall Capt
C.M. Police

Appendix "B"

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT. SECTION 163 (1)(JJ).

I certify that (number) D/3637.....(rank)...Tpr..(name) ...Dicose.J.T.....
"B" Squadron ..... Duke of York's Royal Canadian Hussars.....(unit). was arrested at Manchester.....
at 09.00 hours, on 8th August ...194 2, and at the time of his arrest he was
wearing Military Uniform.

Signature of Provost Marshal, A.P.M., or other Officer into whose custody the above named person was taken on arrest.

P.A.P.M. East Lancs. District. Manchester. Major.

Date, 8th August 1942.....

Appendix "B"

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT, SECTION 163 (1)(33).

I certify that (number) R/36731.....(rank)...Trr..(name) ...Dicuse.V.T.....
Duke of York's Royal Canadian Hussars
"B" Squadron .....(unit). was arrested at Manchester.....
Peter Street Y.M.C.A

at 09.00 hours, on 8th August...194 2, and at the time of his arrest he was wearing Military Uniform.

Signature of Provost Marshal, A.P.M., or other Officer into whose custody the above named person was taken on arrest. P. Rowley Major. A.P.M. East Lancs. District. Manchester.

Date. 9th August 1942....

Appendix "C"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. H3651 Rank Tpr. Name Hoinne, J. T. Unit Duke of York RC Hussars

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit~~ From London from Manchester

Date	Particulars	Amount		
8 Aug 42	Escorts return fare from LONDON To Manchester (Exportation)		14	1
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Beds~~, Meals, Bus fares (Exportation)		3	6
	Total £	1	11	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

H Lee Lieut.

Officer Issuing ~~Railway Warrant~~ and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-55
40/P & S/483

APPENDIX "D"

Statement by D-8168 A/SSM HENDERSON, D. of the 17th D.Y.R.C.Hussars (7th Rec'ce Reg't), now at No. 1 Cdn. Arm'd Corps Reinf. Unit.

I was Squadron Orderly Sergeant on the night of 6 May 42, when Cpl. Learie reported to me that Tpr. Dionne was not in his quarters when Tattoo was taken. I reported this to the Squadron Sergeant-Major.

D Henderson

D-8168 A/SSM Henderson, D.

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regiment ..... Army Form B2065 (To pads of 100)

PASS

No. ..... (Rank) ..... (Name) .....

has permission to be absent from his †quarters/duty, from .....

to .....

for the purpose of proceeding to* .....

(Station) ..... Commanding .....

(Date) ..... (P.T.O.

* Permission not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† Delete whichever is not applicable.

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regiment ..... Army Form B2065 (To pads of 100)

PASS

No. ..... (Rank) ..... (Name) .....

has permission to be absent from his †quarters/duty, from .....

to .....

for the purpose of proceeding to* .....

(Station) ..... Commanding .....

(Date) ..... (P.T.O.

* Permission not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† Delete whichever is not applicable.

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regiment ..... Army Form B2065 (To pads of 100)

PASS

No. ..... (Rank) ..... (Name) .....

has permission to be absent from his †quarters/duty, from .....

to .....

for the purpose of proceeding to* .....

(Station) ..... Commanding .....

(Date) ..... (P.T.O.

* Permission not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† Delete whichever is not applicable.

CROWN COPYRIGHT RESERVED

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regiment .....

Army Form B295
(In pads of 100)

PASS

No. ..... (Rank) ..... (Name) .....

has permission to be absent from his †quarters/duty, from

..... to .....

for the purpose of proceeding to* .....

(Station) .....

(Date) .....

Commanding

[P.T.O.

* Declaration not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† Delete whichever is not appropriate.

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regiment .....

Army Form B295
(In pads of 100)

PASS

No. ..... (Rank) ..... (Name) .....

has permission to be absent from his †quarters/duty, from

..... to .....

for the purpose of proceeding to* .....

(Station) .....

(Date) .....

Commanding

[P.T.O.

* Declaration not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† Delete whichever is not appropriate.

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regiment .....

Army Form B295
(In pads of 100)

PASS

No. ..... (Rank) ..... (Name) .....

has permission to be absent from his †quarters/duty, from

..... to .....

for the purpose of proceeding to* .....

(Station) .....

(Date) .....

Commanding

[P.T.O.

* Declaration not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† Delete whichever is not appropriate.

CROWN COPYRIGHT RESERVED

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regiment .....

Army Form B2265
(In pads of 100)

PASS

No. ..... (Rank) ..... (Name) .....

has permission to be absent from his †quarters/duty, from .....

..... to .....

for the purpose of proceeding to* .....

(Station) ..... Commanding .....

(Date) ..... (P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a full ticket at reduced fare.

† Delete whichever is not applicable.

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regiment .....

Army Form B2265
(In pads of 100)

PASS

No. ..... (Rank) ..... (Name) .....

has permission to be absent from his †quarters/duty, from .....

..... to .....

for the purpose of proceeding to* .....

(Station) ..... Commanding .....

(Date) ..... (P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a full ticket at reduced fare.

† Delete whichever is not applicable.

CROWN COPYRIGHT RESERVED

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. [redacted] Regiment

Army Form 2339
(In pads of 100)

PASS

No. (Rank) (Name)

has permission to be absent from his †quarters/duty, from

to

for the purpose of proceeding to*

(Station)

(Date) Commanding
(P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

PASS

Army Form 2339
(In pads of 100)

No. D-3651 Rank TPR (Name) DIONNE J.T.

has permission to be absent from his †quarters ~~duty~~ from A.D.

5-8-42 2359 hrs. 14-8-42

for the purpose of proceeding to* LONDON - MANCHESTER

(Station) [redacted]D

(Date) 5-8-42 W.A. Ingleton Capt.
2 i/c
(P.T.O.

* Delete whichever is not applicable.
* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a full ticket at reduced fare.

CROWN COPYRIGHT RESERVED

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 8 day of June 1942, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION

The Court declare that No. 0.3651 Gnr. Downing J.
17th D. of K. G. Hussars. (7th Recce Bn) did
illegally absented himself without leave from 23.59 hours 6 May 1942.
at Field on the 6 day of May 1942,
that he is still so absent, and that on the 27 May 1942. he was deficient, and
that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
Pair Anklets	0. 2. 5½		
Battle Dress (Blouse)	1. 7. 8.		
(Trousers)	1. 7. 11.		
2 Pair Boots	2. 3. 0.		
2 " Cotton Drawers	0. 4. 1.		
1 " Woollen "	0. 5. 3.		
1 Field Dressing	0. 1. 1.		
Knife Fork Spoon.	0. 1. 7.		
2 Flannell Shirt	0. 9. 5.		
2 Cotton shirts	0. 3. 0.		
1 Waterproof Jacket	1. 3. 6.		
1 Water bottle & canvas	0. 4. 7.		
Enamel Cup.	0. 0. 5.		
Ground Sheet	0. 10. 0.		
respirator complete	1. 1. 0.		
Total	9. 5. 11½		

A A Hughman Major President

G. C. Hewson Lieut Member

D. H. Jamieson Lt. Member

Signed at In the field

this 10th day of June 1942

A A Hughman Major

Signature of Commanding Officer

Certified true copy

G. de G. Gonne Capt

Signature of Officer having custody of original record

M.F.S. 271
A.F.S. 111
11M-12-42 (3365-6)
H.Q. 1777-39-337

3RD CAN. MOTORCYCLE REGT. C.A.S.F.

M.F.M. 5

No. D 3651 Name Dionne, J.T. | Sqn., Battery, or Company: B | Corps | Date of enlistment: 16-9-40 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Cove, Hants	26-11-41	Tpr		A.A.Sec 40 - Neglected to have proper contents in haversack as for Battle Order	C41516 Cpl. Drouin, R.	5 days C.B.	29-11-41	D.W.Smart, Major	
Cove, Hants	9-12-41	Tpr		A.A.Sec 15(1) - A.W.L. from 0700 hrs 7 Dec 41 to 2400 hrs 7 Dec 41 (Absent 13 hours, 30 minutes)	L/Cpl. Hogarth Sgt. Barrowman	14 days C.B.	8-12-41	M.R.Tyner, Lt.-Col.	
Cove, Hants	31-12-41	Tpr		A.A.Sec 15(1) - A.W.L. from 2200 hrs 31 Dec 41 to 0400 hrs 3 Jan 42 (Absent 2 days, 2 hours, 40 minutes)	Tpr. Fisher Cpl. Britton	Forfeiture of 10 days Pay	3-1-42	D.W.Smart, Major	
In the Field	10-4-42	Tpr		A.A.Sec 9(1) - Disobeying an order given by a superior officer.	Tpr. Philp Tpr. Levy	7 days C.B.	11-4-42	E.S.Bjarn, Major	

CERTIFIED TRUE COPY

(Signature)
(Capt. York's Royal Canadian Hussars
(2nd Rank. Reg. C.A.F.

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number. D-3651 *Rank.* Trooper *Name.* Dionne, J.T. *Regiment (or as the case may be).* 17TH DUKE OF YORK'S ROYAL CANADIAN HUSSARS (7TH RECCE REGT) A.F.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers here stated should correspond with the numbers or entries in the conduct sheets, prominence being given to the most serious offences in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	NIL times.	NIL times.
For	times.	times.
For	times.	times.
For	times.	times.
For	times.	times.

Number of instances of gallantry or distinguished conduct. NIL

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary award under section 47 of the Army Act, and dispensations with trial under section 71 of the Army Act (other than in the schedule annexed to this statement).~~ NIL

3. The accused is not under sentence at the present time. ~~At the present time he is under sentence of~~ ~~imprisonment for~~ ~~from the~~ ~~day of~~ NIL

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 20 days in military custody, making a total of 20 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22 yrs 4 mos

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 16 Sep. 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is NIL

8. The accused is entitled to deferred pay or gratuity in respect of NIL service.

9. The accused is entitled to reckon NIL service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (~~or is in possession of or entitled to wear any military decoration or reward~~) NIL

11. (~~If the accused is a warrant officer.~~) The accused before he was made a warrant officer had held the regimental rank of NIL

(~~If the accused is an officer.~~) The accused holds in the army the rank of NIL and in his regiment (or corps or department) the rank of

(PRINTED) WILLIAM BRIDGE TORONTO 1940 A.R.P.W. Ltd. Cat. B.

W.A. Tamblyn Major

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D-3621 Rank Trooper. Name Dicaire, J.P. of 27th D.L.R.C.M. Regiment (or as the case may be)

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28th day of August 43

Officer Commanding
The Duke of York's Royal Canadian Hussars
(27th Reserve Regt.) C.A.(R.)

13. The undersigned has served as a non-commissioned officer continuously, without reduction, to the present date

In the rank of ____ years,
In the rank of ____ years,
In the rank of ____ years,
In the rank of ____

Date of Promotion ____

Instructions.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, and the reason why the information may be collected from such sources as are available stated in writing over the signature of the officer responsible for the correctness of the return.

Strike out the words in brackets which are inapplicable.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of August* 1942 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~ The Judge Advocate
*~~(4. The officers under instruction)~~

were duly sworn.

* Omit if not applicable.

Signed this 28th day of August 1942

W. S. Cameron Major

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~*President of the Court Martial.~~

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~

Signed this 1st day of September 1942

G. B. Price

Confirming Officer.

Promulgated and extracts taken in the case of D3651 Pte John Thomas Durnall

(a) (Dated) 2 Sep 42 (Signed) W. H. Lowell Capt.

Officer Commanding
The Prince of Wales's Royal Canadian Hussars
(7th Recce. Regt.) A.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

MM-9 (cont-2)

TPR DIONNE J.Z.P.

See CC-60 for lot case

D 77068 Tpr Dionne, J.Z.P. MM-9
1 C.A.C.R.U.

Correspondence to be PINNED here.

RECEIVED
27 JUL 1943
H.Q. "F" GROUP
C.R.U.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 19th day of July, 19 43

Whereas it appears to me, the undersigned, an officer in Command of , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer];

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint

*(1. Three Officers to form the Court);

*(2. A Field Officer as President);

for the following reasons, namely:]

*Omit if not applicable.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	Jones, S.R.	C.A.C.3 CACRU

Members.

Rank.	Name.	Regiment.
Captain	Strong-Boag, J.H.	C.A.C. 2 CACRU
Captain	Bradley, W.B.	C.A.C. 2 CACRU
(waiting member) Captain	Prescott, J.V.	C.A.C. 3 CACRU

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be authorised by him.

*Signed J.J. Rutherford (J.J. Rutherford) Brigadier
Commanding Comd "F" Group C.R.U.
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D 77068 Tpr Dionne, J.Z. 32 Recce Regt (RMR) 1 CACRU	Army Act Sec.15 (1). See charged sheet apended for nature of charge.	Guilty	Guilty; Sentenced to undergo detention for one year and to be put under stoppages of pay until he has made good the sum of Eleven Shillings Eleven pence (11/6 - 11d) in respect of costs incured for his return from Brighton to London.	Finding and Sentence Confirmed but limit 3 months J.J.R.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) J.J. Rutherford (Signed) A.R. Fowes Maj
(T.J. Rutherford Brigadier) 3 CACRU
Commanding 2nd "A" Gp CRU
Convening Officer (*c*) *President*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21st day of July, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*Omit if not applicable.

*~~(3. The Interpreter)~~ N/A.

*(4. The officers under instruction)

were duly sworn.

Signed this 22nd day of July 1943.

A.R. Fowes Maj
President of the Court Martial.

C. Certificate in case of death sentences.

*See Rule (5) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this ~~day of 19~~ N/A.

~~*President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 22nd day of July 1943.

J.J. Rutherford Brig.
Confirming Officer.

Promulgated and extracts taken in the case of Dmn Dionne J.Z.

(*a*) (Dated) 23 Jul 43. (Signed) [illegible] Officer i/c CACRU

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23873) Wt. 44175-9454 50,000 2/43 A.& E.W.,Ltd. Gp.698

Exhibit "E" 21-7-43 AHJ.

CHARGE SHEET

The accused No. D 77066 Tpr. Joseph, Zephirin, Philippe, DIONNE, 32nd Cdn. Recce Regt. (RMR), on the strength of No.1. C.A.C.R.U., a soldier of the Cdn. Army Overseas, is charged with, when on Active Service,

1st CHARGE SEC. 15(1) ARMY ACT

"ABSENTING HIMSELF WITHOUT LEAVE"

in that he,

in the Field on the 31st May 1943, did absent himself without leave from 0600 hours until surrendering himself to the Military Police, 8th Cdn. Provost Coy., at Brighton, at approximately 1745 hours the 14th July 1943, thereby incurring costs to the amount of Eleven Shillings, Eleven Pence (11s-11d), for his return from Brighton to London. Total time absent: 44 days, 11 hours 45 minutes.

A.T. Paterson

A.T. PATERSON, Lt. Col.,
Commanding Officer,
No.1. Cdn. Arm'd. Corps,
Reinforcement Unit.

In the Field,
17th July 43

In the Field
19th July 43

(T.G. Rutherford) Brigadier
Comd "E" Group CRU

Exhibit "J" 21-7-43 HJ.

No 1 Canadain Arm'd Corps
Reinforcement Unit

CERTIFICATE MEDICAL FITNESS FOR TRIAL BY FIELD GENERAL COURT MARTIAL

This is to certify that I have this morning examined, No D-77068 Tpr Dionne J.Z.P. and find him fit to under go trial by Field General Court Martial.

In the Field
21.Jul. 43.

Medical Officer No 1 C.A.C.R.
U.

Exhibit "K" 119.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL, held in the Field on the 21st. day of July 1943, in the case of:-

D-77068 Tpr. Joseph Zehpirin, Philippe DIONNE, 32 Cdn. Recce. Regt.(RMR) on strength of No.1. C.A.C.R.U.

1. The Court having been satisfied that it is properly constituted is opened at 1415 hours.

2. The convening order is read.

3. The accused is given his right to challenge, and declines.

4. Prosecuting Officer - Lieut. E.F.H. Boothroyd (32 Cdn. Recce. Regt.) No.1. C.A.C.R.U.

Defending Officer - Lieut. G.E. Clacy (32 Cdn. Recce. Regt) No.1. C.A.C.R.U.

Officers under Instructions -

Lieut. H.D. Spielman, C.A.C., No.2. C.A.C.R.U.
Lieut. J.H. Saville, C.A.C.,No.2. C.A.C.R.U.
Lieut. F.B. Allen, C.A.C., No.2. C.A.C.R.U.
Lieut. L.A. Gallay, C.A.C., No.3. C.A.C.R.U.
Lieut. E.A. Evans, C.A.C., No.3. C.A.C.R.U.
Lieut. H.R. Ferguson, C.A.C.,No.3. C.A.C.R.U.
Lieut. D.J. Telfer, C.A.C., No.1. C.A.C.R.U.
Lieut. J.B.S. Oldaker, C.A.C. No.1. C.A.C.R.U.
Lieut. J.F. Mitchell, C.A.C., No.1 C.A.C.R.U.

Clerk - C-70459 S/Sgt. B.F. Wright

Members of the Court and officers under instruction were duly sworn. Sgt.
The Clerk is sworn.

~~Questions to the Accused~~

~~Q. "Have you any objection to this Court."~~ 119 119 119

~~A. "No,Sir."~~

Medical certificate was presented to the President of the Court by the Prosecuting Officer.

The accused is arraigned on one charge.

The Prosecutor made a motion to amend the spelling of the accused's name on the Charge Sheet from "Zephrian" to "Zephirin" under R.P. 33.

Motion accepted by the Court and the Charge Sheet amended accordingly.

The accused pleads guilty.

The effectiveness of pleading guilty is told to the accused (R.P. 35B).

Lieut. N. MacLean 32 Cdn. Recce. Regt.,(RMR) on strength of No.1. C.A.C.R.U. was called as a character witness and duly sworn. Sgt.

"I have known the accused for some time. I have always known him to be a good soldier and a very willing worker. He was in the same troop as I from 1940 until 1942. In 1942 he got into trouble.In 1942 I lost contact with Tpr. Dionne.

Questions by the Court

Q.1 "You where not his Troop Officer?"

A.1 "No, Sir."

Q. 2 "Have you any reason for the soldier changing from being a good soldier?"

A. 2 "I believe his trouble was due to a woman."

Prosecuting Officer, having duly sworn, presents Conduct Sheet (M.F.M. 6) and Statement as to Character and Particulars of the accused (M.F.B.)355.

I produce herewith as directed by the Court the exhibits produced at the taking of the Summary of Evidence now before the Court in order to complete it and as Officer detailed to take the summary I identify the following as the Exhibits A,B,C & D produced therein.

"A" Certified true copy of Record of the Declaration of a Court of Inquiry on the Illegal Absence of a soldier (A.F.B. 115)

"B" Certificate in accordance with Army Section 163 ..... (ll) (jj)

"C" Charge Sheet (A.F.B. 252)

"D" Certificate of Cost of Apprehension.

R.P. 40(A) was complied with

Statement by the Accused

"On coming out of Detention Barracks the 23rd of May I was extremely tired and my nerves were extremely on edge and I needed a rest. I immediately on the following Monday asked Major Willis, my Commanding Officer, for my 7 days leave that was due but instead he agreed only to give me a 48 hour pass. If I would have had that leave, what happened would not have happened, because I was determined to do good from then on. Nevertheless I was satisfied with that pass for the time being, expecting to have my leave soon afterwards.

But unfortunately on the 30 May I went to a party with some friends and had quite a few drinks. Not having a great habit for it, it went to my head so they put me to bed. They let me sleep until Monday morning at about 10 o'clock.

My friends thinking that my pass expired on the Monday noon, as it was on the Monday noon that the passes use to expire when I was with my regiment. They thought it was still the same. So there I was on the 31st of May already in trouble.

Having swore to myself to go straight and to do all possible to keep on going straight I was again in trouble. I went out and wandered about for quite a few hours, asking myself what to do.

I was no good to myself and no good for the Army. I considered myself a failure, I was very depressed and broken.

I had a few pounds and I decided to take a room with a gas ring in it and when my money was gone I would commit suicide, but when I found in the papers that the Canadians were in action in Sicily, I couldn't carry my plan any further. It was stronger than me I had to surrender myself, my King and Country needed me. Now I am in front of my Superior to get my punishment.

With the permission of the Court I ask my judges not to be too severe and that they would give me the opportunity to come back to my duty that I have neglected for some time."

D.R.J.

Plea of Mitigation by the Defending Officer

"Tpr. Dionne enlisted for Active Service, 6 Feb 1940 with The Royal Montreal Regiment (MG). As the first Battalion of the Regiment had proceeded overseas in December 1939, Tpr. Dionne knew that he would cross to England in very short order.
The fact that he had a wife and a child to support did not deter him nor keep him from joining up and eventually proceeding overseas, as one of the first reinforcements to the Canadian units then in England.
At the time of enlistment he was 32 years of age and is now 35 Therefore, due to his age, he was, and still is, even more so now, outside the age limit being called up under the National Resources Mobilization Act.
Therefore the aforementioned points prove conclusively that this man joined up to serve his country to the best of his ability, and not to mention with a certain detriment, to his family.
Arriving in England on 1 Aug 1940 he was immediately taken on strength R.M.R, then (MG). From 1 Aug 40 until 8 Mar 42, Tpr. Dionne had no crime of any kind against him, and his training was most satisfactory. His conduct is further shown to have been of a very high standard, due to the fact that on 6 Mar 42, a new M.F.M. 6 Field Conduct Sheet was created, and an entry signed by his Company Commander at that time Major D.H. Campbell, O.C. "B" Coy. R.M.R.(MG) states "At the end of two years service a new Conduct Sheet was made out. There was no Regimental entries on the old Conduct Sheet."
Tpr. Dionne pleads guilty to the charge before the court to-day, the charge being Absent without Leave, and willingly admits that he has been A.W.L. previous to this present instance, but it is the contention of the Defense that although the guilt in each case rests on Tpr. Dionne, he, nevertheless had not taken leave, wholly without reason, which to him seemed logical and in fact which he could not control, at the time.
The prosecution will no doubt try to show that Tpr. Dionne has a great list of crimes, and that he is deserving of the utmost in punishment, which the Court can impose. However, a check of former charges against this man will show that apart from his Absence without Leave, no other charge, even of a minor character has been laid against him in over three years, of service.
In the present case the accused admits and pleads guilty to having been Absent without Leave and I produce a statement in his own handwriting and signed by him, giving his reason for his action, and also the reason for his surrendering. It must not be forgotten that he did surrender of his own free will thereby showing his willingness to accept the punishment due him, and to place himself at the mercy of the Court, through a plea of "Guilty". Also as it is brought out in his statement, he knew full well at the time of surrender that the Canadian Forces were in action and that he may be called uponto join them as a reinforcement in the battle zone, in the very near future.
The Defense therefore asks, Sir, that the charge against Tpr. Dionne be considered , not only in the face of the length of his absence but also from the standpoint of:

(1) His total length of service.
(2) His long period of over two without a crime of even a minor nature.
(3) The fact that he surrendered of his own accord and now signifies his avowed willingness to soldier properly.

and every effort be made to impose as light a punishment as it is within the power of the Court. Thereby allowing Tpr. Dionne to serve out his sentence, which he is willing to accept, in the quickest time possible and afford him the opportunity to soldier and return to the same status as was his ,prior to 1942.

The Court was closed.

21-7-43 AA.

C.F.A. 38(2369)

KNIGHTS OF COLUMBUS WAR SERVICES

CAH

OVERSEAS SERVICE

19/7/43

Dear:

On arriving out of Battle Area
Tarab. the 23rd of May. I was re-
-ceived third and only mail that
he recently on ledge and it makes a
great. Sad immediately on the
following Monday and Tue. Hectic
and commanding officers for my
hope have that expl. duty. But
instead he agree to have me on
by a 48 hr. pass. Of I would have
liked that leave. What did happen
wouldn't have happen. Because
I was determine to be with them

there one. But nevertheless I was pretty well satisfied with that piece for the time being, expecting to have my chance again afterward.

But unfortunately on the 30th of May at about 12 o'clock forty with some friends and had quite a few drinks. We had a good lunch for us, I went to my head and my legs felt some to bed.

We left Nice about midnight and arrived at about 10 o'clock.

My friends thinking of leaving again before the Sunday evening so that we could be on the Monday morning that the parade takes to inspect orders of our Regiment. After thought that we would stay till the races

21-9-43 AAA.

(C.F.A. 28(2369))

KNIGHTS OF COLUMBUS WAR SERVICES

CAH

OVERSEAS SERVICE

3

So this is war on the 21st of
may. Already in trouble.
Getting worse myself to contend
and no allies beside to support my
strength. I was again in trouble.
I went out and wandered about for
quite a few hours. Asking myself
what to do?
If I was no good to myself and no
good for the army, I would be myself a
failure. I was very depressed and heavy
hearted. At last quite a few friends
and I decide to take a drive with
a few cars on it and when everyone
was gone, I would then
side myself;

[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]

21-7-43 AAJ. "EXHIBIT A" Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Field on the 25th day of June 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION.

The Court declare that D 77068 Tpr. Dionne, J.Z.P., illegally absented himself without leave at the Field on the 31st May 43, and that he is still so absent, and that on the 22nd June 43, he was deficient and that he is still deficient the following articles:-

	Voc. Price	Unex. Wear
Badges, Cap	$ 0.09	$ 0.09
Bad[illegible] shoulder	.08	.05
Blouses, B.D.	6.18	4.64
Trousers, B.D.	6.23	4.68
Caps, tank Bn.	.86	.65
Boots, ankle	4.80	3.60
Braces, trouser	.29	.22
Combs, hair	.04	.03
Gloves, woolen	.59	.45
Jackets, sweater	1.90	1.43
Shirts, angola, drab	2.05	1.54
Socks, worsted 2 prs.	.74	.56
Belts, Waist	1.28	.96
	$ 25.13	$18.90

Names of President and Members Major M.A. Willis, President, No.1. C.A.C.R.U.
Lieut. J.J. Gagnier, Member, No.1. C.A.C.R.U.
Lieut. G.M. Durgan, Member, No.1. C.A.C.R.U.

Signature of Commanding Officer A.T. PATERSON, Lt. Col., C.O., No.1. C.A.C.R.U.

CERTIFIED TRUE COPY.

Elle Davis Lieut A/Adjt

Signature of Officer having custody of the Original Record.

(12201) WL.34518/3622 75,000 10/39 A.S.E.W.146. Gp.479 Forms B115/56
(13441) WL42725/780 225,000 1/40 " "

Certificate in accordance with Army Act. Section 163 (1)(ii)

I certify that No. 2.11068 Rank. Pte Name. DICKINE J.P.

Unit. 32 Can Res Regt CMR was arrested at. Bruges

(4.7.44) at about 0445 hrs and that at the time of

his arrest he was wearing military uniform.

"EXHIBIT B"

Signature of Provost Marshal A.P.M., or other officer into whose custody the above named person was taken into arrest. L.W. Parr Lt.

"EXHIBIT C"

CHARGE

Army Form B 252
(See King's Regulations)

32 Cdn Recce Regt (RMR) — Regiment
R D I C A C.R.U. — Battery / Squadron / Troop or Company

CHARGE against No. D.177068 Rank Pte

Name DIONNE J.E.P.

Place Brighton Date of Offence 14/7/43

OFFENCE W O A S was absent without leave from -- until surrendering himself to the Military Police at CMP HQ at about 1745 hrs.

Names of Witnesses :—
L/c Parker R. Brighton & Hove Mil Police
Holness L. H Cdn Pro Coy

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

F.T.O.

Exhibit "C" 21-7-43 D.Ag.
Re Pte Dionne J.Z.P.

Statement of **EVIDENCE** in the case of
D.177068 Pte DIONNE J.Z.P.
32 Cdn Recce Regt (RMR)
RDICA CRU

Sir,

At Brighton on the 14 July 43 at about 1745 hrs I was on duty in O.M.P. H.Q. when the a/n soldier entered the Orderly Room and stated that he was absent from his unit. He was placed under close arrest and conveyed to the Civil Police Station to be detained pending arrival of escort.

L/Cpl.
Brighton & Hove Military Police

Sir,

I have read over and corroborate the above statement.

L Holmes L/Cpl.
8 Cdn Coy Provost

Brighton
16/7/43

REMARKS

21-7-43 RJ. EXHIBIT "D"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. H 77068 Rank Pte Name Horne, J. J. P. Unit 32 Pro Coy 1 CMPRU

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London from Brighton

Date	Particulars	Amount		
16 July 43	Escorts return fare from LONDON To Brighton		7	11
	Prisoners single fare to LONDON From Brighton		4	0
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		11	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

W.Q. 1000-53
480

Exhibit "I"

20th July 43

WAIVER OF NOTICE

21-7-43 R.F.J.

I have been informed that the Prosecutor Lieut. E.F.H. Boothroyd has legal qualifications, and I hereby waive the seven days notice of this required by R.P. 89.

Phil. Dionne

D 77068 Tpr. Dionne, J.Z.P.,
12nd Can. Recce Regt. (FCR),
No.1. C.A.C.R.U.

Exhibit "F" 21-7-43 RJ.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No. D 77068 Tpr. Joseph, Zephirin, Philippe, DIONNE, 32nd Cdn. Recce Regt. (RMR), on the strength of No.1. C.A.C.R.U., a soldier of the Cdn. Army Overseas.

The Commanding Officer directs that the evidence be taken on Oath.

FIRST WITNESS for the Prosecution — D 76951 Sgt. Turner, W.H., 32nd Cdn. Recce Regt. (RMR), on the strength of No.1. C.A.C.R.U., having been duly sworn, states,

"I was Sqn. Orderly Sgt. of "B2" Sqn. of No.1. C.A.C.R.U. on the 30th and 31st May 43 and continued as such until 5th Jun 43. At Reveille roll call 31st May 43 at approximately 0600 hours Tpr. Dionne whom I can identify as the accused, present at this Summary, and who belonged to "B2" Sqn., failed to answer his name. I immediately checked the Guard Room to see if his 48 hour pa ss which expired at 2359 hours 30th May 43 had been turned in. It had not been turned in, I therefore reported Tpr. Dionne's name on the Sqn. Absentee Report as absent from 2359 hours 30th May 43. I again called his name on the morning Sqn. parade at approximately 0720 hours, and he failed to answer it. At no time during the remainder of my tour of duty till 5th June 43 was he present at any roll call or parade. While on duty 30th May 43 I made a tour of the barracks but failed to see Tpr. Dionne. From the end of my tour of duty 5th Jun 43 to the present, I have been on duty with "B2" Sqn. except for a leave from 14th to 23rd Jun 43 and I have not seen Tpr. Dionne on any Sqn. parade since I reported his absence, nor have I seen him in the barracks until 16th Jul 43 when I saw him under escort."

The accused declines to cross examine this witness.

W.H. Turner Sgt.
D 76951 Sgt. Turner, W.H.,
32nd Cdn. Recce Regt. (RMR),
No.1. C.A.C.R.U.

SECOND WITNESS for the Prosecution — D 76042 Sqn.S.M. Checkette, G.D.T., 32nd Cdn. Recce Regt. (RMR), on the strength of No.1. C.A.C.R.U., having been duly sworn states,

"I am the Sqn.S.M. of "B2" Sqn. of No.1. C.A.C.R.U. I know the accused and can identify him as Tpr. Dionne, J., who was on the strength of my Squadron during May and June of this year. Tpr. Dionne's name appeared on the Sqn. Absentee Report for 31st May 43. During that day, I covered nearly the whole of the barrack area, my Sqn. area in particular, and did not see Tpr. Dionne anywhere in the barracks. Since that date my duties have led me to take daily Sqn. parades, except for the period of 5th-14th Jul 43, when I was on Privilege Leave, and one or two short leaves, and Tpr. Dionne was not on any of these Sqn. parades nor did I see him in barracks from the time his absence was reported till his return under escort.

The accused declines to cross examine this witness.

D.J. Checkette S.M.
D 76042 Sqn.S.M. Checkette, G.D.T.
32nd Cdn. Recce Regt. (RMR),
No.1. C.A.C.R.U.

(continued)

21-7-43

SUMMARY OF EVIDENCE (CONT'D)

THIRD WITNESS for the Prosecution

Lieut. C.H. Davis, C.A.C. General List, on the strength of No.1. C.A.C.R.U., having been duly sworn states,

"I am the Acting Adjutant of No.1. C.A.C.R.U. and as such have custody of the Regimental Books. I produce A.F.B. 115 Certified True Copy of an entry in A.B. 161, being a record of the Declaration of a Court of Inquiry held 25th Jun 43 into the absence of D 77068 Tpr. Dionne, J.Z.P. and I identify the accused as Tpr. Dionne, J.Z.P. A.F.B. 115 is marked Exhibit "A" and is attached to this Summary of Evidence."

The accused declines to cross examine this witness.

C.H. Davis, Lieut.,
C.A.C., General List,
No.1. C.A.C.R.U.

FOURTH WITNESS for the Prosecution

B 75876 Tpr. White, J.R., 8th Cdn. Recce Regt. (14CH), on the strength of No.1. C.A.C.R.U., having been duly sworn, states,

"I am employed as an R.P. at No.1. C.A.C.R.U. I was on duty on the afternoon of 16 Jul 43 when Tpr. Dionne, whom I can identify as the accused present at this Summary, was brought to the No.1. C.A.C.R.U. Guard House by a member of the Cdn. Provost Corps at approximately 1430 hours. I signed a receipt for Tpr. Dionne and took him into custody under close arrest. I produce herewith the following documents which were handed to me by the Provost at the same time as they turned over Tpr. Dionne

1st - A Certificate in accordance with A.A. Sec. 163 (1)(JJ) signed by L.W. Paige, Lieut. stating that D 77068 Pte. Dionne, J.Z.P., 32nd Cdn. Recce Regt. surrendered himself at Brighton at about 1745 hours 14 Jul 43 in uniform.

2nd - Statements of L/Cpls. Parker, R. and Holmess, L., concerning the surrender of D 77068 Tpr. Dionne, J.Z.P.

3rd - Expense Voucher showing expenses of Eleven Shillings Eleven Pence, incurred in returning D 77068 Tpr. Dionne from Brighton to London signed by Capt. W. Fern.

I identify the accused as the Tpr. Dionne mentioned in these documents. The above are attached to the Summary as Exhibits "B" "C" & "D"."

The accused declines to cross examine this witness.

B 75876 Tpr. White, J.R.,
8th Cdn. Recce Regt. (14CH),
No.1. C.A.C.R.U.

(continued)

SUMMARY OF EVIDENCE (CONT'D)

FIFTH & SIXTH WITNESSES for the Prosecution

L/Cpl. Parker, R. & L/Cpl. Holness, L., 8th Cdn. Provost Coy., Brighton& Hove Military Police.

I certify that in my opinion the attendance of these witnesses is, owing to loss of time and expense involved in such attendance, not readily procurable, and a written statement of their evidence, signed by them, has been read to the accused, and is attached hereto as Exhibit "C".

Edward M Boothroyd

E.F.H. Boothroyd, Lieut.,
Officer detailed to take
Summary of Evidence.

I do not require the attendance of L/Cpls. Parker, R. & Holness, L., for the purpose of cross-examination.

Phil. Dionne

D 77088 Tpr. Dionne, P.E.F.,
32nd Cdn. Recce Regt. (RMR),
No.1. C.A.C.R.U.

The accused was cautioned as follows: Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused declined to make any statement or give any evidence.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence, consisting of three pages, was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c), (d), (e), (f) and (g) have been complied with.

Edward M Boothroyd

E.F.H. Boothroyd, Lieut.,
Officer detailed to take
Summary of Evidence,
32nd Cdn. Recce Regt. (RMR),
No.1. C.A.C.R.U.

In the Field,
17th & 18th July 43

Exhibit "L"

21-7-43

M.F.M.S. (A.F.B.128) 40/P & /9126 (3662)

No. D77068 Name Dionne, J.Z.F. Sqn., Battery, or Company "B" Coy Corps RMR (MG) Date of enlistment 6 Mar 40 G.C. Badge Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc. D. MacRae Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (object-ning with date)	By whom awarded	Remarks
At the end of two years service a new conduct sheet was made out. There were no Regimental entries on the old conduct sheet.						(Sgd) D.H. Campbell Major O.C. "B" Coy. RMR (MG)			
In the Field	8Mar42	Pte		A.A. Sec. 15(1) AWL from 2359 hrs 8 Mar 42 to 2200 hrs 15 Mar 42	Cpl. McLean, A.	14 Days C.B.	16Mar 42	Major D.H. Campbell	A.F. 7 days pay
In the Field	19 Jun 42	Pte		Sec. 15(1) A.W.L. 1945 hrs 19 June - 2245 hrs 7 Jul 18 days 3 hrs	Sgt. Muir, A.G. Cpl. Quinn, H.	12 days Det.	19 Jul 42	Lt.Col. Calder	A.F. 19 days pay A.F. 6 days pay
Field	16 Feb 43	Tpr.		Sec. 15(1) A.A. Overstayed leave 2230 hrs 16 Feb - 1910 hrs 24 Feb-7days 20 hrs 40 minutes	Sgt. Johnson Cpl Hussey	21 days F.P. 21 days loss of pay	26 Feb 43	Lt.Col. J.A. Calder	A.F. 4 days pay

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field 19 Mar 43		Tpr.		A.A. 15(1) A.W.L. 2230 hrs 19 Mar 43 - 2100 hrs 5 Apr 43	Summary of Evidence	60 days detention	12 Apr 43	F.G.C.M. J.A.C.	Convened CCRA 10 Apr 43 Confirmed CCRA 14 Apr 43 Brig Flow Forfeits 24 days pay under close arrest

This is a certified true copy of document kept in my possession

Record Officer 1 CBRU

Exhibit "M" 21 / 7 / 43

M.F.B. 355
22M—5-41 (573-3)
H.Q. (T72-35-52)
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D 77068	Tpr1	Dionne, J.Z.P.	32 Cdn Recce Regt.(RCR) Att'd #1 CACRU.

1. The following is a fair and true summary of the entries in the Field [redacted] Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.(A.A. 15 (1))	One times	A.W.L.(A.A.15(1))	Three times
For		times		times
For		times		times
For		times		times

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. [redacted] Previous convictions of the accused by a court-martial [redacted] are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and [redacted] days in military custody, making a total of [redacted] days in custody, of which Nil. days were spent in hospital.

5. The present age of the accused according to his MFM 4 is 35 yrs.

6. The date of his attestation specified in his MFM 4 is 6 Feb.40

7. The service which the accused is allowed to reckon towards discharge is 3 yrs. 5 mos.

8. The accused is entitled to reckon 3yrs5mos. service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward [redacted]

10. [redacted]

11. (In the case of an officer:) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial and of summary trials under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number [illegible] Rank Pte. Unit

Name DIXON, JOSEPH ZEPHIRIN PHILIPPE of 32 Can Recce Regt. (A.R.) Canadian Active Army

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Field General Court Martial	12 Apr.43 In the field	AWL.16 days 22 hrs 30 min.	60 days det'n	20 days Rem. on 22 Mar.43

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Twentieth day of July 1943.

W.H. Clay Lieut
Asst Adjt & Q.M. 32 C.A.C.R.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

NO.1.CANADIAN ARMOURED CORPS
REINFORCEMENT UNIT

21-7-43 A.J.

Exhibit "H"

18 July 43

REQUEST FOR DEFENDING OFFICER
D77068 Tpr Dionne ,J.L.P.

I desire to have a defending Officer appointed.

I request the service of Capt D.Lynch if possible,

and if he is not available, those of Lt,G.E. Cleey.

Phil Dionne

D77068 Tpr Dionne, J.L.P.

Exhibit "C" 21-7-43 WRJ.

LIST OF WITNESSES

FIRST WITNESS: D 76951 Sgt. Turner, W.H., 32nd Cdn. Recce Regt. (RMR), on the strength of No.1. C.A.C.R.U.

SECOND WITNESS: D 76042 Sqn.S.M. Checkette, G.D.T., 32nd Cdn. Recce Regt. (RMR), on the strength of No.1. C.A.C.R.U.

THIRD WITNESS: Lieut. C.H. Davis, C.A.C. General List, on the strength of No.1. C.A.C.R.U.

FOURTH WITNESS: B 756 Tpr. White, J.R., 8th Cdn. Recce Regt. (14CH), on the strength of No.1. C.A.C.R.U.

FIFTH WITNESS: L/Cpl. Parker, R., 8th Cdn. Provost Coy., Brighton & Hove Military Police.

SIXTH WITNESS: L/Cpl. Holness, L., 8th Cdn. Provost Coy., Brighton & Hove Military Police.

21-7-43 DAG.

LIST OF EXHIBITS

Exhibit "N"

EXHIBIT "A":- A.F.B. 115 Certified True Copy of an entry in A.B. 161, being a record of the Declaration of a Court of Inquiry held regarding the absence of D 77068 Tpr. Dionne, J.Z.P.

EXHIBIT "B":- A Certificate in accordance with A.A. Sec. 163 (1) (JJ) stating that D 77068 Tpr. Dionne, J.Z.P., surrendered himself at Brighton at about 1745 hours 14 Jul 43 in Military Uniform.

EXHIBIT "C":- Statements of L/Cpl. Parker, R. and Holness, L., concerning the surrender of the accused.

EXHIBIT "D":- Expense Voucher showing costs for the return of the accused from Brighton to London.

CC-60

TPR DIONNE J.Z.P.

CC-60

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 10th day of April, 19 43

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Corps R.C.A.M.C., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned,

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial;

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

President.

Rank.	Name.	Regiment.
Major	J.D. Cheatley	No 1 M.A.C., RCASC.

Members.

Rank.	Name.	Regiment.
A Captain to be detailed by O.C. 45 Cdn Gen Tpt Coy, R.C.A.S.C.		
A Lieutenant to be detailed by O.C. 32 Cdn Recce Regt (KIR)		

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

Signed (W.A. Linton) Brigadier
Commanding 1 Cdn Corps.
Convening Officer.

SCHEDULE.

Number, Rank (*a*) Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D-77068 Tpr Joseph Zeyisen Philippe DIONNE, 32 Cdn Recce Regt (RMR)	Charge. A.A. Sec 15 (1) (As per charge sheet att).	Guilty	Sixty (60) DAYS DETENTION 12 April 1943	Confirmed 31 Plans Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) (J.A. Linton) Brigadier (Signed)
~~Major, Corps, Staff Capt.~~
Commanding Brgd. 1 Cdn Corps.
D.D.M.S. ~~Convening Officer~~ (*e*) President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 12th day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
~~3. The interpreter~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable

Signed this 12th day of April 1943.

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (*b*) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the entry in the ... be ... and the prisoner ... further ...~~

31 Plans

Signed this 14th day of Apr 1943.

Confirming Officer.
1 Cdn Inf Div

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Promulgated and extracts taken in the case of D77068 Tpr Dionne J.P.
(*a*) (Dated) 16 APR 43 (Signed) H.H. Collier Lt-Col
Asst Judge Advocate (RMR).

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

D77068, Tpr. Joseph Zeyisen Philippe Dionne, 32 Cdn Recce Regt (RMR) a soldier of the Canadian Army Overseas, placed on active service is charged with,

FIRST CHARGE Absenting himself without leave

AA 15(1)

in that he,

in the field, absented himself without leave from 2230 hrs 19 Mar 43 until he surrendered at 2100 hrs 5 Apr 43.

(J.A. Calder) Lt. Col.
Comd 32 Cdn Recce Regt (RMR)

7 Apr 43

To be tried by Field General Court-Martial

(J.H. Linton) Brigadier
~~[illegible]~~ 1 Cdn Corps.
D.D.M.S.

Signed in the Field,
this 10th day of April, 1943.

B2

President

12 April 1943

Medical Certificate

Pvt.

This Is to certify that I this morning examined D77068 Dionne P. ... that he is fit to undergo a court-martial.

In the field
12 Apr. 43

Medical Officer

12 APRIL 1943

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a J.G Court-Martial held at Field

on the 12TH day of APRIL 1943 by order of

D.A.H. INTON

Commanding 1 CDN CORPS RCAMC

dated the 10TH day of APRIL 1943

President.

MAJOR T.D. CHEATLEY

Members.

CAPT W.W. PORTER

LIEUT D.W.W COOK

Trial of* D 77068 PTE JOSEPH ZEVISEN PHILIPPE DIONNE

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~

~~by sickness owing to~~

~~wishing member takes his place as a member of the Court~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor, ~~the~~ CAPT B.W. STEVENS 32 CDN RECCE REGT

~~Counsel for~~ defending officer† LIEUT R.S. CHWOB 32 CDN RECCE REGT

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked A1 signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* NO

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a seperate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. Wt.W3420/78. 30,000 pds. 5/40. E. & E.E., Ltd. (66271) Forms A 9/26.

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

CAPT P.E FAIRBANK
R.C.A.P.C.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. *If the accused has elected to be tried under Army Act, sec. 40 (8) the fact should be here recorded.*

~~The accused is arraigned upon each charge in the above-mentioned charge-sheet.~~

[1]Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

GUILTY SIR *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read ?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~ *Question.*

Answer.

The accused having pleaded Guilty to FIRST charge, the provisions of Rule of Procedure 35 (B) are here complied with.

---

[1] If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

~~*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused D770481 PRIVATE JOSEPH ZEISER PHILIPPE ~~[illegible]~~ DIONNE

is found guilty of FIRST CHARGE

†The summary (or abstract) of evidence is read, marked CC1 signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

NO SIR

Answer. The accused in mitigation of punishment says:—

MY OFFICER WILL SPEAK FOR ME

~~[or hands in a written statement, which is read, marked~~ , signed by the President, and attached to the proceedings.]

See page CC2.

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

Answer.

No. Sir

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

~~The Court being re-opened, the accused is again brought before it.~~

CAPT B.W STEVENS is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* YES SIR

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked E1-E2 signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* YES SIR

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* YES SIR

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* YES SIR

~~Cross-examined by the accused.~~

[illegible] If by reason of the length of the service of the accused or a former conviction or otherwise, the finding of the Court renders him liable to any exceptional punishment, or appears to him to be desirable by reason of the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of the additional punishment.]

Question to the accused. Do you wish to address the Court? *Answer.* NO SIR

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused TO 60 DAYS DETENTION Sentence.

President
[illegible]
16th Fd. A. L.
12th April 1943

Summary of Evidence in the Case of S77068 Tpr Deanne J. G. 32 Cdo Recce Regt (RMP).

By direction of the Commanding Officer this Summary is taken on oath.

Fast Witness for the Prosecution

S76674 Sgt Tessier L.M. having been duly sworn states On 19 March 1943 I was troop orderly NCO of the troop in which the accused is a member, at 2230 hrs when I checked the tatoo roll call I found the accused absent. The accused remained absent without leave from that date until 5 Apr 43.

L.M. Tessier
S76674 Sgt Tessier L.M.

The accused declines to cross examine this witness.

Second Witness for the Prosecution

S76936 Tpr (A/Cpl) Rymes J. having been duly sworn states: While acting as Sgn orderly sgt on 5 Apr 43, at 2100 hrs, the accused reported to me.

J. S. Rymes
S76936 Tpr (A/Cpl) Rymes J.

The accused declines to cross examine the witness.

The accused having been cautioned in accordance with Rule 45(c) declines to make a statement.

Taken down by me in the presence and hearing of the accused this 7th day of Apr 43.
Certified that Rule 45(c)(d)(e)(f) have been complied with.

Pat Stivens Capt.
32 Cdo Recce Regt (RMP).

CC1 Present
(12/4/43)

Request for Defending Officer. 577068 Tpr Dionne J.B.

I should like to have Lieut R. Sedwick as my Defending Officer.

Wm Stevens Capt.

Pte J. Dionne
577068 Tpr Dionne J.B.

List of Witnesses 577068 Tpr Dionne J.B.

Prosecution

1. 576679 Sgt Tessier L.M. 32 Edm Regt (Res).
2. 576936 Tpr (Sgt) Byrne J. 32 Edm Regt (Res).

Defence

Nil

Wm Stevens Capt.

C.C.I.
President
[illegible]
12 April 43

BW

R. SEAMAN

~~Candidate~~

I have known the accused ~~personally~~ since training
1st 40 at which time he was in the same Coy
in Canada as myself. He remained in the same
Coy. until proceeding overseas, this accompanied a
brief interval of a few months when we were with
different Units. In early Spring 1941 on being posted
to my unit I went to B Coy, in which the
accused was then a member. I remained with
B Coy for 4 months approx. and during
this time the accused was also with the Company.
So far I can then say that I know the accused
pretty well. In all this time the accused, to the
best of my knowledge, ~~and~~ with the exception of
one or two AWOL's, performed his duty in a very
satisfactory & soldierly-like manner. On checking
his AFW 6, which I have not done, I think you will
find that it is clear of any serious charge for
at least the first two years of the accused service
in the Army & that the only charges contained therein
are two AWOL charges of approximately a week
each and one of a slightly longer period making
a total of three in all. So much for his record.

As to his reasons for spoiling ~~one~~ an other-
wise excellent record by these several AWOL's,
the ~~only~~ reason he gave me was simply that

It has at times become dysarmed and to the point where he has felt that he simply must get away. This, of course he realises is no excuse, but is simply brought to the Courts' attention to explain why an otherwise good soldier should find himself charged as Pte. Dionne is charged to-day.

Robert Talbot Lt.

C.L.2
President
12 APRIL 1943

No. D77068 Name DIONNE, J.I.P. Sqn., Battery, or Company B Coy Corps R.M.R. (MG) Date of enlistment 6 Feb 40 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) ITEM 7-41 (1252-30) M.G. 1073-29-1558

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. D MacRae MAJOR | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
AT THE END OF TWO YEARS SERVICE A NEW CONDUCT SHEET WAS MADE OUT THERE WERE NO REGIMENTAL ENTRIES ON THE OLD CONDUCT SHEET. D.H. CAMPBELL MAJOR O.C. "B" COY. R.M.R. (M.G.)									
IN THE FIELD	8 MAR 42	PTE	-	A.A. SEC 15 (1) AWL FROM 2359 HRS 8 MAR 42 TO 2200 HRS 15 MAR 42	Cpl McLEAN A.	14 DAYS C.B.	16 MAR 42	MAJ-R D.H. CAMPBELL	A.F. 7 DAYS PAY
IN THE FIELD	19 JUN 42	PTE	-	SEC 15 (1) AWL 1945 HRS 19 JUN - 2245 HRS 7 JUL 18 DYS 3 HRS	SGT MUIR, A.G. Cpl GUINN H.	12 Days Detention	14 Jul 42	LT-Col J.A. CALDER, C.O	AF of 19 dys Pay - - Days C.B. 6 ARREST - 2324 HRS 19 JUL
FIELD	16 FEB 43	TPR	-	SEC 15 (1) A.A. AWL OVERSTAYED LEAVE 2230 HRS 16 FEB - 1910 HRS 24 FEB 7 DYS 21 HRS 40 MIN	SGT JOHNSTON Cpl HURLEY	21 dys F.P. 21 dys Loss of Pay	26 Feb 43	LT-Col J.A. CALDER, C.O	AF 8 dys Pay

OVER

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true copy J. M. Stevens Capt. for (A.A.G. Militia) Lt. Col. Comd. 32 Cdn Recce Regt (SAH)				E2 12 APRIL 1943	

M.F.B 355
H.Q. 1772-39-620
10M-8-40 (M15)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D77068	Tpr	Dionne, J.Z.P.	32 Can Recce Regt (RCR)

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental and Squadron, ~~Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For A.A. Sec. 15 (1)	2 times	3 times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act section 47 of the Army Act and dispensations with trial under A.A. 75 are set out in the Schedule annexed to this statement.~~ A.A. 75

3. The accused is not under sentence at the present time

or,

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for N/K days in civil custody, and 2 days in military custody, making a total of 2 days in custody, of which N/K days were spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation paper is~~ 34 years 5 days

6. The date of his ~~enrolment~~ attestation specified in his record of service is ~~attestation paper~~ 6 Feb 40

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is military in possession of or entitled to). State any air force decoration or reward. military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of

E. J. Whatley Maj
12 Apr 40

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of .....

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Army

Name..... of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7th day of Apr 43

The above statement (with the schedule of convictions and of cases [illegible] dispensed with) is read, marked [illegible] and annexed to the proceedings.

FOR [illegible]

DDR 94 (Case #3)

TPR DIONNE J2 P.

See CC-60 for bet case
" Min 9 / 2nd

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~YB~~ ~~beginning on (date)~~ ~~.....~~

(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 1 2 days, of which Nil days were spent in hospital.(1)

(I. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for a period of one year and six months

(Sgd) ..... Judge-Advocate, if any. 21 Feb 44 Date awarded. (Sgd) Leon Bruneau President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed.

~~Proceedings will not be published to the accused or anyone. Action to be taken until further order.~~ (1)

(I. AA 57A. Delete if not used.)

Date FEB 21 1944 (Sgd) J.C. Jefferson A. Brig. Commanding COND. 5 CDN. INF. BDE. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D77068 Tpr DIONNE J Z P	23 FEB 44	E Stacey Capt. CAPT. & ADJ'T FOR O.C. 32 CDN. RECCE REGT. (R.M.C.)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

NDHQ 94

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier J. C. Jefferson Comdt 5 Cdn Inf Bde dated 19 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 370.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 77068	Tpr	Joseph Alphonse Philippe	Dionne	32 Cdn Recce Regt (R.M.C.)

PROCEEDINGS REVIEWED

Blakeway Capt. 10 MAR 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) U.K. on (date(s)) 21 Feb 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(1)~~ YB

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused : ~~Do you object to ..... as interpreter ? Ans .....~~

~~The Interpreter is sworn.(1)~~ Do you object to YB as shorthand writer ? Ans .....

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(2) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	L. Bruneau	R de Maisonneuve
Member	Capt	F. D. Bauman	R de Maisonneuve
Member	Lieut	C. W. Smith	32 Cdn Recce Regt R.M.C.
Judge-Advocate			
Prosecutor	Capt	E. Stacey	32 Cdn Recce Regt R.M.C.
Defending Offr	Lieut	R. C. Morrison	32 Cdn Recce Regt R.M.C.

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... YB ..... before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(does)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule. YB

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form ..... FB .....

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A)). As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without oath by from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H)). Accused may change a plea of Not Guilty to Guilty during trial. (RP 78). As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A)).

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decisions. See MML p 746 Instrs (2).

3. *As to responsibility of President to accused see RP 39, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 86, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), to call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No Sir (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court~~ considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. ~~As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras~~ D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. ~~President to accused: Do you wish to apply for an adjournment on the ground that any of the rules~~ relating to procedure before trial have not been complied with, and that you have been prejudiced thereby or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Deletes remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 41.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character to both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. ..... Do you intend to call witnesses on your behalf?
Ans. ..... Are they witnesses as to character only? Ans. .....
(1. *RP 77.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(B).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No Sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes Sir (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 76(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. As to assembly and disposal of record after trial see instrs on back of Convening Order. Confirming Offr see KR Can 567. As to release from arrest by* 2. *RP 50.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

in the case of

D77068 Tpr Dionne, J.Z.P.

The accused D77068 Tpr Joseph Zephyrin Philippe DIONNE a soldier of the 32 Cdn Recce Regt (RMR) Canadian Army placed on Active Service is charged with:

FIRST CHARGE: Absenting himself without leave

AA 15(1)

in that he

in the field absented himself without leave from 2200 hrs 3 Dec 43 until 1330 hrs 9 Feb 44.

(Total absence 67 days 15 hrs 30 mins)

(T.C. Lewis) Lt.col.
Comd 32 Cdn Recce Regt (RMR)

In the Field
11 Feb 44

To be tried by F.G.C.M.

J.A. Jefferson Brig
COMD. 5 CDN. INF. BDE.

FEB 1[illegible] 1944

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2) 40/PAS/1007 (2063)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D77068	Tpr	DIONNE, Joseph Zephyrin Philippe		32 Cdn Recce Regt (14 CH)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (date) 19 Feb 44 endorsed by me, [illegible] "to be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial; [illegible]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

[illegible]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

[illegible]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	L.Brosseau (Must be named. RP 106.)		R de Mais. (Unit.)

MEMBERS.

Capt.	F.D.Bourcier		R de Mais.
Lieut (Rank.)	C.W.Smith (Named or detailed. RP 106.)		32 Cdn Recce Regt (14 CH)

WAITING MEMBER.

Lieut (Rank.)	To be detailed by OC 32 Cdn Recce Regt (14 CH) (Named or detailed, if any. RP 106.)		32 Cdn Recce Regt (14 CH)

JUDGE-ADVOCATE.

-- (Rank.)	-- (Must be named, if any. RP 106.)		-- (Unit.)

On Active Service in the Fd

in UK (Country.)

Date 19 Feb 44

J.C.Jefferson (Signed personally, RP 105 fn 2.) Brigadier (Rank.)

(J.C.Jefferson) Brigadier
Commanding Comd 5 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for points and notes for use on trial.)

p/3

Feb, 21. 1944

"I hereby certify that I have this day examined . No. B77.94.8

Rank. Pte..... Name. DIONNE J.C.P. and in my opinion he is fit

to undergo trial by court martial

Capt. F.D. Mackenzie R.C.A.M.C.

I would like to say in my defence that I feel that a fair deal has not be given me during the past year.

My first term at Headly was of 60 days and on my release I was looking forward to a leave, during which time I had hopes of a rest and a chance to return to a normal way of living,
After a peroid of that length in detention a man has need of time to get accustomed to being a free man once again.

On my release to No.1 C.A.C.R.U. I applied for leave and while waiting for a reply to my request, I applied myself to all the work I was given to do, Later when I inquired for the answer to my request for leave, I was bluntly told that I was not to be granted it.

Others who had returned the same time as I did were granted leave and after having looked forward to my leave and having tried so hard to prove that I wanted to become as good a soldier as I was in my machine gunner days,this abrupt treatment discouraged me, I felt that I was not being fairly dealt with and made the misteke of taking the law into my own hands and went away on my own.

I returned after a period of 45 days and gave myself up to the military authorities and at my court martial for this offence was sentenced to 9 months detention.

I served 4 months of this sentence and was then released on a supended sentence because of my good conduct while in detention.

On my return to No.1 C.A.C.R.U. I applied for leave to readjust myself before continueing with my normal army duties.
This time I was told that it would be granted to me in two weeks time.
I was paraded to my C.O. but he was not able to see his way clear to grant me my leave sooner.
I made up my mind to stand by the rules and wait the two weeks and do whatever was asked of me without complaint.
The work given me was all dirty fatigue duties and all of long hours
I was not free any evening to go out of camp but with the thought of my leave being granted in the near future I took all that came my way and did not complain.
Before the two weeks were up I was sent from No.1 C.A.C.R.U. to my regiment arriving at the regiment on Dec,21943 in the late afternoon
The next day I was put on picket duty and I was informed that on the Saturday I would be on kitchen fatigue.
I felt very fed up and disappointed because once again I felt I had tried to show my willingness to soldier only to find that my promised leave was not being granted.

I left without permission without giving enough thought to the situation and only thendid I realize that I had made a foolish move, with the thought always in my mind of having to go back to Headley for at least five months as a result of my actions you can realize that I was not very keen about returning and giving myself up.
I did finally make up my mind to face what was in store for me and returned to the regiment and gave myself up.

I am fully aware of the foolishness of my thoughtless attempts at adjusting what I felt were injustices to me but feel that had I been given more consideretion I would be today a useful member of my battalion instead of being under arrest,
If you would grant me one request, a thing I feel would give me a chance to once again find myself and my old ambition
If possible could I be posted to a regiment in service overseas.
This I feel would give me my chance to once again be a useful soldier as I once was.

Leon Bowers

Request for Defending Officer

I would like to have Capt A. J. Tedder, 3rd Batn Essex Regt (RMR) defend me at my trial. If this is not convenient I am satisfied to have an officer appointed by my commanding officer

Philippe Dionne
D77068 Pte DIONNE 32P

WB

List of witnesses for the Prosecution

(with present addresses)

D77950 Cpl Langevin B.C.H. 3rd bdn Recce Regt (RCAC)

D76412 A/Sgt Hussey G.J.H. 3rd bdn Recce Regt (RCAC)

List of witnesses for the Defence

Nil

Ex "A"

Summary of Evidence
in the case of
D77068 Pte Joseph Zephyrin Philippe DIONNE
32 Cdn Recce Regt (RCAC)

By direction of the Commanding Officer this summary of evidence is taken under oath

First witness for the Prosecution
D77950 Cpl Langevin G A B Sqn 32 Cdn Recce Regt RCAC having been duly sworn states

On 3 Dec 43 I was acting as Sqn orderly Sgt in B Sqn. the accused whom I now recognize, had been warned for duty on the Sqn net picquet at ~~2000~~ 2200 hrs. At about 2150 hrs I went into the billet where the accused slept in to look for him. I could not find him, and he did not report to me that night. I have been a member of B Sqn, of which the accused is a member, continuously since 3 Dec 43 till today and I have not seen the accused since 3 Dec 43 until I saw him yesterday.

The accused declines to cross-examine this witness

G. Langevin
D77950 Cpl LANGEVIN CH.

Second witness for the Prosecution
D76412 L/Sgt Hussey G.J.N. B Sqn 32 Cdn Recce Regt (RCAC) having been duly sworn states:

On the 9 Feb 44 I was acting as

SoN Orderly Sgt in B SoN at about 1330 hrs on that day the accused, whom I now recognize, reported to me as an absentee.

The accused declines to cross-examine this witness

D76492 L/Sgt Mowery G.H.

G. H. Mowery.

The accused having been duly cautioned in accordance with RP 44(2) elects to reserve his defence

Ratcliffe Dismal
277068 Tpr 2 Corps Tps

Certified that Rule of Procedure 44 (2) (a) (i) have been complied with. Taken down by me in the presence and hearing of the accused this 10th day of February 1944
This summary consists of two pages

C Searcy Capt.
32 Gen Trans Regt (RASC)

B/3

M.F.M. 6
(A.F. B.122)
43/P & /3138 (2005)

No. P77068 Name DIONNE J.Z.P. Unit, Battery, or Company — Corps CAC — Date of enlistment 6 FEB 40 — G.C. Badges — Service or Proficiency Pay 1/- — Character

Date of last entry in Company Conduct Sheet — Normal date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc.

Place	Date of offence	Rank	Date of Reckoning-ness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
At the end of 2 years service a new conduct sheet was made out. There were no entries on the old conduct sheet.									
FIELD	8 MAR 42	Pte		AA SEC 15(1) AWL from 2359 hrs 6 Mar 42 to 2200 hrs 15 Mar 42 6 days 2 hrs 1 min	CPL MCKEAN A	14 days CB	16 MAR 42	Major DH Simpson	AF 7 days Forty
FIELD	19 JUNE 42	Pte		AA SEC 15(1) AWL 1945 hrs 19 JUN 42 to 2245 hrs 7 JUL 42 18 days 3 hrs	Sgt MUIR AG Cpl QUINN H	12 days detention	14 JUL 42	Lt Col JA CALDER	AF 14 days forty AF 6 days forty class arrest
FIELD	6 FEB 43	Tpr		AA SEC 15(1) AWL overstayed leave 2230 hrs 16 FEB 43 to 1910 hrs 24 FEB 43 - 7 days 20 hrs 40 min	Sgt JOHNSTON Cpl HUSSEY	21 days FP 21 days loss of Pay	26 FEB 43	Lt Col JA CALDER	AF 8 days Forty

See sheet (P.T.O.)

Place	Date of offence	Rank	Class of discipline	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	19 MAR 43	Tpr		AA Sec 15 (1) AWL 2230 hrs 19 MAR 43 till 5 APR 43	SUMMARY OF EVIDENCE	60 DAYS DETENTION	12 Apr 43	F GCM	Commuted by CORA 14 Apr 43 to confirmed CORA 14 Apr 43 Date Award Forfeit 61 2 Days pay and period taken award
FIELD	3 MAY 43	Tpr		AA Sec 15 (1) AWL 0600 hrs 3 MAY 43 to 0715 hrs 14 JUL 43 (72 days 11 hrs 45 mins)	SUMMARY OF EVIDENCE	1 YEAR DETENTION 3 months detention remitted on 22 JUL 43	21 JUL 43	FGCM	Finding and sentence confirmed by Brig RUTHERFORD Comd 1 CDN ARMD BDE CRU. Released from CDN DETENTION BARRACKS 20 NOV 43 152 days suspension of sentence

Certified a true copy from the regt records in my possession

Capt. & Adjt

10 FEB 1944 FOR O.C. 32 CDN. RECCE REGT. (R.M.R.)

Ex "B"

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D77068	TPR	DIONNE J Z P	32 CON RECCE REGT (RMR)

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental and Squadron, ~~Battery~~ Conduct ~~sheets~~ ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial ~~or a Civil Court~~, ~~of summary awards under Section 47 of the Army Act~~ Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL AA Sec 15(1)	1 times	2 times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

~~or~~

Previous convictions of the accused by a court-martial ~~or a civil court, of summary awards under Section 47 of the Army Act~~ Air Force Act ~~and dispensations with trial under A.A. 70~~ A.F.A. 70 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 12 days in military ~~Air Force~~ custody, making a total of 12 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ ~~attestation paper~~ regt records is 35 years

6. The date of his ~~enlistment~~ attestation specified in his record of service is ~~attestation paper~~ 6 FEB 40

7. ~~The service which the accused is allowed to reckon towards discharge is .....~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no air force decoration, or air force reward ~~(or is in possession of or entitled to)~~ military military. ~~State any air force decorations or reward~~ ~~military~~

10. ~~If the accused is a warrant officer:~~ ~~The accused before he was made a warrant officer was last held Air Force the regimental rank of .....~~

Cpl Dionne

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force~~ the rank of ~~Permanent Force~~ ~~unit~~ ~~dated~~ ....., and in his regiment (or corps), the rank of ~~dated~~ .....

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date:~~

..... ~~Date of promotion~~

~~In the rank of~~ ..... ~~years~~.

~~In the rank of~~ ..... ~~years~~.

~~In the rank of~~ ..... ~~years~~.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, ~~of summary awards under Section 47 of the Army Act~~ and of cases in which trial has been dispensed with of accused, Number D77068 Rank T/Sgt

Name DIONNE J Z P of 32 CDN RECCE REGT (RMR) Unit ~~Regiment~~

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
FGCM	In the field 13 Apr 43	AWL AA Sec 15(1) 2200 hrs 19 MAR 43 to 2200 hrs 5 Apr 43	60 days Detention	nil
FGCM	In the field 21 JUL 43	AA Sec 15(1) AWL 0600 hrs 31 MAY 43 to 1745 hrs 16 JUL 43	1 years Detention	3 months Detention remitted 22 JUL 43 152 days suspension of Sentence ~~remitted~~ 20 NOV 43

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Twenty first day of February 1944 Capt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

FOR O.C. 32 CDN. RECCE REGT (R.M.R.)

53-62.

Mrs. Devine, L.

RECORDED AT CMHQ IN AB 160 5D-62

FIELD GENERAL COURT-MARTIAL

CPA66 (To line of AFA51) 40/P & (S)1608 (1670)

4/388

Convened by Order of Brigadier J.A. Roberts Comd 5 Cdn Inf Bde dated 12 Mar 45

19 APR 1945

ACCUSED.

(At to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-161592	Pte	Leo	DIONNE	R de Chaud

PROCEEDINGS REVIEWED Capt
In my A/Recds
19 pages 45.

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 13 March 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for notes and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to Capt Le Roux as interpreter? Ans No

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer? Ans~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 31, RP 25, 71, 18, MML p 742 fn (g).)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	Ted Moore	N. Shore R.
Member	Capt	J.L.H. LeBlanc	N. Shore R.
Member	Capt	M.S. McIver	R.D.R.
Judge-Advocate			
Prosecutor	Lt	J.P.E. Cossin	R de Chaud
Defending Offr	Lt	C. Drapeau	R de Chaud

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See CF p 2.)

A8. The accused before arraignment make(s) (no) plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 63(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the submissions made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62, when several accused to be tried separately see RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D & E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B161592 Pte Leo DIONNE R. de Chauds.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 12 (1)(a)	Not Guilty	Not Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, end in loss of kit see RP 44 fn 6.)

At present under sentence for beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of days, of which days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(Sgd) Judge-Advocate, if any 13 March 45 Date awarded. (Sgd) Ted Moore Major President. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 122(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Noted

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) Ian A Roberts Brig
Commanding 5 Cdn Inf Bde
Confirming Officer.

Date: 14 May 45

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea to Guilty. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) to Guilty on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. N/O .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (has) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. Yes on oath Do you intend to call witnesses on your behalf ?
Ans. Yes Are they witnesses as to character only ? Ans. N/O
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s), (Guilty, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.~~ (1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (c), RP 45, 120(A).* 2. *AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 142, RP 46-50, 88, 118, 119(A), KR Can 308, 330, 563-566. Overseas NO 309, 2323, MML p 60, 757-758. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(5), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

In the case of B-161592 Pte Leo DIONNE, Le Regiment de la Chaudiere, a soldier of the Canadian Army Overseas, is charged with:

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

IN THAT HE

1st Charge
A.A. Sec 12 (1)

In the Field, after having been warned to proceed with his Pl. which was attacking an enemy position with the intent to avoid, so proceeding absented himself without leave from Le Regiment de la Chaudiere, at about 1900Hrs 26 Feb. 45 until he surrendered himself at approx.0800 the 27 Feb. 1945. **(Total Time absent - 13 hrs)**

Signed in the Field
This 6th Day of March 1945

J. F. L'Esperance maj
(J.C.Taschereau)Lt-Col.,
A/Commanding
Le Regiment de la Chaudiere

TO BE TRIED BY F.G.C.M.

Signed in the Field
This 6th Day of March 1945

Jas A Roberts
(J.A.Roberts) Brigadier
Commanding
8 Can Inf. Bde.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see N.D.H. Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 106. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, 184; KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-161592	Pte		Leo	DIONNE	R de Chaud

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (date) 12 Mar 45 endorsed by me "~~[illegible]~~" To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial ~~[and that it is not practicable for reasons of a major tactical nature]~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

~~4. [illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. [illegible]~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj (Rank.)	F. F. Moar (Must be named. RP 106.)	N Shore R (Unit.)

MEMBERS.

A/Capt	M. G. McIver	30R of C
Capt (Rank.)	J.E.H. Leblanc (Named or detailed. RP 106.)	N Shore R (Unit.)

WAITING MEMBER.

Capt (Rank.)	R. L. Larose (Named or detailed, if any. RP 106.)	R de Chaud (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Germany (Country.)

Dat 12 Mar 45

J.C. Abbott (Signed personally. RP 105 fn 2.)

Commanding 8 Cdn Inf Bde

Brigadier (Rank.)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFA 98. (In lieu of AFA 2; 60/F & S/1897 (8-43))

(See overleaf for oaths and notes for use on trial.)

Le Régiment de la Chaudière.

23 March 45.

I certify that I have this morning, examined B-161592 Pte ...
DENNETT... and in my opinion he is physically fit to undergo trial by a court-martial.

P. Gauthier

P. Gauthier capt. R.C.

Statement of Evidence of E 5634 Sgt Chartrand R
R de Chaude having been duly sworn
states: "I am E 5634 Sgt Chartrand R of
the R de Chaude at approx 1800 hrs
26 Feb 45, our Coy was on its first
objective. I was acting Platoon Comm
of 14 Pl "C" Coy. I received order to attack
with my Platoon. A few moments
after we had left for the attack L/Cpl
Dubois of #4 Sec reported that Pte
Dionne Leo B-161592 whom I now recognize,
was absent from #4 Sec. Upon
reaching the objective I noticed also
that Pte Dionne was absent. I then
reported his absence to the O.C. of the
Coy.

The Platoon was warned for the attack
The accused Pte Dionne Leo was present
when they were warned.

QUESTIONS By the DEFENSE

Q1. Did you personally see the accused when
you warned the Platoon?

answer: Yes.

Q2 What time was it when you warned
your Platoon.

answer: Approx 0800 hrs the morning of 26 Feb 45

Q3 What time did the attack take place in
which Pte Dionne was absent?

answer Approx 1800 hrs 26 Feb 45

Q.4 Was it the first or the second attack that Pte Broome was absent from?

Battalion Major

ANSWER: It was the second Coy objective but #14 Pl first objective. #13 Pl took first Coy objective, #14 Pl to take second Coy objective. This was #14 Pl first objective of the whole attack.

Q5 Was Pte Broome present during the attack?

ANSWER: I think he was present up to the first Coy objective from there on I cannot recall.

Q.6 ~~When did~~ Both R.P. 836 Complied with.

Preliminary Investigation

Statement of Evidence of D-107551 L/Cpl Dubois A of the R de Chaude having been duly sworn states: "I am D-107551 L/Cpl Dubois A of R de Chaude I am # 4 Sec Comm of 14 Pl "C" Coy. At approx 1830 hrs 26 Feb 45 we were in position waiting to put in an attack. At approx. 1400 hrs I noticed the absence of B 161592 Pte Dionne Leo whom I recognize as the accused from # 4 Sec. I then reported his absence to the P/P Comm, Sgt Chantrand. Pte Dionne's presence was noticed by me in the Pl area at approx 0800 hrs, 27 Feb 45. The Platoon was warned for the attack. Pte Dionne was present when the Platoon was warned for the attack. Pte Dionne was not in the Section when the attack was made.

X-EXAM by the defence:

Q1 What time was the attack completed?

ans1 at approx 2000 hrs 26 Feb 45

Q.2. Did you notice the presence of the accuse the night of the attack?

Ans2 No

(R.P. 836 Complied with)

Statement of Witness

B. 161592 Pte Leo Devine having been duly sworn states: At approx 0830 hrs 26 Sept '45 I was present at the Platoon warning for the attack. I was in # 4 Sec 14 Pl, about 50 yds from the start line we came under enemy shelling and we were pinned down approx 30 minutes. The the Sec Leader ordered us to move foward, which we did for approx 300 yds, and we then came under shelling for another 15 minutes. We move up a little and the Sgt called out wait I see three dug-out. Then he told us to take cover under the dug-out. We were then told to stay there till the orders to move off. We stayed there from approx 1100 hrs till 1800 hrs. At approx 1800 hrs the Sgt said our objective was approx 150 yds ahead, and we then started off. The Sections were all mixed up and I couldn't find mine, I then call out: "Where is # 4 Sec?" A few minutes later I found it and reported it. Then the Sgt said we must double to the objective. Near the objective an enemy gun opened up on us and we took cover. enemy shelling started again so I jumped in a nearby slit-trench. I then asked where my section was. Somebody answered: "we are here." - I'm almost certain that "E" Coy was still there, when I received the answer. Then all of a sudden Pte LaPlante (No. B 155391 Pte) jumped in my slit trench.

Then I was trying to contact my section and everytime I popped out to see, snipers of the enemy weapons would fire at me. I then said to myself: "Should the section move off, they will warn me."
A heavy barrage then came down after which I call for # 4 Sec and received a reply: "We are here." — Then not wishing to repeat such calls and feeling they knew where I was I felt they would warn me when they moved. The answer I received when I ask them to inform me when they moved, was: "Yes we shall warn you." We were not warned to move until the time Major Rochon came to the trench and told us we were in the wrong Coy area. I proceeded to C Coy area with Pte La Plante and when I reached there I could not find the Pl Sgt nor my Sec Leader. The first time I saw them was at breakfast at 0000 hrs 27 Feb 45. I saw my Sec Leader and he said "Oh here you are, I thought you were dead." I then explained what had happened.

X-EXAM by prosecution

Q1. THE LAST TIME YOU ASKED WHERE IS # 4 Sec DID YOU SPECIFY "C" Coy?

ANS: NO.

Statement of EVIDENCE of D-157668 Cpl LAFERTE M.

of the R de Chaude having been duly sworn states: "I am D-157668 Cpl Laferte M, I recognize the accuse as Pte Dionne Les. I am Section Comm. of #4 Sec "A" Coy. We were consolidating on our own A Coy objective as "C" Coy was passing through our Coy going into an attack. It was approx 1900 hrs 26th Feb 45 and getting dark. Shells were dropping all around the position, so C Coy personnel took cover with A Coy. Somebody yelled: "Where is #4 Sec". I answered "Here is #4 Sec". — We A Coy was along a hedge on one side and C Coy went through on the other side of the hedge. The voice had come from the other side of the hedge asking to warn them when the section moved off. The following morning at approx 0700 hrs Major Rochon R. and Sgt Derbate #8 PL Sgt, inspected our Positions and noticed Pte Dionne, the accuse, in a slit trench just across the hedge about twenty feet from my section position. Major Rochon asked Pte Dionne what are you doing here. The answer was: "We are waiting for our section to attack." Major Rochon then asked: "Where is your section. The answer was: "Just across the hedge." — Major Rochon told them that the section across the hedge was A Coy not C Coy. Pte Dionne answered: "No Sir it is #4 Sec of C Coy; because we were

told last night that we would be warned when to move off. We waited all night for instructions. Pte Devine got out of his slit trench and noticing he was in the wrong Coy, he then proceeded to his own Coy, C Coy.

Statement of Character by Sgt Chartrand R.

Pte Hemmel L has been in my Platoon since late January 45. His conduct was always good and I have nothing but to say that he was always a good soldier in the field. I am almost sure that if Pte Hemmel L. did not reach his objective there must have been a misunderstanding somewhere.

SUMMARY OF EVIDENCE

In the case of B-161592 Pte Dionne, Leo, Le Regiment de la Chaudiere.

The C.O. Directs that the evidence be taken on Oath.

1st Witness: E-5634 Sgt. Chartrand R. Le Regiment de la Chaudiere having been duly sworn states:
I am E-5634 Sgt. Chartrand R. Le Regiment de la Chaudiere. At 1900hrs the 26 Fev. 1945 I was acting as Pl. Comd. and my coy was on its first objective. My Platoon was ordered to advance and I noticed that B-161592 Pte Dionne L. was absent from my Pl. Before the attack all the men were duly warned for action and the accused was there at the moment. The accused declines to cross-examine the witness.

Sgt. Chartrand R.
G. Chartrand Sgt

2nd Witness: D-107551 L/Cpl Dubois A. Le Regiment de la Chaudiere having been duly sworn states:

I am D-107551 L/Cpl Dubois A. Le Regiment de la Chaudiere. When we were consolidating under the shelling that night at approx. 1830hrs on the 26 Fev. 1945. After we had left for the next attack I noticed that the accused was not there with his section. I saw him I think the morning after when the attack was over.

The accused declines to cross-examine the witness.

Alphonse Dubois
L/Cpl. Dubois Alp.

Question to the accused:

Desirez-vous faire une declaration ou rendre temoignage sous serment. Vous n'etes pas oblige de dire quoi que ce soit ni de rendre temoignage a moins que vous ne le desiriez, mais tout ce que vous direz et toutes declarations que vous ferez seront pris par ecrit et pourront servir de preuve.

Answer by the Accused:

No Sir, I reserve my defence.

Question to the accused:

Do you want to call any witness on your behalf?

Answer by the Accused:

No, Sir.

Dionne L.
B-161592 Dionne L.

I certify that Rule of Procedure 4 C/D/E/F have been complied with. This Summary of Evidence consisting of one page has been taken down in writing be me in the presence and hearing of the accused;

Signed in the field
This [illegible] day of March 1945

E. Ouellet
E. Ouellet Lt.
Officer Taking Summary.

HC-22

PIE DIONNE MJ.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A106635 Pte Melvin Joseph Dionne

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15-16	Guilty	Guilty	
2nd	AA 19	Guilty	Guilty	
3rd	AA 22	Guilty	Guilty	
4th	AA 40	Guilty	Guilty	
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 96 days, of which 0 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under S2.)

Sentence Awarded by the Court: To forfeit all ordinary pay for 9/0 days

(Sgd) [signature] Judge-Advocate, if any. Date awarded: 11 Oct 44 (Sgd) [signature] President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minutes of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

The decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

Date 13 Oct 44. (Sgd) [signature] Brig. Commanding 10 Cdn. Inf. Bde. Confirming Officer.

Date 11 Oct 44

Reviewing JA's Div.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
A106635 Pte Melvin Joseph DIONNE	18 Oct 44	[signature] Capt. Adjt., Lincoln & Welland Regt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No illegalities or irregularities noted such as would warrant witholding confirmation

MML p 761

RECEIVED 28 OCT 1944 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 4C 22

CFAMC (To Dirn of AFA) 450 P 30 8-44 1600 (16070) 4/38B

FIELD GENERAL COURT-MARTIAL

Convening Officer: Brig J.P. Jefferson Comd 10 Cdn Inf Bde dated 9 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A106635	Pte	Melvin Joseph	Dionne	Lincs & Welland R.

R. Lincs & Welland R. 30 Oct 44

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 11 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 12/13

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(as)~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3) A

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~ brought before the Court. At 1000 hours trial commences. 11

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. President to accused: Do ~~you~~ object to ~~the~~ as interpreter? Ans ~~No~~ A

~~The interpreter is sworn.(1)~~ Do you object to ~~the~~ as shorthand writer? Ans ~~No~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	W.K. Stockdale	Gordons
Member	Capt	C.F.S. Bignell	2 I.C. R
Member	Lt	F.N. Ferguson	19 Cdn Lt Regt
Judge-Advocate	Capt	A. Anderson	11 A.F.C.D.
Prosecutor	Capt	H.H.L. Rae	Lincs & Welland R.
Defending Offr	Maj	R.F. Wilson	Lincs & Welland R.

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (1)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment makes(s) (no) (~~an~~) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 25(A), 112), or in bar of trial (RP 26), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AE rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~severally~~) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part 1 of the Schedule. A

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form A-C.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

PROCEEDINGS REVIEWED See GHQ 21 Army Gp 23 Nov 44

REVIEWING OFFICER'S BRANCH C.M.H.Q.

No 12

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ~~No~~ .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise~~ accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 29(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character, or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 66(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans ~~No~~
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 294. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans ~~No~~ Yes/ 6/-.....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or say anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas 80 309, 2323, MML p 66, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 136. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 594. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

w5

CHARGE SHEET

The accused, A-106635 Pte Melvin Joseph DIONNE, Linc & Welld R, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
AA Sec 15(1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE,

in that he in the field on 14 Sep 44 absented himself from his Unit, the Linc & Welld R, from 2200 hr 14 Sep 44 until apprehended by the Military Police in the Central Cafe in Bruges at approx 2230 hr 14 Sep 44, absent thirty minutes;

SECOND CHARGE
AA Sec 19

WHILE ON ACTIVE SERVICE DRUNKENNESS,

in that he in the field at approx 2230 hr 14 Sep 44 was drunk;

THIRD CHARGE
AA Sec 22

WHEN IN LAWFUL CUSTODY IN THE FIELD ATTEMPTING TO ESCAPE,

in that he in the Field on 14 Sep 44 when proceeding under escort to the civil gaol broke away from his escort and attempted to escape;

FOURTH CHARGE
AA Sec 40

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he in the field on 14 Sep 44 when being placed in confinement by M-60275 Cpl Young G, Cdn Pro C, said to the said Cpl, "When I get my gun back I will shoot every God-Damned Provost I see, whether on traffic duty or not," or words to that effect.

Field
2 Oct 44
Remanded for FOIM.

W T Chomb Jr Lt-Col.
(W T CHOMB JR) Lt-Col,
Comd Linc & Welld R

To be tried by Field General Court Martial.

In the Field
9 Oct 44

J C Jefferson Brig
(J C Jefferson) Brig
Comd 10 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A166615	Pte		Melvin Joseph	BROWN	Line & Weld Pl

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Oct 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified authy.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	W E STOCKLOSER	A & S H of C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A/Capt	R F S BIGANI	22 Cdn Armd Regt
Lt	F N FERGUSSON	19 Cdn Army Fd Regt RCHA

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	D CAMPBELL	10 Cdn Inf Bde Wksp

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	H. A. Lamont	HQ 4 Cdn Armd Div

On Active Service in the Fd

in BELGIUM (Country.)

J. E. Jefferson (Signed personally. RP 105 fn 2.) Brig (Rank.)

Date 9 Oct 44 Commanding 10 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for outfits and notes for use on trial.)

4/38A (FACE / On lines of AF B.2)

WS

MEDICAL OFFR'S CERTIFICATE
(K R (Can) para 557)

I certify that I have this day examined No. A 106[illegible]5 Pte. Dionne, M.J., of the Lincoln & Welland Regt., and in my opinion he is ~~unfit~~ fit to undergo trial by court martial.

J.D. [illegible], Capt RCAMC

Sta: In the Field
Date: 11 Oct 44.

Plea in Mitigation.

The accused is able bodied and can still fight—

Exh. 4.
WS.

Summary of Evidence

IN THE CASE of A 106635 Pte Melvin Joseph Dionne, Lincoln & Welland Regt., Canadian Army Overseas, charged with

(1) Desertion

(2) Using insubordinate and threatening language to a superior officer

(3) While in lawful custody, escaping

(4) Disobeying a lawful command in a manner calculated to show a wilful defiance of superior authority

The CO directs that the evidence betaken on oath.

First Witness

Capt JP Stewart, 8 Cdn Pro Coy, sworn, states:

"I am OC 8 Cdn Pro Coy. At approx 2200 hrs 14 Sep 44, accompanied by Lt CL Ray and D98558 RSM Knight WH, both 8 Cdn Pro Coy, I entered the Central Cafe, Bruges. Shortly after my arrival I noticed several officers of 4 Cdn Armd Div attempting to quiet a Cdn soldier. This soldier was using abusive language and later began to swing his fists at one or two offrs who were standing nearby. I grabbed his arm and assisted by Lt CL Ray and D98558 RSM Knight WH forced him to the street where he was turned over to L4 L/Cpl LaBelle A and K53402 L/Cpl May AE, 8 Cdn Pro Coy. This soldier was later identified as A106635 Pte Dionne MJ, D Coy, Linc & Welld R. It was difficult to tell whether or not he was drunk due to the fact that I only saw him while he was wrestling with two or three offrs. He certainly had been drinking. The offrs with whom A106635 Pte Dionne MJ and his companion, A105652 Cpl Voegtle DA, were arguing dispersed soon after my arrival and it was not possible to identify the individual offrs concerned. The cafe concerned, on the date in question, was open to all ranks although, on the previous day, it had been out of bounds to Other Ranks."

The accused declines to cross examine this witness.

J P Stewart Capt.
(Signature of witness)

Second Witness

B41286 Sjt Christie AF, Linc & Welld R, sworn, states:

"I am Pl Sjt of 17 Pl, D Coy, Linc & Welld R. On 13 Sep 44 forty men of D Coy were on an op roll in sp of the Algonquin Regt. One of these was A106635 Pte Dionne MJ who is a member of my Pl. The men returned on the afternoon of 14 Sep 44. They were told to rest until 1700 hrs and then they could proceed into Syseele until 2200 hrs. I checked my Pl at 2215 or 2230 hrs and found that A106635 Pte Dionne MJ was missing. I reported this to my Pl Comd, Lt Dickie. At that time it was generally expected that the bn would be engaged in an op roll in the very near future. At approx 1100 hrs 15 Sep 44 the bn was moved on an op roll into the city of Heeloo. On the morning of 16 Sep 44 A106635 Pte Dionne MJ was returned to the Pl. He was not with the pl during our move into the city."

The accused declines to cross examine this witness

A F Christie Sjt
(Signature of witness)

Third Witness

Lt CL Ray, 8 Cdn Pro Coy, sworn, states:

"I am a member of 8 Cdn Pro Coy. At approx 2200 hrs 14 Sep 44, accompanied by Capt JP Stewart and D98558 RSM Knight WH, 8 Cdn Pro Coy, I entered the Central Cafe, Bruges, shortly after a fracas arose. I do not know the cause but two soldiers under the influence of drink had apparently taken exception to something about some of the offrs present. One of the soldiers, later identified as A106635 Pte Dionne MJ, Linc & Welld R, had apparently started to fight someone. Capt JP Stewart intervened and then, assisted by D98558 RSM Knight WH and myself, got him to the door. The other soldier, later identified as A105652 Cpl Voegtle DA, Linc & Welld R, left more or less peacably. I turned them over to two L/Cpls of 8 Cdn Pro Coy."

Cross examined by the accused:
Q. "Would you swear I was drunk?"
A. "I would swear that you had been drinking but not that you were drunk."

[signature] Lt.
(Signature of witness)

Fourth Witness

D98558 RSM Knight WH, 8 Cdn Pro Coy, sworn, states:

"I am RSM of 8 Cdn Pro Coy. At approx 2200 hrs 14 Sep 44 I entered the Central Cafe in Bruges with Capt JP Stewart and Lt CL Ray, 8 Cdn Pro Coy. There seemed to be some sort of disturbance. I do not know the cause but two soldiers under the influence of drink were arguing with a group of offrs. One of the soldiers started to fight. I recognize him as the accused A106635 Pte Dionne MJ. Capt JP Stewart intervened and assisted by Lt CL Ray and me, got the soldier to the door where he and his companion, A105652 Cpl Voegtle DA were placed in the custody of two L/Cpls of 8 Cdn Pro Coy."

The accused declines to cross examine this witness

[signature] R.S.M.
(Signature of witness)

Fifth Witness

M60275 Cpl Young G, 8 Cdn Pro Coy, sworn, states:

"I am a member of 8 Cdn Pro Coy. At about 2240 hrs 14 Sep 44 while I was on Stand To duty at E Sec HQ, 8 Cdn Pro Coy, in Bruges two Canadian soldiers were escorted into Sec HQ by L4 L/Cpl LaBelle A and K53402 L/Cpl May AE. They were identified as A105652 Cpl Voegtle DA and A106635 Pte Dionne MJ, D Coy, Linc & Welld R. A106635 Pte Dionne MJ had no identification of any kind on his person and when asked for his Pay book he replied,'Fuck you bastards, that is your job. Find out for yourself.' Both men were then taken under escort from E Sec HQ. After leaving there A106635 Pte Dionne MJ escaped. He was chased for a distance of approx 100 yds and in the dark he tripped on the road curbing. He was then taken to the Civil Police Stn in Bruges and while being placed in the cells he made the following statement, 'When I get my gun back I will shoot every God damned Provost I see, whether on traffic duty or not.' Both men had been drinking but were not drunk."

Cross examined by the accused:
Q. "Who gave you my name and number?"
A. "Cpl Voegtle did."

G. A. Young

8th Witness

F 79754 L/Cpl. Pace, G.W., Linc & Welld R., sworn states:

I am a member of the R.P. of the Linc & Welld R. On the 15 Sep 44 I was sent with B 41556 Pte. Mitchell, J.M. another member of our R.P. by the Adjt., Capt. R.L. Rogers, to the H.Q. 8 Cdn Pro Coy in Bruges, arriving there at approx 1830 hrs. A Cpl. of 8 Cdn Pro Coy turned over to us A 105652 A/Cpl. Voegtle, D.A. and A 106635 Pte. Dionne, M.J. Linc & Welld R., to be escorted back to our Unit. A 105652 A/Cpl. Voegtle, D.A. and A 106635 Pte. Dionne, M.J. were confined in the civil goal till our arrival. We took them back to our Bn H.Q. and turned them over to B 40555 Sjt. Anderson, N. at approx 1930 hrs.

G.W. Pace
.....
Signature of Witness.

Sixth Witness

L4 L/Cpl LaBelle A, 8 Cdn Pro Coy, sworn, states:

"I am a member of 8 Cdn Pro Coy. At approx 2230 hrs 14 Sep 44 while on town patrol with K53402 L/Cpl May AE, we were going down High Street when some offr told us there was trouble in a cafe which he pointed out. We went to the cafe and when we reached the door two two offrs and an RSM were trying to get A106635 Pte Dionne MJ out the door. A105652 Cpl Voegtle was standing to one side watching the struggle. I was told to take the two soldiers and place them under close arrest. They were both disarmed at the time they were handed over to me. We took them to H Sec HQ, 8 Cdn Pro Coy, and turned them over to M60275 Cpl Young G. A106635 Pte Dionne MJ had no identification on his person and when asked for his Pay book he replied, 'Fuck you bastards, that is your job. Find out for yourself.' M60275 Cpl Young G and I then took them under escort and when outside A106635 Pte Dionne MJ escaped. He was chased for about 100 yds until he tripped over the curb in the dark. We then took them to the Civil Police Stn in Bruges and while being put in the cells Pte Dionne MJ said,'When I get my gun back I will shoot every God damned Provost I see, whether on traffic duty or not.' Both men had been drinking but were not drunk."

The accused declines to cross examine this witness.

A LaBelle
(Signature of witness)

Seventh Witness

K53402 L/Cpl May AE, 8 Cdn Pro Coy, sworn, states:

"I am a member of 8 Cdn Pro Coy. At approx 2230 hrs 14 Sep 44 I was on town patrol with L4 L/Cpl LaBelle A. Near the market square an offr requested our assistance to place under arrest two Cdn soldiers who were causing trouble. We entered the cafe he indicated and found A106635 Pte Dionne MJ struggling with Lt CL Ray. We assisted Lt CL Ray to place A106635 Pte Dionne MJ under close arrest and took him to our Sec HQ. I did not accompany him when he was taken from our HQ."

The accused declines to cross examine this witness.

A E May
(Signature of witness)

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The Accused: "I desire to give evidence under oath."

The Accused, A106635 Pte Dionne MJ, Linc & Welld R, sworn, states:

"On the evening of 14 Sep 44, at the time of the disturbance in the cafe in Bruges, I was drunk. I was with A105652 Cpl Voegtle DA. We had consumed five or six bottles of cognac during the day and early evening. I remember being in some cafe and someone trying to put me out. At the time I did not know who they were. That is all I can remember concerning the affair. The following morning I found I was in the civil goal. M60275 Cpl Young G, 8 Cdn Pro Coy, came in and asked me who I was and after a little argument I told him."

M J Dionne

The Accused states that he desires to call A105652 Cpl Voegtle DA as a witness in his behalf:

A105652 Cpl Voegtle DA, Linc & Welld R, sworn, states:

"I was with A106635 Pte Dionne MJ on the evening of 14 Sep 44 at the time of a disturbance in a cafe in Bruges. In my opinion he was well under the influence of liquor at that time. The disturbance started with an argument when some offrs who were drinking there seemed to think the cafe was out of bounds to us. On the following morning, 15 Sep 44, in the Civil goal in Bruges, M60275 Cpl Young G, 8 Cdn Pro Coy, asked our names. A106635 Pte Dionne MJ objected at first but when I had given my name and number he did likewise."

D A Voegtle
(Signature of witness)

I certify that RP 4 has been complied with. Taken by me in the fd in the presence and hearing of the accused this 1st day of October, 1944.

H A C Rose, Capt.
(H.A.C. Rose)

ARMY FORM B.296 (WAR). "C"

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A106635	Pte	Dionne M J	Lincoln & Welland Regt.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	AWL	4 times.
For	Disobeying a lawful comd Sec 9 (2) AA	3 times.
For	Using insubordinate Language to an offr	1 times.
For		times.

Date of first entry in Field Conduct Sheet 17 Jul 1943

Date of last entry in Field Conduct Sheet 7 Jul 1944

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~3. The accused has been awarded the following decorations [1] :—~~

4. The accused has been awaiting trial on the present charges for NO days in civil custody; and for ~~N J b~~ days in military custody, of which NO days in open arrest, ~~N J b~~ days in close arrest, of which NO days were spent in hospital.

5. The present age of the accused is 20

6. The date of his ~~enlistment~~ attestation is 9 Apr 43

7. The service which the accused is allowed to reckon is 1 yr , 177 days

[1]State the military decorations (if any) held by accused.

~~8. The accused is specially reported as an officer or soldier who has set a good example in the field.~~

~~9. The accused is specially reported as an officer or soldier who has set a bad example in the field.~~

~~10. The accused is specially reported as an officer or soldier who has performed his duties in the field in a satisfactory manner.~~

~~11. The accused is specially reported as an officer or soldier who has performed his duties in the field in an unsatisfactory manner.~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(81114) W1.24670/668 100,000 4/42 A.& E.W.Ltd. Gp.678 Forms/B.296(War)/2
(81114) W1.29254/1573 60,000 9/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
District Court Martial	10 Sep 43 Ipperwash Ont	Disobeying a lawful comd given by a superior officer (Sec 9 (2) AA)	60 days Detn	30 days remitted by confirming authority.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 2nd day of Oct 1944

W. T. Cromb Jr

(W T CROMB JR) Lt-Col
Comd Linc & Welld R

A106635 No. Name DIONNE M J Sqn., Battery, or Company Corps CIC Date of enlistment 9 Apr 43 O.C. Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc.

M.F.M. 5 (A.F.B. 122) 10M—11-40 (8033) H.Q. 1172-41-18

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ipperwash	17 Jul	Pte		AWL 1200 hr 17 Jul 43 to 0035 hr 29 Jul 43. absent 11 days, 12 hrs, 35 mins. Sec 15(1) AA close arrest		28 days Detn	30 Jul 43	OC A29 CITC	Forf 12 Days' Pay, FRAI 149(1)(a) and 1 days pay FRAI 149 (1) (c) (ii)
Ipperwash	Sept 43	Pte		(1) Disobeying a lawful comd given by a superior Officer (sec 9 (2) AA (2) Using insubordinate language to a superior Officer		60 days' detn on first charge-10 Sept 43 -DCM 30 days remitted by confirming Authority			REMITTED 4 DAYS' UNDER ART 27 REGS & INSTRS FOR MIL DETN RKS 1939

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10 Jan	Pte		AWL 1800 hr 10 Jan 44 to 2200 hr 10 Jan 44, absent, 4 hr, (Sec 15 (1) AA)		Forf 4 Days' Pay, FR&I 149 (2)	11 Jan 44	OC 3 CIRU	
Field	5 Feb 44	Pte		Disobeying an order given by his superior offr in the execution of his duty. (Sec 9 (2) AA)	A57391 Cpl Kipp C D A118132 Pte Slater J H	28 days' FP and 28 days' Forf pay, FR&I 149 (2)	11 Feb 44	Lt Col J G McQueen	
Field	21 May	Pte		AWL 2359 hr 21 May 44 to 2359 hr 23 May 44, absent 2 days. (Sec 15(1) AA)	Sjt Mac Pherson	14 Days' FP & 14 Days' Forf pay, FR&I 149 (2)	25 May 44	Lt Col J G McQueen	
Field	4 Jun	Pte		Disobeying a lawful comd given by his superior offr (Sec 9 (2) AA)		forf 28 Days' pay, FR&I 149 (2)	10 Jun 44	Lt Col J G McQueen	

No. A106635 Name DIONNE M J | Sqn., Battery, or Company | Corps CIC | Date of enlistment 9 Apr 43 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2, Page 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7 Jul	Pte	NIL	AWL 1630 hr 7 Jul, 2245 hr 12 Jul, absent 5 days 6 hr 15 mins	Sjt Christie Documentary	28 Days FP 28 days Pay FRAI 149(2) to pay cost of apprehension £1-18-4	15 Jul 44	Lt Col J G McQueen	

"CERTIFIED TRUE COPY

(R.L.Rogers/Capt- Lincoln & Welland Regt.
Officer having custody of original document.

(P.T.O.)

SC-37

Pte. Dionne, K.C.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D163157 Pte DIONNE PE 2 CGRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15 (1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 57 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

TO UNDERGO DETENTION FOR A PERIOD OF ONE (1) YEAR.

(Sgd) ..... Judge-Advocate, if any. 20 SEP 45 Date awarded. (Sgd) (D.L. REDMAN) Lt-col President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(2). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minutes of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

CONFIRMED

~~I direct that the accused be retained in close arrest in close detention barracks until further orders.~~(1) DOMB

(1. AA 57A. Delete if not used.)

(Sgd) (H.O.N. Brownfield) Brig

Date 29 Sep 45 Commanding "C" Gp CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
D163159 Pte DIONNE PE 2 CGRU PT II ORDER #60 D/2 OCT 45	2 Oct 45	(JC SMITH) Major Admin Officer 2 C.G.R.U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

(CC FX) RECORDED AT CMHQ IN AD 152-5437

RECEIVED 12 Oct 45 JAG BRANCH C.M.H.Q.

FIELD-GENERAL COURT-MARTIAL

CPA86 (In lieu of AFA81) 40/P & S. 2000 16(44) 4/38B

Convened by Order of Brig HON BROWNFIELD CBE Comd "C" Gp CRU dated 21 Sep 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D163157	Pte		Paul Emile	DIONNE	2 CGRU

PROCEEDINGS REVIEWED
12 Oct (sgd) (L.J. Brody) Maj
Reviewing Officer
JAG BRANCH CMHQ

Certified true copy of original proceedings herein.
16 Nov 1945
[illegible] Capt

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ENGLAND on (*date*) 26 Sep 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be [illegible] matter having reference to appropriate [illegible] preceding para. [illegible] CF A95. For oaths and hints on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 36, 63-70, 73, 74, 84, 103, 119, 123.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet, ~~is~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 513(c). Delete, if not applicable.)

~~A5. President to accused : Do you object to an interpreter ? Ans~~

~~The Interpreter is sworn.~~(1) Do you object to C96167 Sgt BOUDREAU, M shorthand writer ? Ans No
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO SIR(2)

(1. RP 110. 2. If no objection, ~~waiting member retires~~. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt-col	D.L.	REDMAN	HQ CRU
Member	Capt	A.C.	HOLLAND	1 CGRU
Member	Lt	M.J.	FRASER	1 CGRU
~~Judge-Advocate~~				
Prosecutor	Lt	E.C.	ENNIS	2 CGRU
Defending Offr	Capt	J.A.	CRUTCHER	2 CGRU

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in ALL cases and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 3. *2. MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No, Sir.(5)
(*1. RP* 37(*B*). *2. RP* 37(*D*) *fn* 6. *3. RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. *4. See para* E3 *of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D--PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecuter makes (an) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....Do you intend to call witnesses on your behalf ?
Ans.....Are they witnesses as to character only ? Ans.....
(*1. RP* 115. *2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* 495. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1. 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 42, 117(*A*). *See Notes in Part I of Schedule. 2. RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(3) (*a*), *RP* 45, 120(*A*). *2. AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB* 355 *or AFB* 296. *2. MFM* 6. *3. RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans BY DEF OFFR (NOTE ATT)(2)
(*1. RP* 37(*C*), 46(*D*). *2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*D*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(4), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. Where several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 47, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566. *Overseas AO* 309, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *Where accused already under sentence of imprisonment or detention see AA* 44(*B*), 68(1), *KR Can* 564. *2. RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

(COPY)

CHARGE SHEET

The accused, D.163157 Pte Paul Emile DIONNE, CIC, on strength of 2 Cdn Gen Reinf Unit, a soldier of the Cdn Army Overseas, is charged with:

FIRST CHARGE
Sec 15(1) AA

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITH-
OUT LEAVE

in that he

In the Field, did absent himself without leave from 0930 hrs 5 Sep 44 until surrendering himself to the Corps of Military Police, in FLORENCE, at 2300 hrs, 30 Jul 45.

(Time absent 328 days, 13 hrs 30 mins)

In the Field
18 Sep 45

(sgd) (W.A. Townsley) Col
CO 2 Cdn Gen Reinf Unit

TO BE TRIED BY F.G.C.M.

(sgd) (H.O.N. BROWNFIELD) Brigadier,
Comd "C" Group Cdn Reinf Units
(Convening Officer)

Bordon, Hants,
21 Sep 45.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D163157	Pte		Paul Emile	DIONNE	2 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) this date endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. REDMAN VD		HQCRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by CO	1 CGRU
Lt	to be detailed by CO	1 CGRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

(sgd) (H.O.W. BROWNFIELD) (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Date 21 Sep 45

Commanding "C" Gp CRU
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

(COPY)

(MED OFFR'S CERTIF)

I certify that I have this morning examined No. D163157 Pte DIONNE P.E., of 2 CGRU and in my opinion he is fit to undergo trial by Court-Martial.

Station.....Bordon,

Date.....26-9-45

(sgd) ????? Capt
Medical Officer

F-3 B

PLEA IN MITIGATION

May it please the Court.

Pte Dionne has been in the Army since Aug 1942. At that time he volunteered for Active Service, joining the Fus Montreal. He came o/s in Aug 1943. One month later after being transferred to the R 22 R he landed in Italy.

In a very short time he was in action as an infantry man and for one and one half months he played his part in continuous fighting to the best of his ability.

He was wounded in one of the fiercest actions of the campaign in Italy, that during which Major Paul Triquet won the V.C. Then followed that long and tiring sequence of hospitalization, convalescence, reboards and Holding Units.

It was during this trying time that Dionne, unfit for further action, absented himself without leave. May it please the Court to consider these facts and deal as leniently as possible with this man.

SUMMARY OF EVIDENCE

In the case of D.163157 Pte Paul Emile DIONNE CIC, on strength of No. 2 Cdn Gen Rft Unit, a soldier of the Canadian Army O/S.

By direction of the CO, this Summary is taken on oath.

- -

FIRST WITNESS

Capt WC Mathews, 2 CGRU having been duly sworn, states as follows:

I am Capt WC Mathews 2 CGRU and I produce the following documents pursuant to O/S RO 5352, which have been read over and shown to the accused and which are att hereto as exhibits:

Exhibit "A" - Certified True Copy of the Record of the Declaration of Court of Inquiry held on 10 Oct 44 showing Pte Dionne P.E. illegally absented himself without leave from 0930 hrs 5 Sep 44 and that on 10 Oct 44 he was still so absent.

Exhibit "B" - Certificate in accordance with Sec 163(i) (j) of the AA, showing that Pte Dionne PE surrendered himself to the CMP at Florence at 2300 hrs 30 Jul 45.

Which above exhibits pertain to the accused herein. (sgd) (WC Mathews) Capt

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS

The ACCUSED was cautioned as follows:

Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary consisting of one page was taken down in the presence and hearing of the accused and that RP 4(C) (D) (E) and (F) have been complied with.

In the Field
18 Sep 45

(sgd) (JR Mathieu) Lt
Officer detailed to take the Summary

Exhibit "A"
(P)

(COPY) Army Form B115

RECORD OF THE DECLARATION OF A COURT OF INQUIRY ON THE ILLEGAL ABSENCE OF A SOLDIER

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 10th day of Oct 1944 for the purpose of investigating and recording the absence without leave from his duty and deficiency if any in the Arms, Amn, Eqpts, Instruments, Regtl Necessaries, or Clothing of No. D163157 Pte DIONNE PE

DECLARATION

The Court declare that No. D163157 Pte Dionne P.E (R22eR) 1 Cdn Base Rft Bn, 1 C.B.R.D., illegally absented himself without leave from the Field at 0930 hrs 5 day of Sep 44 and that on 10 Oct 44 was still absent, and that on the 10 Oct 44 he was deficient and that he still deficient of the following articles: (See att list)

KIT DEFICIENCIES

of

D163157 Pte DIONNE PE

ARTICLE	NO	100% Value	75% Value
Boots, Ankle	2	10.92	8.20
Capt Pd Service	1	.56	.44
Drawers Cell Short	2	.86	.66
Socks worsted	3	1.11	.81
Trousers Battle D	1	5.39	4.05
Braces	1	.28	.21
Knife Clasp	2	.86	.66
Vest Cotton	2	.72	.54
Towels Hand	2	.64	.48
Blankets	2	6.14	4.62
Shirts KD	1	3.50	2.64
Trousers KD		1.58	1.20
TOTAL		$ 32.56	$ 24.71

(sgd) (JA Constantineau) CQMS
1 Coy 1 Bn

(COPY)

CERTIFICATE UNDER SECTION 1 6 3 (1) (j) ARMY ACT

I, Capt HA BARRATT Certify that D163157 Pte DIONNE PE of the Royal 22nd Regt 1st Cdn Div surrendered himself to No. 6349375 P/L/C BAKER W, at FLORENCE on 30 Jul 45 at about 23.00 hrs as an absentee without leave.

(sgd) (HA BARRATT) Capt
OC 507 Pro Company CMP

(COPY)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D163157	Pte	DIONNE PE	2 CGRU

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For	AA Sec 15(1)	4 times.
For	AA Sec 24(2)	2 times.
For		times.
For		times.

Date of first entry in Field Conduct Sheet 8 Mar 43

Date of last entry in Field Conduct Sheet 2 Aug 44

2. ~~Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

*Strike out if not applicable.

*3. ~~The accused at the present time is under sentence for~~ ~~imprisonment~~ ~~beginning on the~~ ~~day of~~

4. The accused has been awaiting trial on the present charges for ____ days in civil custody; and for 57 days in military custody, *i.e.*, 0 days in open arrest, 57 days in close arrest; of which 0 days were spent in hospital.

5. The present age of the accused is 24 yrs.

6. The date of his attestation is 28 Aug 42

7. ~~The service which the accused is still to serve~~

8. The accused is in possession of† CVSM & Clasp

*State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

E & "B"

R.

W1 [illegible] 30,000 3/44 [illegible]—4735. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 26 day of Sep 45

(sgd) (JR Mathieu) Lt
Officer having custody of Regtl Records

MFM 6
(AFB 122)
65/FAN/136 (3438)

No D163157 Name DION E PE | Sqn, Battery, or Company | Corps (C¢PY) CIC | Date of enlistment 28 Aug | OC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 42 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				SHEET DESTROYED 24 MAR 44 DRUNKENNESSS..NIL...(sgd) (P.E. Beauvais) Capt					
						Admonished	Maj Gendron	8 days pay	
						5 days CB	Maj Gendron	3 days pay	
Sussex	8 Mar43	Pte		AA 15(1) AWL 7 days 7 hrs		28 days F.P.	Lt-col McKenna	7 days pay	
Aldershot	5 Jul 43	Pte		AA 15(1) AWL 2 days 12 hrs		Sto pp. $4.00			
Field	25 Jul 44	Pte		AA 15(1) AWL 6 days 14 hrs 30 mins					
Field	2 Aug 44	Pte		AA 24(2) WOAS losing by neglect clothing & Regtl necessaries to value of $4.00		28 days pay	2 Aug	Lt-col McKenna	
				AA 15(1) AWL 2 days 3 hrs	Sgt Dagnois	Stop $4.00			
				AA 24(2) Losing by neg clothing and eqpt to value of $4.00		28 days F.P.			7 days pay
						P.T.O			

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Released from 2 Cdn F.P. Camp on 25 Aug 44 sentence having expired. Remission earned 4 days .

Certified True Copy consisting of one page

18 Sep 45 (sgd) (JR MATHIEU) Lt
Officer having custody of original documents.

EX "6"
B

SE-93

Mr. Dionne, M.P.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A-106635 Pte Melvin Joseph DIONNE - CIC - 2 CITR

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of One Hundred and Twenty (120) Days.

(Sgd) ..... 17 Apl/45 (Sgd) [signature] President. (RP 45, 50.)

Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be duly committed to prison or detention barracks for the period mentioned.~~ (1. AA 57A. Delete if not used.)

Date 17 Apr 45 (Sgd) [signature] Brig

Commanding Comd - 12 Cdn Inf Trg Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
A 106635 Pte DIONNE, M.J.	18 APR 45	[signature] Lieut

ENTERED UNDER NO. 94
DATE 20 Apr 45
BY [signature]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AG 19[illegible] 5693

REC 27 APR 1945

FIELD GENERAL COURT-MARTIAL

CFAGB (To take place of AFAB1 40/P & B/1696 (K1144)) 4/38B

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd 13 CITB dated 16 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
A-106635	Pte		Melvin Joseph	DIONNE	CIC 2 CITR

PROCEEDINGS REVIEWED

[signature] Capt
27 Apr 45

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 17 Apl/45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) Attached thereto.(1) The Court is satisfied that it is properly convened and constituted;(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1120 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to [illegible] as interpreter? Ans~~

~~The interpreter is sworn.~~(1) Do you object to SGT AH SINCLAIR the shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO SIR(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L. REDMAN	HQ CRU
Member	CAPT	W.L. LISCOMBE	2 CITR
Member	LT	T.E. ROBERTS	3 CITR
~~Judge-Advocate~~			
Prosecutor	LT	P. SAPERIA	2 CITA
Defending Offr	LT	E.S. GODIN	2 CITA

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv. Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused ..... before arraignment make(s) (no) ..... plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*B*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 3. *2. MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO SIR (5)
(*1. RP* 37(*B*). *2. RP* 37(*D*) *fn* 6. *3. RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. *4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court~~ considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s).~~ Part I of the Schedule is amended accordingly.
(*1. Ct may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here. Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. ..... Do you intend to call witnesses on your behalf?
Ans. ..... Are they witnesses as to character only? Ans. .....
(*1. RP 115. 2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 102(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 43, 117(*A*). *See Notes in Part I of Schedule. 2. RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(3) (*d*), *RP* 45, 120(*A*). *2. AA* 54(2), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(*1. MFB* 355 *or AFB* 296. *2. Id. 3. RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. No, I do not wish to (NOTE ???)(2)
(*1. RP* 37(*C*), 46(*D*). *2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any(2).~~
(*1. When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-564, *Overseas RO* 309, 2323, *MML p* 90, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(3), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 56(1), *KR Can* 564. *2. RP* 52. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. A-106635 Private Melvin Joseph DIONNE, C.I.C., on strength of 2 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:-

Sec 15(1) ARMY ACT

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that he

In the Field, at 1215 hours, 1 Mar 45, illegally absented himself without leave until he was apprehended by the C.M.P. at London at 0140 hours, 6 Apr 45.

(Total Absence: 35 days, 13 hours, 25 minutes)

Laurentide Camp

11 Apr 45

.....
(J A Wilson) Col
Comd
2 C I T R

To be tried by Field General Court Martial.

(A G Blackader) Brig
Comd
13 Cdn Inf Trg Bde

IN THE FIELD
16 Apr 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 18, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-106635	Pte	Melvin Joseph	DIONNE	CIC 2 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 Apr 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a FG Offr as President, for the reasons I have attached hereto.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge Advocate the next FG Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LT COL	D L REDMAN, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Comd	2 CITR
Lieutenant	to be detailed by Comd	3 CITR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Comd	4 CITR

JUDGE ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 16 Apr 45

(Signed personally. RP 105 fn 2.)

(K G Blackader)

Commanding 13 Cdn Inf Trg Bde

Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (Amds (1) thro' (4) of AFAI 82/7 & 87/1807 refer)

(See overleaf for oaths and notes for use on trial.)

MED OFFRS CERTIFICATE 2 CITR/11

K.R.Can.Para 557

I certify that I have this morning examined No. A.196635....

PTE...DIONNE....N..... and in my opinion he

is FIT ~~UNFIT~~ to undergo trial by Court-martial.

Station: Laurentide Camp .....Capt.
(RCAMC) attached to 2 CITR

Date: 17 APR 45

Letter of Mitigation for—

Pte Dionne M.J.

April 19 1945

Gentlemen - as you know this man has been to the front. The atmosphere and conditions of the battle front tend to change a man. He becomes slightly high strung and I may say a little bolder. This condition remains with him and often causes much worry.

This man is having trouble with his wounds. He has been to see the doctors but with no result. As a matter of course he took the attitude that the army didn't care about him so he decided not to care about the army.

He realizes now that he made a grave mistake and hopes that you will be lenient with him.

I would like you to recommend him for attention by the doctor.

Lt. E.J. Fodin

E-3

MM

SUMMARY OF EVIDENCE

In the case of A-106635 Pte Melvin Joseph DIONNE, CI.C, on strength of 2 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on Oath.

FIRST WITNESS FOR THE PROSECUTION

Lieut K.A. JOHNSON of Regimental Headquarters 2 CITR, having been duly sworn, states as follows:-

"I am Lieut K.A. JOHNSON of Regimental Headquarters 2 CITR, and I produce the following documents pursuant to Overseas RO 5552 which have been read over and shown to the accused, and which are attached hereto as Exhibits:

Exhibit "A": Certified True Copy of the Record of Declaration of Court of Inquiry, assembled in the Field on 24 Mar 45, declaring that A106635 Pte DIONNE M J illegally absented himself without leave at 1215 hrs, 1 Mar 45, and that at the date of the Court he was still so absent.

Exhibit "B": Certified true extract from 2 CITR Pt II D.O. No. 84 d/9 Apr 45, showing that A-106635 Pte DIONNE M J was taken on strength from Desertion wef 6 Apr 45 on being apprehended by CMP London at 0140 hrs, 6 Apr 45.

Which above exhibits pertain to the accused herein."

The accused declines to cross-examine this witness.

K.A. Johnson Lt.
(K.A. Johnson) Lieut.

The accused was cautioned as follows:-

"Do you wish to make any statement or to give any evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make any statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of ONE page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C)(D)(E) and (F) have been complied with.

Laurentide Camp.
11 Apr 45

P. Saperia Lieut
(P. Saperia) Lieut
Officer detailed to take The Summary of Evidence.

EXA

Exhibit A

'RECORD of the Declaration of a Court of Inquiry assembled at IN THE FIELD on the 24th day of MARCH 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A-106635 Pte DIONNE M J.

DECLARATION

The Court declare that No. A-106635 Pte DIONNE M J

illegally absented himself without leave 1215 hrs at IN THE FIELD on the 1st day of MARCH 1945, that he is still so absent, and that on the 24th day of MAR 45. he was deficient, and that he is still deficient of the following articles :—

ARTICLES	VALUE	ARTICLES	VALUE
See Overleaf		See Overleaf	

Signed at IN THE FIELD

this 24th day of MARCH 1945.

(J.P. Cox) Capt RRC 2 CIR — President

(P Saporta) Lieut CIC 2 CIR — Member

Member

Signature of Commanding Officer (J A Wilson) Col, Comd 2 CIR

Certified true copy — Signature of Officer having custody of original record

INTERNEE CARD No. 56
DATE 6 apr 45

3/608 FORS 375-AFB 115 40 P&S/392 (8610)

KIT DEFICIENCIES IN THE CASE OF A-106835 PTE DIONNE M J

Article	Quantity	Vocab Price £	s	d	Less 25 % £	s	d
Anklets Web	1	0	4	5	0	3	10
Boots Ankle w/laces prs	1	1	6	0	0	19	6
Drawers Cell short	1	0	1	11	0	1	6
Gloves knitted drab prs	1	0	2	1	0	1	3
Jerseys Pullover	1	0	8	0	0	6	0
Overalls Denim Blouses	1	0	11	10	0	8	10½
Overalls Denim Trousers	1	0	11	3	0	8	5
Shirts Angola drab	1	0	9	1	0	7	10
Socks Worsted prs	1	0	2	8	0	1	6
Braces	1	0	1	5	0	1	1
Brasses Cleaning	1	0	0	2	0	0	1½
Combs Hair	1	0	0	2	0	0	1½
Knife Table	1	0	0	8	0	0	6
T O T A L S -		3	17	0	3	0	11

CERTIFIED THAT THE ABOVE PRICES ARE IN ACCORDANCE WITH ORO's AS AMENDED FROM TIME TO TIME.

W Toombs Capt

.....

(WO Toombs) Capt & Quarter-master, S C I T R.

Exhibit B

2 CANADIAN INFANTRY TRAINING REGIMENT

Last Order No: 83 D/7 Apr 45

PART II DAILY ORDERS BY

A/COLONEL JA WILSON COMMANDER

This Order No: 84 d/9 Apr 45

PARA: 1 (b)

A-106635 Pte DIONNE M J (L&W)

TOS from Desertion wef 6 Apr 45 on being apprehended by CMP London at ~~1~~ 0140 hrs 6 Apr 45.

BA

Certified True Extract

10 Apr 45..
(Date)

(Sgd) J.L. WENSLOWE, Capt
for AJA BAXTER - Major
ADMIN OFFICER
2 CITR

.....
(JL Menslowe) Capt.
Records Offr 2 CITR

M.F.B. 358
22M—3-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment ~~(or unit)~~
A-106635	Pte	DIONNE M J	2 C I T

1. The following is a fair and true summary of the entries in the ~~Service and General Regimental and Squadron, Battery's~~ ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act's~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment ~~or appointment~~	
For	A.A. Sec 15(1)	2 times	A.A. Sec 15(1)	4 times
For	A.A. Sec 9(2)	1 times	A.A. Sec 9(2)	2 times
~~For~~		~~times~~		~~times~~
~~For~~		~~times~~		~~times~~

~~Number of instances of gallantry or distinguished conduct~~ ~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted~~ ~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for 2 days in ~~Air Force~~ civil custody, and // days in military custody, making a total of // days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 20 years, // months.

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 9 Apr 43.

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to~~). State any ~~air force~~ military decoration or reward. N I L

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force.~~

~~The regimental rank of~~

5 x 8

M

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

..... dated ....., and in his regiment (~~or corps~~), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

~~In the rank of~~ ..... ~~years~~

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused. Number A106635 Rank Pte

Name Melvin Joseph DIONNE of 2 Cdn Inf Trg ~~Unit~~ Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
D.C.M.	10 Sep 45 Ipperwash	Sec 9(2) Sec 8	60 days Detention.	4 days.
F.G.C.M.	11 Oct 44 In the Field	Sec 15(1) Sec 19 Sec 22 Sec 40	Forf. 60 days pay.	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17th day of Sept 45 Lieut

Lond Adj 2 C I T C

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. A106635 Name DIONNE Melvin John | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 9 Apr 43 | RC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 127) 10/Pam.138 (7910)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1. | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ipperwash	17 Jul	PTE	✓	AWL 1200 Hrs 17 Jul 43 to 0035 Hr 29 Jul 43. Absent 11 days 12 Hr 35 Min. (Sec 15 (1) AA) Close arrest		28 Days Detn	30Jul43	OC s-29 CITC	Forf 12 days Pay FR&I 149(1)(a) and 1 days pay FR&I 149(1)(a) (11)
IPPERWASH	Sep	PTE	✓	(1) Disobeying a lawful Comd. given by a Superior Offr (Sec 9 (2) AA) (2) Using insubordinate language to Superior Offr.		60 days Detn on First charge. 30 Days remitted by confirming Authority	10Sep43	D.C.M.	Remitted 4 Days Detn Under ART 47 REGS & INSTRS FOR MIL DETN 1939

FIRST SHEET DESTROYED ON COMPLETION OF SIX MONTHS SERVICE, 9 OCT 43. DATE OF LAST ENTRY, 10 SEP 43.
CASES OF DRUNKENNESS, NIL. ABOVE ENTRIES CARRIED FORWARD.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	10 Jan	PTE	✓	AWL 1800 hrs. 10 Jan 44 to 2200 hr 10 Jan 44. Absent 4 hrs. (SEC 15 (1) AA)		Forf 4 days' pay FR&I 149(2)	11Jan44	O.C.3CIRU	
FIELD	5Feb	PTE		Disobeying an order given by his superior Offr in the execution of his duty. (Sec 9 (2) AA)	A-57391 Cpl Kipp CD.A-11 8152 Pte. Slater J.H.	28Days FP and 28 days forf FR&I 149 (2)	11 Feb44	Lt-Col J.G.McQUEEN	
FIELD	21May	PTE	✓	AWL 2359 hrs 21 May 44 to 2359 Hrs 23 May 44. Absnet 2 days. (Sec 15(1)AA)	Sgt MacPherson	14 Days FP & 14 Days Forf Pay. FR&I 149(2)	25May44	Lt-Col J.G.McQUEEN	Forf 2 days pay FR&I 149 (1) (a)
FIELD	4JUN	PTE		Disobeying a lawful Comd given by his superior Offr. (Sec 9(2) AA)	Capt. J.A. Baldwin	Forf 28 days Pay. FR&I 149 (2)	10Jun 44	Lt-Col J.G. McQUEEN	

No. 10663 Name DIONNE Melvin John | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 9Apr43 | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/136 (7010)

Date of last entry in Company Conduct Sheet | No. and date of last drunk: NIL | Period not reckoning towards freedom from extra fine | Sheet No. 2 | GC Badges | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order finally dealing with case	By whom awarded	Remarks
FIELD	7JUL	PTE	NIL	AWL 1630 hr 7 Jul, 2245 hr 12 Jul. Absent 5 Days 6 hr. 15Min	Sgt. Christie DCCY	28 Days FP 28 Days Pay FR&I 149 (2) To Pay Cost of Apprehension £1-18-4	15 Jul	Lt-Col McQUEEN	Forf 6 days Pay FR&I 149 2 Days Pay (a)FR&I 149(1) (c) (11)
FIELD	14Sep	PTE		(1)AWL from 2200 hr 14 Sep to 2230 hr 14 Sep, Absent 30 Min. (AA Sec 15 (1) (2) DRUNKENNESS, was drunk at 2230 hr 14 Sep 44 (AA Sec 19) (3) Attempting to escape custody at 2245 hr 14 Sep 44 (AA Sec 42) (4) Conduct to prejudice of good order & Mil Discipline, threatening C Proc (AA Sec 40)	Capt. J.P. Stewart Sgt Christie AF	Forf all ordinary Pay for 60 days	11Oct44	FGCM	Forf 26 Days Pay FR&I 149 (1) (c) (1)

Plate	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY CONSISTING OF ...2.....PAGES

DATE.....10 Apr 45.....

.....A/Paymaster Lt.

(H.W.J. Dearnaley) Lieut
Officer having Custody of Regt'l Books.

2 CITR/13

LIST OF WITNESSES

In the case of A-106635 (No.) Pte (Rank) DIONNE M J (Surname & Initials)

CIC, on strength of 2 Cdn. Infantry Training Regiment, a soldier of the Cdn. Army Overseas.

(For the Prosecution)

1. Lt. K.A. JOHNSON of Regt HQ 2 CITR
2. ~~Ex~~
3.

(For the Defence)

N I L

LIST OF EXHIBITS

In the case of A-106635 (No.) Pte (Rank) DIONNE M J (Surname & Initials)

CIC, on strength of 2 Cdn. Infantry Training Regt., a soldier of the Cdn. Army Overseas.

(For the Prosecution)

Exhibit "A": Certified true copy of Rec of Decl of C of I held on 24 Mar 45, showing that accused went AWL at 1215 hrs, 1 Mar 45.

Exhibit "B" Certified true extract from 2 CITR Pt II DO No. 84 d/9 Apr 45 showing that accused was apprehended by CMP London at 0140 hrs, 6 Apr 45.

~~Exhibit "C"~~

(For the Defence)

N I L

REQUEST FOR DEFENDING OFFICER

I, A-106635 Pte Melvin Joseph DIONNE

hereby request that the Convening Officer appoint ~~Maj Randolph Chance~~ to represent me at my forthcoming trial by Court-Martial, should he be available.

Laurentide Camp,
11 Apr 45

M. Dionne
(A-106635 Pte Dionne, M J)

RECEIPT FOR DOCUMENTS.

I, A-106635 Pte Melvin Joseph DIONNE hereby acknowledge that I have received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial, and I further acknowledge receipt of a true copy of the Charge Sheet under which I am being brought to Court-Martial.

Laurentide Camp.
11 Apr 45

M. Dionne
A-106635 Pte Dionne M J

HC 79

SPR DI PIETRO AS

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D163094 Spr. Arthur Salvador Dipietro 1 Can Rd Const Coy RCE.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 1	Not Guilty Subsequently Changed to Guilty	guilty	
2nd			
3rd	see D36/proceedings		
4th	RP 38		
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RF 44 and MML p 753, and in loss of Kit see RP 44 fn 6.)

At present under sentence for _____ beginning on (date) _____ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which Nil. days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: to undergo detention for a period of twenty eight (28) days.

(Sgd) _____ Judge-Advocate, if any.

11 Oct 44 Date awarded.

(Sgd) H B Beckett Lt-Col President. (RP 45, 52.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

(Sgd) _____ Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761. KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back Finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RF 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the findings of the court but commute the sentence so that it shall be as follows: To suffer field punishment for twenty eight days but to perform all ordinary duty for a period of twenty eight days and I confirm the sentence as so commuted.

(1. AA 57A. Delete if not used.)

(Sgd) W W Bellamy Lt-Col
Officer in Canadian Section G.H.Q. 1 Echelon
21 Army Group
Confirming Officer.

Date _____ Commanding

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D163094 Spr. DiPietro A.S.	13-Dec-44	L Fraser Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECEIVED AT CMHQ IN AB 160. 4C 79

RECEIVED 28 NOV 1944 CMHQ

FIELD GENERAL COURT-MARTIAL

CFAAO 11b Rev of AFAO 40/P&R/1696/2864

Convened by Brig A.W. Beament A Brig Comd 1 Can Inf Bde (See BHQ 18) dated 6 Oct 44 (21 AGp)

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent & confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D163094	Spr.	Arthur Salvador	Dipietro	1 Can Road Construction Coy RCE

PROCEEDINGS REVIEWED
JCAC Fraser Major
3 Nov 44
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS REVIEWED Date 27 Nov 44 JAG CMHQ Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 11 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 4C/570

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on the procedure if variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RF 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(N) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~[illegible]~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~[illegible]~~ brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~[illegible]~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to _____ as interpreter? Ans _____
The interpreter is sworn.(1) Do you object to _____ as shorthand writer? Ans _____
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans _____ (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj.	H B Beckett	#3 Can Movement & MTI RCASC
Member	Capt.	F X Chabalie	3 Bn. RCR
Member	Lieut	C H Garrity	3 Bn. RCR
~~Judge-Advocate~~			
Prosecutor	Lieut	H A Mantle	1 Can Rd Const Coy RCE
Defending Offr	Capt.	P E Hurley	1 Can Rd Const Coy RCE

Questions by President: Is the Prosecutor a lawyer? Ans Yes. Is the Defending Offr a lawyer? Ans Yes.(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused _____ before arraignment make(s) (no) ~~[illegible]~~ plea. (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the address made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~[illegible]~~ arraigned ~~[illegible]~~ on all charges in the charge sheet.(1) The accused does ~~[illegible]~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B DE.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

A 129

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 80, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "[illegible]", initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if charged to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by ~~using~~ paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) ~~(no)~~ opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) and the defence asks that the accused be [illegible]

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(*1. RP 155. 2. RP 40(A), see B0(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No Sir

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A1 and Ex A2 respectively.(3)

(*1. MFB 353 or AFB 296. 2. MFW 6. 3. RP 46, KR Can 550. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes by my defending Offr. - see statement [illegible] (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 130, 182, RP 46-50, 69, 108, 119(A), KR Can 308, 330, 543-566, Champion HO 309, 2323, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 730. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"B"

The accused has elected to be tried by Court Martial

CHARGE

The accused, D-163094 Sgt. Dipietro, A.S.
1 Cdn Road Construction Company, Royal Canadian Engineers, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1) A.A.

When on Active Service, absenting himself without leave,

in that he,

In the Field, was absent without leave from his place of duty from 1920 hrs. 13 Sep.44 to 0540 hrs. 14 Sep.44. (Absent 10 hrs. & 20 minutes)

B.J. McCandless

In the field,
18 September 1944.

C Fraser

(C.FRASER) MAJOR RCE
Officer Commanding
1 Cdn Road Constn.Coy RCE.

To be tried by Field General Court Martial.

In the Field
20 Sep 44

(A.W. Beament) Brigadier
OIC
Cdn Sec GHQ 1 Echn - 21 Army Gp

A1 H.B. Baskin Major

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, at of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to seperate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 14, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
D-163094	Spr		Arthur Salvador	DIPIETRO	1 Cdn Road Construction Coy RCE.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 Sep 44 endorsed by me, (~~the undersigned~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to obtain the attendance of a General Officer~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~Under authority (a) [illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~Under authority [illegible]~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	H.B. BASKIN (Must be named. RP 106.)	#3 Cdn Increment 4 MTI (Unit.) RCASC.

MEMBERS.

A Captain (Rank.)	To be detailed by O.C. (Named or detailed. RP 106.)	3 Bn RCE (Unit.)
A Lieut. (Rank.)	To be detailed by O.C. (Named or detailed. RP 106.)	3 Bn RCE (Unit.)

WAITING MEMBER.

A Lieut. (Rank.)	To be detailed by O.C. (Named or detailed, if any. RP 106.)	3 Bn RCE (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

Dat 6 Oct 44.

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(A.W. Beament)

Commanding Cdn Sec GHQ 1 Ech - 21 A Gp.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 98 (In lieu of AFA 2) 60 F & R/1047 (B1548)

Approved [illegible] Capt ADJA

MEDICAL OFFICER'S CERTIFICATE

K.R. (Can) Para 557

B1 H.B. Parkinson

I certify that I have this morning examined No. D-163094 Spr. DiPietro, A.S. of No. 1 Cdn Road Construction Coy., RCE. and in my opinion he is fit/~~unfit~~ to undergo trial by court-martial.

Station... Italy ...

Date... 6 Dec 44 ...

... Woodman, Lt. RAMC ...
(Medical Officer)

Opening Address by Prosecutor

The witnesses will show that the accused is certain required him to be man area of the camp and he was aware of this. It was not the first occasion

10 hrs & 20 min ~~The evidence will show that~~

N Blackmore

... 31 sections for transcription.

Trooper Russell Allen Schier having been duly sworn gave his evidence:

On 13 Apl 1900. I was at Fontaine le Bourg approx 2 miles south of unit location. At that time I thought I saw Dispatch ride into the town on his m/c. I went back to camp to find Dispatch and warn him that he was not to leave camp. I returned back at camp and asked Sgt Parkwood of the Ord Room as to Dispatch's whereabouts. He did not know but he thought he was in the M.T. lines. I asked Sgt Parkwood if he had given Dispatch permission to leave HQ and go to the M.T lines and he said he had not. I went to the M.T Lines but could not locate Dispatch. I made a thorough check of the unit area - Dispatch was nowhere to be found. I completed this area check by 1920 hours. At 1930 hours I met Sgt McKay who was ordered to re-search the area and to report to me if Dispatch's whereabouts. Sgt McKay reported back to me that he had searched the area and could not locate Dispatch. I then instr Sgt McKay to place Dispatch under close arrest when he returned. Dispatch reported to HQ at approx 0540 hrs 14 Apl and I ordered him placed in close arrest.

Q. Explain the duties of Dispatch. 6

A. The D.Rs of this unit have all been personally

insts by me as to their duties. On Sept 2 Dipietro of A was made a D.P. 1 and on Sept 9 he outlined his duties and instructed in his duties which are - he will make his runs with as little delay as possible. Report immediately back to Sgt Packwood at Guy Office or to me or Sgt night when we are not around to the duty clerk. I explained that the sleeping quarters would be in the immediate vicinity of the Guy Office and that he must be there at all times when not on a run. I explained that if he required time off to even go for a walk or any thing that would take him away from the he must first get permission from Sgt Packwood or me and he must be where he said he was going to be and when excused he must be available to make a m/p run in 5 minutes notice. I explained this clearly to Dipietro on both occasions and he said he understood.

Q2. Had the accused reported to you on the past when he wanted to go out.

A2. Yes.

~~Q3 Why was it necessary to explain Dipietro's duties on 2 occasions~~

~~A3 I explained Dipietro's duties on the 9th because he had already left the place of duty on Sept 2nd without~~ Objection by defense and sustained by the court.

Q3 by defense. Were you alone in Fontaine le Bourg.

A3 No.

Q4 What was the D.P. you had doing.

A4 Just driving. It turned near me and went

and must back towards camp.

Q.5 Did you see the unit no on the m/c.

A5 NO.

Q 6 Why did you think the M/C belonged to the unit.

A6. The prosecutor objects to this questionary stating that the evidence is relevant and that the accused is on trial for the of A.W.L. from his unit at 1920 hrs not for being in Leave Fontaine le Bourg at 1930

The court is closed at 1030 hrs to consider the objection

The court re-opens and rules that the defence can question the witness on any point mentioned in his evidence. Re-opens at 1035

A6. I dont know why I thought the m/c was of our unit except that it appeared to have turned back in a hurry when it saw the R.P. and my vehicle.

Q 7. By virtue of the fact that the unit has other D.R.s why did Dispatch come to your mind

A7. I didnt know it was necessarily Dispatch but I had reported him on the 9th of Sept. against leaving the camp area and didnt know whether or not he was still misusing the privilege of leaving that m/c. When I returned to camp I checked and found his m/c was the only one missing.

Q8 Why didnt you stop the m/c when you saw it.

A8 I was in the market place when I first saw it and by the time I could do anything it had turned about and had gone.

Q9 Was there a duty D.R. other than Dispatch?

A9 All D.R.s are on duty at all times

Q 10: Have any control instr on D.Rs been given in writing.
A 10. No.
~~Q 11. On the~~
Q 11. On 13 Sept and Deputies not leave to go from the camp
A 11 No.
RP 83(B) Complied with
R.A. Shier Lieut

2nd Witness for Prosecution
L 25810 Sgt McKay I having been duly sworn proceeds to give evidence.

At approx 4 pm hrs 13 Sept Mr Shier ordered me to search the camp for Deputies. I searched the lines - ~~asked Sgt Lawyer~~ but could not find him. I reported to Mr Shier that I could find no trace of Deputies. Again at 2300 hrs I recarded the area and could not find him. He was not in the D Rs bivouac. The next time I saw him was at 0540 hrs 14 Sept. I warned him, and placed him in close arrest.

Prosecutor has no examination.

Q. by defence - what was the D Rs bivouac
A. The usual place was near the cay tree but since the tent had been taken down there was no proper bivouac.
Q 2. Was the accused tied & Kept in the D R area.
A 2. no the R.P meant but the bed was.
Q 3 by Court were the other D Rs in the normal bivouac
A 4 No.
Q 4. At 2300 hrs when you searched the camp for Deputies was it by turning out the camp or by a roll call
A 4 Neither. I searched the area myself

Q5. were there any guards around the camp
A5. Picket patrol sir
Q6 Did any of these pickets tell Lepetre come in.
A6 no sir
Q7 was anything special occurring at 0530 hrs 14 Sept
A7 Yes sir - the unit was moving.
Q8 Was Lepetre and his m/c properly turned out for the move
A8 Yes sir. RP 831(B) complied with. L-25810 Mackay J. Sgt

Third witness for prosecution
L 330 35 Sgt Corporal Lawrence duly sworn proceeds to give evidence:
At approx 1700 hrs on 13 Sept I saw Lepetre at supper. I saw him again at 1900 hrs approx. He was talking to Capt Hensley - Lieut Mackay and me at the rack stores. He was seated on his m/c at that time. He left us and on his m/c in the direction of the Coy Lines. I didn't see him again until around 0600 hrs on 14 Sept.
Q. As W.T. Sgt of the unit. Had you any knowledge of a defect on Lepetres m/c which rendered it unable to go.
A. He had had trouble with his m/c but it was still runnable.
Q. Had Lepetre told you when you saw him at 1900 hrs that he was going to maintain his m/c.
A 2 ~~Yes~~ No sir.
Q 3. Would you normally know of any repairs necessary on the m/c.
A 3 Yes sir

D/C by Defence. - Do it usual for DBs
To report to you when they do want
D/C No sir
C/S Had Depietro been given any water for 14 Sept.
A/S I don't remember
D/C Do you know anything of Depietro's physical condition
A/C On 11 Sept Depietro had had a dead spell on this m/c. and on 13 Sept he told me he almost fell in much sleep for riding
C/S. Do you know if Depietro had any trouble with his m/c on the 13 Sept
A/S Not on the 13 but on the 12th.
C/S. Was that particular trouble repaired
A/S. I presume it fixed it himself
C/S. How far did the m/c run after its trouble on the 12th Sept till 1700 hrs on the 13th
A/S About [redacted] 100 miles.
C/S Who rode Depietros bike on 14 Sept
A/S No one because on rebuilding it was given diesel fuel in error
RP 8 5(B) complied with.
[redacted] The court closes to consider the foregoing evidence at 1115 hrs.
At 1215 hrs the accused withdraws his plea of "Not Guilty" upon consultation with his defence counsel. R.P. 35 B complied with.
Court proceeds as directed by R.P. 37

CC 1

SUMMARY OF EVIDENCE

In the case of D-163094 Spr DiPietro A.S., of 1 Cdn Road Construction Coy., R.C.E., C.A.O.S. On a charge of absenting himself without leave from his place of duty. A.A. Sec. 15 (2).

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS

Lieut Russell Allen Shier of 1 Cdn Road Construction Coy., R.C.E. an officer of the Canadian Army Overseas, being duly sworn, states:

"I am Lieut Russell Allen Shier, Administration Officer of 1 Cdn Road Construction Coy., R.C.E. On 2 Sep 44 Spr DiPietro was sent to me for fullinstructions as to his duties as despatch rider. I explained to Spr DiPietro as far as the job was concerned, he was on two weeks probation. I explained that when he was dispatched on a run that he must go to his destination and return immediately to Unit HQ and report to Sgt Packwood,or whoever was on duty,regardless of whether or not he had a despatch to deliver. I also explained that his billets would be in the immediate area of the Orderly Room and that he must not leave that area at any time, even to go elsewhere in the camp area without authority from Sgt Packwood or myself, and that his exact location when in the camp area must at all times be known by the Orderly Room Staff. That he must always be available to make a run on five minutes notice unless previously excused. Spr DiPietro was again warned and instructed by me of his duties on 9 Sep 44.

At approximately 1900 hours on 13 Sep 44 I inquired of Spr DiPietro's whereabouts at Unit Orderly Room, but could not find out where he was. I then personnaly made a thorough check of the Unit Area and Spr DiPietro was not to be found nor was his motorcycle. I returned to the Orderly Room and instructed Sgt MacKay to re-check the entire Unit Area. At approximately 0545 hours on 14 Sep 44 I saw Spr DiPietro talking to Sgt MacKay. In instructed Sgt MacKay in Spr DiPietro's presence that if Spr Dipietro had not already been placed under close arrest, that this must be done immediately with no further argument. I had not given the accused leave to be absent.

Cross-examined by accused:-

Question Sir you saw me quite clearly in Fontaine-le-Bourg at about 1830 hours on 13 Sep 44. Why did you not mention this in your testimony?

Answer No I did not see you quite clearly at that time but I did think it was you and I asked Spr Dargus who was with me, if that was not Spr DiPietro on the motorcycle. His reply was that he was not sure. I returned to the Unit to warn you about being away from the Unit Area but on my return you could not be found. The reason I did not give this in my evidence was that I could not swear that I had recognized you in the village and you had made the statement before the O.C. this morning that you had not been out of the area after you returned from your run at approximately 1630 hours. I did not think that statement was the truth at the time but I could not definitely refute it.

Question Did Sgt MacKay check the trucks in which we had been sleeping while on the convoy?

Answer I don't know of which trucks Sgt MacKay checked the loads, but while I made my personal search of the area, I am quite sure that there was no truck parked between the kitchen and the Legion Services' Lorry which remained in this location over night. Regardless of what trucks Sgt MacKay investigated your sleeping quarters were in the tent left up for the Headquarters Staff.

Examined further by the Officer taking the Summary:-

Question When Spr DiPietro reported back to the Unit from his run about 1630 hours, do you remember what he told you?

Answer To the best of my knowledge I spoke to him of the return of the lorries which he had D.R.'d. I also told him that he would act as D.R. in the morning on one of the first Unit Convoys to leave.

Question Did Spr DiPietro tell you that his motorcycle was damaged?

Answer No.

Question Did Spr Dipietro say anything at all to you regarding the condition of his motorcycle on his return to camp at about 1700 hours?

Answer To the best of my knowledge the answer is no. Our conversation at this time was quite brief and I did most of the talking. I definitely was not left with any impression that his motorbike required any major maintenance previous to leaving in the morning.

Cross-examined by accused:-

Question Do you remember that I told you of the accident which I had had?

Answer I believe you mentioned this and my reply was to inquire if your and your machine were OK and ready to move off, and your answer was yes. It was at this time that I gave you instructions to D.R. one of the two fast convoys in the morning.

Question After this do you remember that I told you I had some work to do on my machine?

Answer No.

R.B. Sclanders Capt

SECOND WITNESS

L-25810 Sgt MacKay J A/CSM of 1 Cdn Road Construction Coy., R.C.E. a soldier of the Canadian Army Overseas, being duly sworn, states:

"I am L-25810 Sgt MacKay J.A/CSM of 1 Cdn Road Construction Coy., R.C.E., C.A.O.S. At approximately 1930 hours on 13 Sep 44 the Adjutant instructed me to search the Camp Area for Spr DiPietro. I went through the lines, and over to the M.E. Section, but could not find Spr DiPietro or his motorcycle. Then again at about 2200 hours I searched the Camp and still could find no trace of Spr Dipietro or his motorcycle. I next saw Spr Dipietro at about 0640 hours on 14 Sep 44 and I then placed him under close arrest.

Cross-examined by accused:-

Question Did you notice on your search of the camp area a 60-cwt G.S. Lorry between the Legion Services and the kitchen?

Answer I saw no 60-cwt G.S. Lorry in this area, but I did see a 3 ton dump Lorry loaded with tin from the Officers' Lines.

Examined further by the Officer taking the Summary:-

Question — Did you while looking for Spr DiPietro make any mention that you were looking for him to Spr Cole?

Answer — No Sir.

Question — Did you at 2200 hours when you were looking for Spr Dipietro see a 60-cwt G.S. Lorry between the Legion Services and the kitchen?

Answer — I could not say, there were so many lorries around there.

Question — When you asked Sgt Cowger if he had seen Spr Dipietro where was he ?

Answer — By the Tech Stores in the M.T. Lines.

Sgt

THIRD WITNESS

L-33035 Sgt Cowger C.L. of 1 Cdn Road Construction Coy., R.C.E., a soldier of the Canadian Army Overseas, being duly sworn, states:

" I am L-33035 Sgt Cowger C.L.,M.T.Sgt of 1 Cdn Road Construction Coy R.C.E., C.A.O.S. On the 11 Sep 44 I was in charge of a convoy proceeding to the CAEN area. During this trip Spr DiPietro, who was the D.R., was forced in the ditch by a transporter and that night he told me he was shaken up and that the bike caused him trouble from then on, which caused him to make frequent stops. At ABBEVILLE on our return on the 13 Sep 44, Spr DiPietro told me at about 1000 hours that he was not sure if he could ride back to the Unit location. At 1000 hours we were told to return and I told him to leave, when he could, after eating. I next saw Spr Dipietro at about 1700 hours that afternoon and again at about 1900 hours when he was talking to Capt Huxley, Lt Hickey, and myself at the Teck Stores in the M.T. Lines. I did not see Spr Dipietro again that night."

Cross-examined by accused:-

Question — On the 11 Sep 44 do you remember that prior to our leaving I told you that the gaskets on my bike needed replacing and that the bike was losing oil?

Answer — Yes.

Question — Do you personally know that my bike stopped on me twice during the trip?

Answer — I saw you forced to stop in ROUEN.

Question — Could a stoppage in the fuel line cause backfiring through the carburettor and cause the bike to quit?

Answer — It would cause backfiring but it would have to be a complete block to cause the biketo quit.

Examined further by the Officer taking the Summary:-

Question — Did you see Spr Dipietro forced in the ditch?

Answer — Yes.

Question — On your return to camp was it reported to you that Spr Dipietro's bike was not in running condition and required attention immediately?

Answer — No.

Question — Would it normally be reported to you?

Answer — Yes

Question — What were the exact damages to the bike of which you were aware?

Answer — The headlight shield was off, footrest bent and possibly the clutch release lever was bent.

Question — To the best of your knowledge was there any reason why Spr DiPietro should make repairs to his bike or be away from the Camp Area to test the bike?

Answer — No.

Question When you saw S-r Dipietro at 1900 hours was the bike with him?
Answer He was talking to us while on his bike.
Question 'id he ride off on the bike, and if so in what direction?
Answer Yes, and I believe he went in the direction of the Orderly Room across the fields.

L L Lowyer Sgt

FOURTH WITNESS

E-28219 Sgt Packwood F of 1 Cdn Road Construction Coy, R.C.E., a soldier of the Canadian Army Overseas, being duly sworn, states:

"I am E-28219 Sgt Packwood F Orderly Room Sgt of 1 Cdn Road Construction Coy., R.C.E. C.A.O.S. On the 13 Sep 44 at about 1800 hours I saw Dipietro on his bike near the Orderly Room going towards the M.T. Lines. I called him back and asked him if we should load his bed or leave it till next morning. He said he would get up in time to load it. His bed was at that time between the latrine and the place where our tent had been, quite near the Orderly Room. I had not given the accused leave to be absent.

Cross-examined by accused:-
Question 'id I tell you that I had had an accident?
Answer Yes and you showed me something wrong with the front endof your bike.
Question Do you remember if I told you I had been sick on the road?
Answer I don't remember.
Question Were there times when you had to callthe D.R.s from the Auxilary Services, kitchen and other places in camp to go on a run?
Answer Yes.
Question Do you remembermy saying to you that I wanted to go to bed early as I was tired?
Answer Yes I remember something about it but I don't remember what was said.

Examined further by the Officer taking the Summary:-
Question Did the D.R.s report to you or your staff when they left the Orderly Room area to go elsewhere in the camp?
Answer They forgot sometimes but generally they did.
Question Had S-r Dipietro reported to you or your staff when he wanted to go elsewhere in the camp area in the past?
Answer Yes he had done so.
Question Did he tell you on 13 Sep 44 that he was going to repair his bike in the M.T. Lines?
Answer I don't remember, but I do remember telling Lt Shier that he should be in the repair shop when Lt Shier came in with S-r Dargus and inquired for S-r Dipietro.
Question Did S-r Dipietro tell you that he would be sleeping elsewhere than in his usual place that night?
Answer No not that I remember.

F Packwood

The accused was cautioned as follows:-

Question — Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer — I want to make a statement.

Question — On oath or not on oath?

Answer — On oath.

D-163094 Spr. DiPietro, A.B. of L Cdn Road Constr. Coy., RCE, a soldier of the Canadian Army Overseas, being duly sworn, states:-

On the 11 Sep. 44, I was sent as D.R. with a convoy of 18 lorries. During the trip I was quite sick but I remained on the motorcycle. I also had quite a lot of trouble with my machine as Sgt. Cowger knows and I was forced to stop a few times for repairs which I did myself. After my trip was completed, Sgt. Cowger told me to return to the unit alone from Abbeville. I arrived back at 1630 hrs. on 13 Sep. 44 and reported to the orderly room. I was told by Lt. Shier that I would D.R. the fast convoy at 0645 hrs. on the 14 Sep. 44. I then told him my bike was not in good shape and that I intended to try and repair it. I then went to supper. Afterwards I worked on my bike for a little over an hour in the bike area of the M.T. lines. After I had finished, I took the bike out on the road for a trial and it was during this time that I was in Fontaine-le-Bourg. My trouble with the bikehad been on fast driving and I gave it a good fast trial. I returned at the kitchen at approx. 1930 hrs. and I stopped at the kitchen and I asked Spr. Lloyd if there was any tea as I was still not feeling well. I also saw Spr. Forsyth afterwards while I was cooking corn and I believe he saw me. At approx. 2000 hrs. I decided to go to bed in the truck and I got my blankets. I then made my bed in Spr. Cunningham's truck. At approx. 2200 hrs. Spr. Cole and CUnningham also came in. It was then I was told for the first time that I was wanted. I was very tired and did not get up. I must have been half asleep. Next morning, at 0545 hrs. I saw Sgt. MacKay and asked him why I was wanted and he told me Lieut. Shier wanted to see me. A few minutes later when I saw Lieut. Shier, I heard him tell Sgt. MacKay that I was to be put under close arrest. During the night my motorcycle was by Sgt. MacKay's tent in the Plant Section area.

A.B. Di Pietro

FIRST WITNESS FOR THE DEFENCE.

A-3988 Pte. Forsyth, C.C. of 1 Cdn Road Construction Coy., RCE a soldier of the Canadian Army Overseas, being duly sworn, states:-

" I am A-3988 Pte. Forsyth C.C. cook of 1 Cdn Road Construction Coy., R.C.E., C.A.O.S. On the night of 13 Sep. 44, I was night cook and went on duty at 1800 hrs. in the Unit kitchen. Supper had been over for some time and at about 1915 hours I saw Spr. DiPietro come to the kitchen wearing D.R. clothes. He had some green corn which he cooked on the kitchen stove and he was there approximately 30 or 40 minutes. I did not actually see Spr. DiPietro leave the kitchen area.

Cross-examined by the accused:-

Question Do you know if I had had my supper previously or if I was just coming in to cook myself a snack?

Answer No, I don't.

C C Forsyth

SECOND WITNESS FOR THE DEFENCE

B-28417 Spr. Lloyd, L.F. of 1 Cdn Road Construction Coy., R.C.E., a soldier of the Canadian Army Overseas, being duly sworn, states:-

" I am B-28417 Spr. Lloyd, L.F. of 1 Cdn Road Construction Coy R.C.E. C.A.O.S. On the night of 13 Sep. 44 I was on kitchen fatigue and between the hours of 1900 hrs. and 1930 hrs. Spr. DiPietro came to me and wanted to know if he could have a cup of tea. I told him there was no tea left but there was hot water on the stove. I then carried on with my duties but I saw him take his blankets from a lorry near the kitchen. Spr. DiPietro had something to eat and was around the kitchen for about one half hours.

The accused declines to cross-examine the witness.

L F Lloyd

THIRD WITNESS FOR THE DEFENCE.

C-62434 Spr. Cole D. of 1 Cdn Road Construction Coy., R.C.E., a soldier of the Canadian Army Overseas, being duly sworn states:-

"I am C-62434 Spr. Cole D. of 1 Cdn Road Construction Coy., RCE C.A.O.S. At about 2200 hrs. 13 Sep. 44 when I went to my lorry to go to bed Spr. DiPietro was already asleep in the lorry. I had to wake Spr. DiPietro to go to bed as we slept under the same blankets. I told him that someone was looking for him, but I cannot remember at what time or from whom I had heard this. Spr. DiPietro made no move to get up. The lorry where Spr. Cunningham, Spr. DiPietro and myself slept that night was parked between the Legion Services' Lorry and the kitchen.

Cross-examined by the accused:-

Question Did you hear Cunningham that it was Lt. Shier who was looking for me?

Answer I dont know.

D Cole

FOURTH WITNESS FOR THE DEFENCE

M-12376 Spr Cunningham E of 1 Cdn Road Construction Coy., R.C.E., a soldier of the Canadian Army Overseas, being duly sworn, states:

"I am M-12376 Spr Cunningham E of 1 Cdn Road Construction Coy., R.C.E., C.A.O.S. I returned to camp at about 1920 hours on 13 Sep 44 and I parked my lorry between the Legion Services and the kitchen near the entrance to the Officers' Lines. I went to the lorry about 2130 or 2200 hours to make my bed and I saw DiPietro lying there asleep. When I turned on my trouble light DiPietro woke up and I mentioned to him thatsomeone was looking for him, and I believe he got up. I saw him again at about 2300 hours. I again saw Spr DiPietro at about 0530 hours on 14 Sep 44."

The accused declines to cross-examine the witness.

Cunningham

I certify that the foregoing Summary of Evidence, consisting of seven pages was taken down by me in the presence of the accused and that R.P. 4 (c), (d), (e), (f), and (g) (13) have been complied with.

H.A. Mantle

H.A. Mantle Lieut. R.C.E.
1 Cdn Rd Constr Coy., R.C.E.

LIST OF WITNESSES

FOR THE PROSECUTION

Lt. R.A. Shier
1 Cdn Road Constr. Coy., RCE

L-33035 Sgt. Cowger, C.L.
1 Cdn Road Constr. Coy., RCE

L-25810 Sgt. MacKay, J.
1 Cdn Road Constr. Coy., RCE

E-28219 Sgt. Packwood, F.
1 Cdn Road Constr. Coy., RCE

FOR THE DEFENCE.

C-52454 Spr. Cole, E.
1 Cdn Road Constr. Coy., RCE

M-12376 Spr. Cunningham, E.
1 Cdn Road Constr. Coy., RCE

A-3988 Pte. Forsyth, C.C. (RCASC)
1 Cdn Road Constr. Coy., RCE

B-28417 Spr. Lloyd, L.F.
1 Cdn Road Constr. Coy., R.C.E.

Field
18 Sep. 44.

(C. FRASER) MAJOR R.C.E.
Officer Commanding,
1 Cdn Road Constr. Coy., RCE

STATEMENT BY THE ACCUSED.

"I desire the Convening Officer to detail an officer to represent me at my forthcoming trial by field General court martial.
I desire the services of Capt. P.D. Huxley, 1 Cdn Road Constr. Coy., RCE, if he is available.

Field
18 Sep. 44.

(D-163094 SFR. DiPietro, A.S.)
1 Cdn Road Constr. Coy., RCE
A.S. Di Pietro

E1 "M"

M.F.B. 355
1234—8-40 (6435-6)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-163094	Spr	DIPIETRO A.S.	1 Cdn Rd Constr Coy RCE

1. The following is a fair and true summary of the entries in the Conduct Sheets Regimental [illegible] of the accused, [illegible]

Within last 12 months / Since enlistment

For A.W.L. A.A. Sec 15 (1) Two times / A.W.L. A.A.Sec 15 (1) Three times
For A.A. Sec 40 One times
For ... times ... times
For ... times ... times
Number of instances absentation [illegible] ... times

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

[illegible]

3. The accused is not under sentence at the present time.

[illegible]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 28 days in military custody, making a total of 28 days in custody, of which Nil days were spent in hospital. under close arrest

5. The present age of the accused according to his record of service is 26 yrs 7 mons 28 days

6. The date of his [illegible] attestation specified in his record of service is 23 Jul 42

7. The service which the accused is allowed to reckon towards discharge is 2 yrs 1 mon 18 days

8. [illegible]

9. [illegible]

10. [illegible]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ~~Flying Officer~~ Pilot Officer, Permanent Force, unit ..... dated ....., and in his present (or equivalent) rank of ..... dated .....

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—~~

Date of enlistment .....

~~In the rank of ..... years.~~

~~In the rank of ..... years.~~

~~In the rank of ..... years.~~

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NIL		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11 th, day of October 1944

R.C.A.F. Station [illegible]

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. D163094 Name DIPIETRO, A. Sqn. Battery or Company — Corps R.C.E. — Date of enlistment 12-3-42 — OC Badges — Service or Proficiency Pay 1.50 — MFM 6 (AFB 132) 40/F&S/150 (3438)

Company Conduct Sheet Date of last entry in — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No -1- — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order forwarding with brief	By whom awarded	Remarks
				"Original Sheet destroyed 19 May 43.(K.R.)		(Can) 1524 (c) (1)			
Field	3 Jul-3pr 44			A.A. Sec 15(1) AWL from 2330 hrs 3 Jul.44. to 0630 hrs. 4 Jul 44 (Absent 7 hrs.)	L/Sgt Lewis D.R. Sgt. Townsend FR&I C.S.M Carpenter,F	14 days C.B. 7 days pay 149(2)	4 Jul 44	Major C Fraser	
Field	4 Aug 3pr 44			(1) A.A. Sec 15(1) AWL from 1500 hrs. to 1700 hrs. 4 Aug44. (absent 2 hrs.)	Lt RA Shier C.S.M Carpenter,F	7 days C.B. 7 days pay 149(2)	5 Aug 44	Major C Fraser	
				(2) A.A. Sec 40: an act to the prej etc, using WD veh and petrol for private use, 1500 to 1700 hrs. (4 Aug 44).	Lt.R.A. Shier C.S.M Carpenter,F				

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Awarded C.B.S.M.s Disp. w.e.f 23 Jan 44 D.O.(W) 20 d 25 Jan 44					

CERTIFIED TRUE COPY from Regimental books in my possession

R. Shier Lunt
for (G. FRASER) MAJOR R.C.E.
Officer Commanding
1 Cdn Road Constr. Coy., RCE.

"N"
H. B. Bergmann

"X" H.M.Baskinimaon

The accused, who has been in the army nearly three years, has had, until joining this unit, a clear crime sheet. It would appear strange that as soon as he joined the unit he began getting into trouble. There must be some reason. Being a French Canadian among English he began to think the there was a predjice against him. And well he might. Upon looking over the evidence it is shown in the Administrative Officer evidence, that he the Adm. Officer personally made a search, in spite of the fact that in Sgt. Packwood's evidence the D.R.'s had often neglected to report their whereabouts to the Orderly room. If you can visualize yourself as a Sapper I am sure that this would evidence predujice. Furthermore, after he had returned from a 3 day convoy, tired, weary and suffering from schock the Adm showed no interest whatever where this man would sleep. Naturally this would lead him to belief that nobody cared. Nor did the Adm show any interest whatever how badly the man was hurt.

These items ~~xxxxxx~~ are on this occasion only--contributing to the accused's attitude toward the administration--and when such things have been going on for four months naturally he though they were predjuiced against him.

Furthermore it would seem that the Adm were very confused at the time for when they were of the opinion that he was away with the motorbike they made no attempt to have a muster parade--they did not check the petrol in the motorbike or the speedometer when it was found next morning

There is evidence that this man is a good D.R. There is actual proof here of a D.R. doing maintenance , something the army has been demanding for years. In spite of the injuries received as in Sgt. Cowger's statement he continued to ride, he stayed on the job, at his post. When Mr. Shier informed him that he would be on a fast convoy the following morning his first thought was to get his bike in shape. A motorbike is a variable thing. In order for him to have it in condition to handle a fast convoy he must needs check his carburetor, which had been giving him some trouble. He adjusted it and tested it out. In order to test it properly he must attain a speed between 40 and 50 m.p.h., and to build up this speed he must needs travel one or two miles. Even Sgt. Cowgers evidence as regards the condition of the motorbyke shows some bias--he appears to be ignorant that the bike needed repair, and yet speaks of the headlight shield being off, footrest bent and possibly the clutch release lever was bent. It is impossible for a bike to show such exterior injuries with out suggesting a thorough check up on it internally. Moreover the Transport Sgt. does not ride a motorbike and is actually not acquainted with the "Matchless"

There is evidence of misunderstanding on the part of the accused. He returned after 3 days to a camp loaded unto trucks and ready to move. They didn't use him for 3 days, he understood the wouldn't need him till morning and he slept in the same place as he had slept the previous 3 nights, namely the truck, which itself was parked only about 100 yds from the orderly room. He has a fear of the Adjutant--he refrains from questing him too closely fearing a curt or sharp unpleasnat reply. There are no written orders or regulations from the Coy itself governing the conduct of D.R.'s--every thing was in shambles, the unit was ready to move off.

The accused done what he thought was the right things. He checked his bike, made himself a snack and proceeded to bed. There is no evidence that he attempted to do any wrong--waht he did was quite natural under the circumstances.

That is all I have to say

(P.D.Huxley) Capt

MMM-108

PTE DISTASIO J-G

Correspondence to be PINNED here.

CERTIFIED TRUE COPY
(R. CORDEAU) Capt.

RECORDED AT CMHQ IN AB 160 MMM-108

Army Form A.3.

10/DISTASIO, T.G.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this Twentieth day of March, 19[illegible].

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.] "T.G.G."

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint Three Officers to form the Court.] "T.G.G."

*[A Field Officer as President]

for the following reasons, namely:

* Omit if not applicable.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

Waiting

Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	R J Orr	Carlt & York R

Members.

Rank.	Name.	Regiment.
Captain	J M Bursey	Carlt & York R
Captain	Y Dube	R 22 R
Lieut.	A Fortin	R 22 R

*Signed T.G. Gibson Brigadier
Commanding 3 Cdn Inf Bde
Convening Officer.

R.J.O.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D 27257 Pte John Georges DISTASIO, R 22 R	First Charge Sec 15 (1) AA	guilty	guilty	
	Second Charge Sec 15 (1) AA	guilty	guilty	
	Third Charge Sec 24 (2) AA	not guilty	Not guilty To undergo imprisonment for a period of two (2) years with hard labour "R.J.O."	Confirmed "TGG"

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) ~~T.G. Gibson Brigadier~~ (Signed) R.J. Orr, Major
Commanding 3 Cdn Inf Bde / Convening Officer (c) — President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21st day of March 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*~~(4. The officers under instruction)~~
were duly sworn.

* Omit if not applicable.

Signed this 21st day of March 1944.

"R.J.O."
"R.J. Orr, Major"
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

"R.J.O."
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

"TGG"

Signed this 22 day of Mar 1944.

"T.G.Gibson"
Confirming Officer.

Promulgated and extracts taken in the case of D27257 Pte John George Distasio.

(a) (Dated) 24 Mar 44 (Signed) "Fernand Trudeau, Major"

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

C H A R G E S H E E T

The accused D.27257 Private John Georges DIOTASIO, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service is charged with:-

1st Charge
AA Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, at or about 0800 hrs on 6 December 1943, absented himself without leave until surrendering himself to Military Police at or about 2100 hrs on 18 December 1943.

Total absence 12 days. 13 hrs.

2nd Charge
LIX Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, at or about 0800 hrs on 6 Jan 1944, absented himself without leave while undergoing detention until surrendering himself to Military Police at or about 2100 hrs on 20 Jan 1944.

Total absence: 14 days, 13 hours.

3rd Charge
AA Sec 24 (2)

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT HIS REGIMENTAL EQUIPMENT AND NECESSARIES

in that he

In the Field, on 10 Jan 1944 was deficient of:

		75%
1 Battle dress, blouse	£ 1. 9.	9
1 Battle dress, trousers	1. 0.	11
1 Steel helmet	0. 17.	10
1 Pair boots	0. 16.	3½
1 Pair socks	0. 0.	1½
Total	£ 3. 7.	0½

"J.G. Charlebois"
(J.G. CHARLEBOIS) Major,
I/Commanding Royal 22e Regiment

"R.I. ORR Major."

In the Field
16 Mar 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
20 Mar 44

"T.G. Gibson"
Brig. Comd 3 Cdn Inf Bde.

MEDICAL OFFICERS CERTIFICATE

I certify that I have this morning examined No. D27257
Rank Pte Name Distasio Unit Royal 22e Regiment and in my opinion
he is fit to undergo trial by Court Martial.

Station In the Field

Date 21 Mars 1944

"Undecipherable" Capt
Medical Officer,

"R.J. Corr, Major"

A Army Form A 9

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field

on the 21st day of March 19 44 by order of

Brigadier T.G. Gibson

Commanding 3 Cdn Inf Bde

dated the 20th day of March 19 44

President.

Major R.J. Orr, Carlt & York R.

Members.

Capt J.M. Bursey Carlt & York R.

Capt Y. Dube R 22e R

, Judge Advocate.

Trial of* D27257 Pte John Georges Distasio, R 22e R

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

, waiting member takes his place as a member of the Court.

"RJO"

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt F.A. Tremblay R 22e R

Counsel‡ or defending officer† Lt F.R. de Saint Victor R 22e R

At 0917 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

"R.J.O."

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

[illegible] (Gp. R. A. H. Ltd. [illegible] Form A9.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No sir.

The prosecutor makes an opening address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings.]

"RJO"

The prosecutor proceeds to call witnesses.

First witness for prosecution. E-4421 C.Q.M.S. Piloquin E. M.B.E.

being duly sworn, is examined by the prosecutor.

Q1. - C.Q.M.S. Piloquin will you tell the Court in your own words what you know in the case of D-27257 Pte J.S. Distasio ?

A1. - The day after Distasio went A.W.L. I inspected his kit and found that he was deficient of the articles as listed on the attached Court of Inquiry.

Cross-examination by Defending Officer.

Q1. - Did you inspect Pte Distasio's kit when he returned from A.W.L.

A.1 - No Sir

Q2. - Those articles which he was deficient, is he wearing them now.

A1. - Yes Sir.

"RJO"

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. No Sir

Question. Do you intend to call any other witness in your defence?

Answer. No Sir

Question. Is he a witness as to character only? *Answer.* N/A

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked

signed by the President and attached to the proceedings.]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court above.)

"RJC"

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused D 27257 Pte John Georges Distasio
is found guilty of the first and second charges as laid

†The summary ~~of evidence~~ of evidence is read, marked E signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

No

Answer. The accused in mitigation of punishment says:—

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

"RJC"

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused D 27257 Pte John Georges Distasio not guilty of the third charge

Finding of not Guilty on third charge announced in open Court.

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lt. P.A. Tremblay, R 22e R is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Question.—If by reason of the nature of the service of the accused in a superintending capacity or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court, the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.

Cross-examined by the accused.

No

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

"RJO"

E

SUMMARY OF EVIDENCE

In the case of D.27257 Private DISTASIO, John Georges, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness For the Prosecution

E.4491 P/Sgt Despres, R.O. Royal 22e Regiment, Bn HQ, having been duly sworn states:

"I am and was at all times material hereto a sergeant of the Royal 22e Regiment, posted to provost section. As provost Sergeant of the Royal 22e Regiment, I made a roll call of the personnel in detention, at 0800 hrs on the 6th January 1944 and found that Pte Distasio J.G. No. D.27257 was absent.

The accused declines to cross examine the witness.

"R.O. Despres" P/Sgt

2nd Witness For the Prosecution

E.4421 CQMS Peloquin E. Royal 22e Regiment, D company having been duly sworn states:

"I am and was at all times material hereto CQMS of the Royal 22e Regiment, posted to D company.
I declare that D.27257 Pte Distasio, J.G. is deficient of the following equipment:-

		75%			100%		
1 Battle Dress, blouse	£	1.	0.	9	1.	7.	8
1 Battle Dress, trousers		1.	0.	11	1.	7.	11
1 Steel Helmet		0.	17.	10	0.	10.	5
1 Pair boots		0.	16.	3½	1.	1.	6
1 Pair socks		0.	0.	13	0.	1.	8
Total	£	3.	7	½	4.	9.	2

The accused declines to cross examine the witness.

"E. Peloquin" CQMS.

3rd Witness For the Prosecution.

P.48822 Pte Duval, R. Royal 22e Regiment, D company, having been duly sworn states:

"I am and was at all times material hereto a soldier of the Royal 22e Regiment, posted to D company.
On the 11th February 1944, D.27257 Pte Distasio, J.G. declared in my presence that he absented himself without leave from 0800 hrs the 6th December 1943 and surrendered himself to Canadian Military Police at about 2100 hrs the 18th December 1943. He further declared that he broke out of detention on the 6th January 1944, at or about 0800 hrs, until surrendering himself to Canadian Military Police at 2100 hrs on the 20th January 1944. Pte Distasio further stated that from the 21st January 1944 he was under medical treatment until being returned to his unit.

The accused declines to cross examine the witness.

"R. Duval" Pte

"R.J. Orr, Major"

4th Witness For the Prosecution. Captain J.B. Rousseau, Adjutant, Royal 22e Regiment, having been duly sworn states:

"I am and was at all times material hereto, Adjutant, of the Royal 22e Regiment.
I hereby produce a certificate of discharge in the case of D.27257 Pte Distasio, J.G. whom I now recognize.
This certificate of discharge from hospital, is marked Exhibit "A" and signed by the discharging officer of Ni 1 Convalescent Depot Cdn Div.

"J.B. Rousseau" Capt.

In view of the loss of time and expenses involved, it is not necessary in my opinion to have the presence of the Discharging Officer of No. 1 Convalescent Depot Cdn Div.

"P.A. Tremblay" Lieut.

The accused does not request the presence of the Discharging Officer of No. 1 Convalescent Depot Cdn Div.

"G. Distasio" Pte

The accused having been duly cautioned in French, in accordance with RO 1424, reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two (2) pages, was taken down in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f), and (g) were duly complied with.

"L. Cameron, Capt"
Officer taking Summary.

In the Field,
11 Mar 44.

"R.J. Orr, Major"

4th Witness
For the Prosecution.

Captain J.B. Rousseau, Adjutant, Royal 22e Regiment, having been duly sworn states:

"I am and was at all times material hereto, Adjutant, of the Royal 22e Regiment.
I hereby produce a certificate of discharge in the case of D.27257 Pte Distasio, J.G. whom I now recognize.
This certificate of discharge from hospital, is marked Exhibit "A" and signed by the discharging officer of Ni 1 Convalescent Depot Cdn Div.

"J.B. Rousseau" Capt.

In view of the loss of time and expenses involved, it is not necessary in my opinion to have the presence of the Discharging Officer of No. 1 Convalescent Depot Cdn Div.

"P.A. Tremblay" Lieut.

The accused does not request the presence of the Discharging Officer of No. 1 Convalescent Depot Cdn Div.

"G. Distasio" Pte

The accused having been duly cautioned in French, in accordance with RO 1424, reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two (2) pages, was taken down in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f), and (g) were duly complied with.

"L. Cameron, Capt"
Officer taking Summary.

In the Field,
11 Mar 44.

"R.J. Orr, Major"

Z-143

ENR. DITCHFIELD, W.H.

See Z-63 for 1st case

H-59917 Gnr Ditchfield, William Henry
3 C.A.H.U. 2-143

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWELFTH day of MARCH, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* [I am unable to appoint

*(1) Three Officers to form the Court.]

*(2) A Field Officer as President.]

for the following reasons, namely:—]

*Omit if not applicable.

Proceedings Reviewed

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be stated. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LT.-COL.	D.L. REDMAN,	H.L. C.R.U.

Members.

Rank.	Name.	Regiment.
CAPTAIN	C.R. CARR, R.C.A.	3 C.A.H.U.
LIEUT	R.E. PARSONS, R.C.A.	2 C.A.H.U.
LIEUT	J.N. MALLISON, R.C.A. [waiting member]	1 C.A.H.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier,
Commanding "C" Group, Can Reft Units.
Convening Officer.

SCHEDULE

Number, Rank (*a*) Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
H-59917 Gnr Ditchfield, William Henry (R.C.A.) 3 C.A.A.D.	FIRST CHARGE A.A. Sec.15(1)	Guilty	Guilty Sentence to undergo Detention for a period of One Hundred and Twenty (120) Days. 13 March 1943	Confirmed
	See Charge Sheet attached			

*Question to be asked of accused, if he pleads not guilty (R. of P. 20 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) Brigadier, (Signed)
Commanding 2nd Group, Cdn Armd Units, President.
Convening Officer (*d*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 13th day of March 1943 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
*2. ~~The witnesses~~
*3. ~~The Interpreter~~
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 13th day of March 1943

President of the Court Martial.

C. Certificate in case of death sentence.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 14th day of March 1943

Confirming Officer
J. C. STEWART, Brigadier,
Commanding "C" Group,
Cdn. Reinforcement Units.

Promulgated and extracts taken in the case of

(a) (Dated) D.O.61 d/17 March 43 (Signed) R. MacKinnon Lieut
No. 3 Cdn. Reinforcement Unit

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

28750 W1 47143/242 30,000 7/42 A.A. & S.H. Ltd. Gp. 698
42750 W1 [illegible] 40,000 7/42

Commanding Officer

Please note that this sentence of 120 days, merges the last sentence of 90 days as from this date. Pay should be warned that his pay be stopped only once.

In appeal this sentence adds only 30 days etc.

W. W. Wilhelm Kpl

CHARGE SHEET

The accused, H 59917 Gunner William Henry DITCHFIELD, "P" Training Wing, No. 3 Cdn. Arty. Rein. Unit., a soldier of the Canadian Army Overseas, is charged with:-

1st Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

In that he

while under Close Arrest at Huron Camp, Bramshott, Hants., absented himself without leave from 0850 hrs 9 Mar 43 until apprehended at Haslemere by T.C. 475 Dibble, of the Surrey Joint Police, at 0825 hrs on the 10th of March 1943. Total absence 23 hours 25 minutes.

(B.R. ~~Kerl~~ Colonel,
Commanding Officer,
No. 3 Cdn. Arty. Rein. Unit.

Huron Camp,
Bramshott, Hants.,
12 March 1943.

To be tried by Field General Court Martial.

Brigadier,
Commander [illegible] Group, Cdn Reinforcement Units.
(Convening Officer)

Bordon, Hants.
12 Mar 43.

HURON CAMP,
No. 3 Cdn. Arty. Rein. Unit 13 Mar 43.

This to certify that I have examined this date, 13 Mar 43, H 59917 Gnr. DITCHFIELD, W.H. and found him fit to undergo trial by Field General Court Martial.

.....
Medical Officer, #3 CARU.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT 3 C.H.R.U. Bramshott, Hants
ON THE 13 DAY OF March 1943

The accused H.59917. Gnr. B. Ditchfield, N.H. Unit. 3. C. H. R. U. R.C.A.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P.20&23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

Time 1030

The following constitute the Court:-

President, Lt. Col. R. H. Redmond ..... Unit. H.Q. C.R.U.

Members... Capt. C. B. Carr ..... Unit. 3 C.H.R.U. R.C.A.

..Lieut. R.H. Parsons ..... Unit. 3. C. H. R. U. R.C.A.

The officers under instruction are duly sworn:-

9 Officers ..Unit. 3. C. H. R. U. R.C.A.

.....Unit.....

.....Unit.....

Prosecutor.. Lt. S. A. Kennedy .....Unit. 3. C.H.R.U. R.C.A.

Defending officer. Lieut. E.R. Noble ...Unit. 3. C.H.R.U. R.C.A.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor ~~is sworn and~~ produces MFB 355 and MFM 6, ~~are sent~~
The Court complies with R.P. 46(B)

Pursuant to R.P. 37 THE ACCUSED:-

~~(a) makes a statement in mitigation of punishment.~~
~~(b) calls witnesses as to character.~~
(c) calls witnesses in mitigation of punishment.
(d) addresses the Court by his Defending Officer.

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE, and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Statement in Mitigation by Defending Officer attached hereto.

HS9917 Gnr Critchfield William Henry.

Statement on Mitigation of Punishment

I recommend to the Court that leniency be shown in the case of the Gnr.

Although his age, according to his attestation papers is 21 years, Records, which have investigated show that his correct age is now only 18 years. He was born on 29 July 1924.

You will observe that he is already under sentence of 90 days Detention. Due to the thought of 90 days confinement at such an age he broke down and had an epileptic fit. He did not understand the consequences when he went AWOL on 9 March 43. He knew another man took leave and when he thought of the moment, freedom, before the Second followed.

Under the circumstances may I again ask the Court to show leniency in this case.

E. Waldie Lt. RCO.
Reporting Officer.

SUMMARY OF EVIDENCE IN THE CASE OF
H 59917 Gunner DITCHFIELD, W.H.
"A" Battery, "P" Training Wing,
No. 3 Cdn. Arty. Rein. Unit.

The Commanding Officer directs that the evidence be taken on oath.

1st Witness for Prosecution — F 80885 L/Bdr. Horne, D.J., Regt'l Police, No. 3 C.A.R.U.

I, Capt. J.R. McElroy, R.C.A., the officer taking this summary of evidence, certify that owing to the loss of time and expense involved, the attendance of this witness cannot, in my opinion, be readily procured.

I now produce and read to you a statement, dated on the 10th day of March 1943, purporting to be signed by the said L/Bdr. Horne, D.J., stating that on the 9th of March 1943, while attending the Morning Sick Parade, under his Guard, you ran away from him. This statement is marked "A" and annexed hereto. J.R. McElroy Capt

The accused does not require the presence of this witness for the purpose of cross-examination.

2nd Witness for Prosecution — F 87737 L/Bdr. Grant, J.A., Regt'l Police, No. 3 C.A.R.U., having been duly sworn, states:

"I, in company with L/Bdr. Horne, escorted six prisoners from the Guard Room to the Medical Officer for treatment. After having finished we just passed out of the outer door when three of the prisoners started to run. At once I ran after Gnr. Ditchfield, as he and Gnr. Corliss were going in the same direction. I could not over take them." F 87737 L/Bdr. J.A. Grant

The accused declines to cross-examine this witness.

3rd Witness for Prosecution — Sgt.29, S.W. Boshier, Surrey Joint Police, Haslemere.

I, Capt. J.R. McElroy, R.C.A., the officer taking this Summary of Evidence, certify that owing to the loss of time and expense involved, the attendance of this witness cannot, in my opinion, be readily procured.

I now produce and read to you a statement, dated on the 11th day of March 1943, purporting to be signed by the said Sgt. S.W. Boshier, stating that at 0840 hours on the 10th of March 43 you were brought into the Police Station, by T.C.475 Dibble for enquiries to be made into your being in Haslemere at that time without a pass. This statement is marked "B" and annexed hereto. J.R. McElroy Capt

The accused does not require the presence of this witness for the purpose of cross-examination.

The accused having been duly cautioned in accordance with Rule of Procedure 4(e), reserves his defence.

Certified that Rules of Procedure 4(c), (d), (e), (f) and (g) have been complied with.

I certify that the foregoing summary of evidence, consisting of one page, was taken down before me in the presence and hearing of the accused this 11th day of March 1943, at "P" Training Wing, No. 3 Cdn. Arty. Rein. Unit.

J.R. McElroy Capt

(J.R. McElroy) Capt., R.C.A.,
No. 3 Cdn. Arty. Rein. Unit.

Witness

HURON CAMP
No. 3 C.A.R.U. 12 Mar 43

Commanding Officer,
No. 3 C.A.R.U.

F.G.C.M. -

1. Reference my forthcoming trial by Field General Court Martial, it is respectfully submitted that an Officer be appointed to defend me.

W.H. Ditchfield
H 59917 (Ditchfield, W.H.) Gnr.

10 May 43.

I am F80885 L/Bdr H one D.J.
R Regt Police No 3. C & R A. I was in charge of
the morning Sick Parade at the F.A.P. 9 May 43
accompanied by L/Bdr Grant. We were coming
out of the F.A.P. L/Bdr Grant was in front,
I was behind. The six men on Sick Parade
were between us. On coming out through the
Door, Gunners Dutchfield, MacCall & Carlos,
started to Run. L/Bdr Grant started to Run
after Dutchfield. I returned at once to the
Guard Room. with the other Three men, and
reported the incident to the Guard Commander.

F80885 L/Bdr Daniel J H one.

"A"

S.C. 7.

Surrey Constabulary

"B"

Station or Section Haslemere. Division Godalming.

Date 11th March.1943.

SUBJECT MATTER:

Name STANLEY WALTER BOSHIER.
(In full—Block Letters)

Address Surrey Joint Police, Haslemere.

Age 42. Occupation Police Sergeant. 29.

States:- "At 8.40.a.m, the 10th March.1943, I was at Haslemere Police Station, when Gunner William DITCHFIELD. No.H/59917 of "A"Battery, No.3. C.A.R.U. was brought into the Station by T.C.475.Dibble.

"I asked Ditchfield for his Pay book and Pass. He said he had left his Pay book in camp, he did not require a Pass, as he was allowed to be out until 7.a.m. I pointed out to him that the time was now well past 7.a.m.

"Owing to the dirty state he was in, I asked him where he had stayed the night, he informed me that he had been with his girl at "Beech Nut", Farnham Lane, Haslemere.

"I thought his story was untrue, and rang his unit, the Officer with whom I spoke to over the phone, said he would send an escort down for Ditchfield, and pending the arrival of the escort, he was placed in the cells, he had no personal property. The escort arrived at 9.10.a.m, the 10th March.1943, and the prisoner was handed over to S/Sergt.Lamar.

"T.C.Dibble was approached by Ditchfield, who asked him where a canteen was. Dibble questioned him, and not being satisfied with his explanation brought him to the Station for further enquiries to be made."

Signature of Person making statement S. W. Boshier Sergt.29.

Witness to the above "B"

No. R 59917 Name DITCHFIELD, W.H. (Regt., Battery, or Company) Corps R.C.A. Date of enlistment 22 Feb 41 (G.C. Badges) Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

M.F.M. 6 (A.F.B. 133)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Original		Conduct Sheet destroyed on completion of six months service.					
In the Field	20 Apr 42	Gnr.		A.A.Sec.15(1)WOAS.A.W.L.		7 days C.B.			Fts.1 D.P. FRI.149(1)(a)
In the Field	5 Jun 42	Gnr.		A.A.Sec.15(1)WOAS.AWL from 1200 hrs 5 June 42 to 2215 hrs 6 June 42.(Abs.3 days,9 hrs.55 min.)		14 days C.B.			Fts.4 D.P. FRI 149(1)(a)
In the Field	29 Aug 42	Gnr.		A.A.Sec.15(1)WOAS.AWL from 2215 hrs 29 Aug 42 to 0600 hrs 31 Aug 42.(Abs.1 day.7 hrs.45 min).		7 days C.B.			Fts.2 D.P. FRI.149(1)(a)
In the Field	15 Oct 42	Gnr.		A.A.Sec.15(1)WOAS.AWL from 1200 hrs 15 Oct 42 to 2200 hrs 19 Oct 42.(Abs.4 days,10 hrs.)		7 days ft're of pay.FRI. 149(2)			Fts.5 days pay FRI.149(1)(a) Total Ft're 12 Days Pay.

Place	Date of offence	Rank	Cases of drunkenness	Offence	Names of witnesses	Punishment awarded	Date of award of punishment (if other than entry with crime)	By whom awarded	Remarks
In the Field	7 Nov 42	Gnr.	(1)	(1)A.A.Sec.19 Drunkenness. (2)A.A.Sec.11 Neglecting to obey Camp Standing Orders, was in Heading without a Pass.		Admonished 14 days C.B. To pay £0:11:8 Ret.to Unit.			Stoppages of Pay of £0:11:8 Cost of ret.to Unit.
In the Field	25Jan 43	Gnr.		A.A.Sec.15(1)WOAB.AWL from 1200 hrs 25 Jan 43 to 2030 hrs 26 Jan 43.(Abs.1 day 8 hrs 30 min).		7 days ft're of pay. FRI 149(2) 10 days C.B. 21 days F.P. with conjoint award of 21 days ft're of pay.FRI 149(1)(b).			Fts.2 days pay. FRI 149(1)(a) Total Ft're 9 D.P.
In the Field	15Feb 43	Gnr.		A.A.Sec.15(1)WOAB.AWL from 2215 hrs 15 Feb 43 to 2045 hrs 16 Feb 43.(Abs.22 hrs 30 min.)					Fts.1 days pay FRI 149(1)(a) Total ft're 22 days pay.

M F M 6
(A.F.B. 133)

No. H 59917 Name DITCHFIELD, W.H. Sqn., Battery or Company: Corps R.C.A. Date of enlistment: 22 Feb 41 G.C. Badges: Service or Proficiency Pay: Character:

Date of last entry in Company Conduct Sheet: No. and date of last drunk: Period not reckoning towards freedom from extra fine: Sheet No. 2 Signature O.C. Company, etc.:

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	28 Feb 43	Gnr.		A.A.Sec.9(2)WOAB disobeying a lawful command given by his superior officer, that is to say on 28 Feb 43, refused to scrub a floor.		90 days Det.	5 Mar 43	F.G.C.M.	Pta.90 Days Pay PAI 149(1)(b).--2nd 1)of Mar to run concurrent with award of 18 Feb 43.

CERTIFIED TRUE COPY OF ORIGINAL CONDUCT SHEET - 12 Mar 43.

(J.R. McElroy) Capt., R.C.A.
Adjutant,
"p" Training Wing,
No. 3 C.A.S.T.

M.F.B. 355
22M—5-41 (573-B)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H 59917	Gunner	DITCHFIELD, William Henry	No. 3 C.A.R.U.

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months			Since completion of six months service		
For A.A.Sec.15(1)	Six	(6)	times	Six	(6)	times
For A.A.Sec.19	one	(1)	times	One	(1)	times
For A.A.Sec.11	One	(1)	times	One	(1)	times
For A.A.Sec.9(2)	One	(1)	times	One	(1)	times

[redacted]

2. [redacted]

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. [redacted]

The accused at the present time is under sentence for 90 days beginning on the 5th day of March 1943

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and nil days in military custody, making a total of nil days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 21 years 2[illegible] days.

6. The date of his attestation specified in his attestation paper is 22 Feb 41.

7. The service which the accused is allowed to reckon towards discharge is 2 years, [illegible] days

8. The accused is entitled to reckon 2 years [illegible] days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to [illegible] decoration, [illegible] reward [illegible] military military

[redacted]

10. [redacted]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force
.....dated....., and in his regiment (or corps), the rank of Unit
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number H59917 Rank Gunner Unit
Name DITCHFIELD, W.H. of No. 3 C.A.R.U. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.C.C.M.	5 March 1943 Huron Camp, Bramshott, Hants.	A.A.Sec.9(2)	To undergo Detention for a period of ninety(90) days.	n/a

I hereby certify that the foregoing schedule of convirtions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~12th~~ 13th day of March 43. R.G. MacKinnon Lieut. RCA
(R.G. MacKinnon) Lieut., RCA
Records Officer, No.3 C.A.R.U.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Commanding Officer

Z-63

GNR DITCHFIELD W.H

H-59917 Gnr. Ditchfield, William Henry

3 C.A.R.U. 2-63

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this FOURTH day of MARCH, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer;]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint

*(1. Three Officers to form the Court)

*(2. A Field Officer as President.)

for the following reasons, namely:—]

*Omit if not applicable.

16 Mar 43

Notes.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the names, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LT.-COL.	D.L. REDMAN, CAIG, MIMMS.	H.Q. C.R.U.

Members.

Rank.	Name.	Regiment.
MAJOR	W.G. HANSON, R.C.A.	3 C.A.R.U.
LIEUT	E. SHOREY, R.C.A.	1 C.A.R.U.
LIEUT	G.D. JACK, R.C.A. (Waiting Member)	3 C.A.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [illegible] Brigadier, Commanding "C" Group, Can Rft Units.

Convening Officer.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to case proceedings.

I certify that the above Court assembled on the 5th day of March 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. The witnesses
*~~3. The Interpreter~~
*(4. The officers under instruction)

were duly sworn.

Signed this 5th day of March 19 43.

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (5) on page 702 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19

~~*President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless general confirmation or confirmation having been awarded, the confirming officer either has authority to commit to prison or detention barrack, or, having such authority, recommends commutation.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 6th day of March 1943

Confirming Officer.

Promulgated and extracts taken in the case of W-50917 Sgt. Ditchfield, W.H.

(Dated) 20=4=43 & 8 March 43 (Signed) A. Mackinnon Lieut

Mx. & Gon. Artillery Holding Unit RECORDS OFFICER

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*) When several cases are promulgated in one unit on the same d... tioned only sign once.

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H-59617 Gnr. Ditchfield, William Henry (R.C.A.) 3 C.A.R.U.	FIRST CHARGE A.A. Sec. 9(2)	Guilty	Guilty Sentence to undergo detention for a period of ninety (90) days 5th Mar 1943 WM	Confirmed JPS
	See Charge Sheet attached.			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer to be recorded on separate sheet (if necessary):—

(Signed) [signature] Brigadier. (Signed) [signature]
Commanding 90th Group, Cdn Rft Units.
Convening Officer (e) President.

(a) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 5th day of March 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~)
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 5th day of March 19 43.

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 742 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 6th day of March 1943

Confirming Officer.

Promulgated and extracts taken in the case of H-59917 Gnr. Ditchfield, W.H.

(a) (Dated) 20=5 4 & 8 March 43 (Signed) [illegible] Lieut

RECORDS OFFICER

No. 3 CDN. ARTILLERY HOLDING UNIT

3 CAHU

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

H-59917 Gnr. Ditchfield, William Henry

3 C.A.R.U. 2-63

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this FOURTH day of MARCH, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer;]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*[I am unable to appoint

*(1 Three Officers to form the Court;

*(2 A Field Officer as President;)

for the following reasons, namely:—]

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LT.-COL.	D.L. REDMAN, CAIG. HIGHRS.	H.Q. C.R.U.

Members

Rank.	Name.	Regiment.
MAJOR	W.G. HANSON, R.C.A.	3 C.A.R.U.
LIEUT	E. SHOREY, R.C.A.	1 C.A.R.U.
LIEUT	G.D. JACK, R.C.A. (Waiting Member)	3 C.A.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed Brigadier,
Commanding "C" Group, Cdn Rft Units.
Convening Officer.

CHARGE SHEET

The accused, H-59917 Gunner William Henry DITCHFIELD, "P" Training Wing, No. 3 Cdn. Arty. Rein. Unit, a soldier of the Canadian Army Overseas, is charged with:-

1st Charge
Section 9(2)
Army Act

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

In that he

at Huron Camp, Bramshott, Hants., at approx 1300 hrs 28 Feb 43, whilst a soldier under sentence, refused to scrub the floor of the large lecture room, Huron Camp when ordered personally by S/Sgt. Lamarre and L/Bdr. Horne of the Regt'l Police to do so.

(B.R. Ker) Colonel,
Commanding Officer,
No.3 Cdn. Arty. Rein. Unit.

Huron Camp,
Bramshott, Hants.
2 Mar 43.

To be tried by Field General Court Martial,

Brigadier,
Commanding 70th Group, Cdn Reinforcement Units.
(Convening Officer)

Bordon, Hants.
4 March 1943.

5 Mar 43

This is to certify that I have examined on this date 5 Mar 43 H 59917 Gunner DITCHFIELD, W. and found him fit to undergo trial by Field General Court Martial.

T. Dalrymple Capt.

Medical Officer #3 C.A.R.U.

Dalrymple Capt

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT #3 C.A.R.U. BRAMSHOTT HANTS
ON THE 5th DAY OF March 1943

The accused...H.W.7917...Gnr...Dilt...R.C.A.M.C. Unit...3 C.A.R.U.....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P.22&23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President...Lt. Col. O.H. Redman.....Unit...No. 3 C.A.R.U.....

Members....Major W.B. Hanson.....Unit...3 C.A.R.U.....

....Capt. E. Shortt.....Unit...R.C.A.M.C.....

The officers under instruction are duly sworn:-

....1....Major.....Unit.....

....2....Capt.....Unit.....

Prosecutor...Capt. F.H. Brooke.....Unit...R.C.A.M.C.

Defending officer...Lieut. E. Nelson...Unit...R.C.A.M.C.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(P) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor ~~is sworn and~~ produces MFB 355 ~~AFB 290~~ and MFM 6.
The Court complies with R.P. 46(B)

Pursuant to R.P. 37 THE ACCUSED:-

(a) ~~makes a statement in mitigation of punishment.~~
(b) calls witnesses as to character.
(c) calls witnesses in mitigation of punishment.
(d) addresses the Court by his Defending Officer.

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE, and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Plea in mitigation by Defending Officer herein attached

Defending Officer's

PLEA IN MITIGATION OF SENTENCE
in the case of

H 59917 Gunner DITCHFIELD, W.H.

During the time this man has been in detention he has found it to be the custom for prisoners to be free from work on Sundays in order to bathe, wash their clothes and otherwise attend to any personnel work they might have to do. This is the only time during the week that they have a chance to do this, and it is obviously necessary that they have the opportunity.

On this particular Sunday, this man, and other soldiers under sentence had been required to work all morning. Although this was not customary, they made no complaint. They did expect that they would be permitted to do their work during the afternoon. When they were called upon about 1300 hours to scrub out a large lecture hall they grumbled, as was natural. Feeling let down and cheated out of the time they had been accustomed to regarding as allotted to their own personnel work they did not obey the command that had been given to them. There was no collective action, but this man felt as the others did and acted in the same way.

Gunner Ditchfield gave his age on enlistment as 19 years, but in actual fact he was only 18. When a boy of those years gives a false age in order to get into the Army during a war, he does so because he wants to fight. Gnr. Ditchfield was sent to a unit in the field, and while he was there he had only one minor offence charged against him. However, he was sent back as under age and he has been feeling since then that he has not been used to the best purpose by being kept in a Reinforcement Unit. He wants to be where he will have a chance to get into the fight when it starts. As a result, he feels disgusted with things in general, and has not done as well as he should have in consequence.

J.A. Williams Lieut

SUMMARY OF EVIDENCE IN THE CASE OF
H 59917 Gunner DITCHFIELD, W.H.
"A" Battery, "P" Training Wing,
No. 3 Gun. Arty. Rein. Unit.

The Commanding Officer directs that the evidence be taken on oath.

1st Witness for Prosecution D 9224 S/Sgt. Lamarre, J.B., Regt'l Police, No. 3 C.A.R.U., having been duly sworn, states:-

"I am S/Sgt. Lamarre, J.B., of the Regt'l Police, No. 3 C.A.R.U. At approx 1300 hrs on the 28th of Feb. 1943 I was in the Regt'l Police Hut. I gave an order to L/Bdr. Horne to send Gnrs. Ditchfield, Melnick and Waldeck to scrub the large lecture room which I was ordered to do by Capt. Parker. L/Bdr. Horne called for me and reported that these three men refused to go out and scrub the lecture room, so I talked to them and gave them another chance to go out and work and asked them if they knew what it meant to refuse to obey an order and they replied that they were not going out to work on Sunday. They wanted to wash their clothes and take a shower. I told them that it was only for an hour and that they had all the rest of the afternoon to do their washing and have a shower but they still refused to do their work."

D 9224 S/Sgt. J.B. Lamarre

The accused declines to cross-examine this witness.

2nd Witness for Prosecution F 80885 L/Bdr. Horne, D.J., Regt'l Police, No. 3 C.A.R.U., having been duly sworn, states:-

"I am L/Bdr. Horne, D.J., of the Regt'l Police, No. 3 C.A.R.U. I was on duty in the Guard Room, Huron Camp at approx 1300 hrs 28th of Feb 43. I gave gunners Ditchfield, Melnick and Waldeck orders to get ready to scrub the large gas lecture room. They refused to go to work because it was Sunday afternoon, at which time they said they did not have to work. I reported the incident to S/Sgt. Lamarre who came into the Guard Room and told the men that they had to go to work which they still refused to do. S/Sgt. Lamarre told the men that it would only take about an hour and then they would have the rest of the afternoon to themselves, but they still refused to go to work." L/Bdr. Donald J Horne F80885

The accused declines to cross-examine this witness.

3rd Witness for Prosecution F 89264 L/Bdr. Prendergast, P.S., Regt'l Police, No. 3 C.A.R.U., having been duly sworn, states:-

"I am L/Bdr. Prendergast, P.S., of the Regt'l Police, No. 3 C.A.R.U. On the 28th of Feb 43 at approx 1300 hrs I was on duty in the Guard Room, Huron Camp in company with L/Bdr. Horne. L/Bdr. Horne was given an order to have the large lecture hut scrubbed. He went to the cell doors and called out gunners Ditchfield, Melnick and Waldeck. They came out and started grumbling. Gnr. Ditchfield went back in his cell. L/Bdr. Horne then went down and got S/Sgt. Lamarre to come in. He came in and asked what was wrong that they were not going to work. They said that they had to wash their clothes. S/Sgt. Lamarre said

(To page two)

rd Witness
for Prosecution

(continued)

it would only take an hour to wash the large lecture but but they still absolutely refused to go.

4 B.L. Prender, 7 det. P.S. F-87364

The accused declines to cross-examine this witness.

The accused having been duly cautioned in accordance with Rule of Procedure 4(e), reserves his defence.

Certified that Rules of Procedure 4(c), (d), (e), (f) and (g) have been complied with.

Taken down before me in the presence and hearing of the accused this 1st day of March 1943, at [illegible] Training Wing, No. 3 Basic Army, Flying Unit.

J.L. [illegible] Capt
(J.L. [illegible] Capt.
No. 3 Basic Army, Flying Unit.

[illegible]

H 59917 Ditchfield, W.H. Sqn., Battery, or Company — Corps R.C.A. — Date of enlistment 22 Feb 41 — O.C. Badges — Service or Proficiency Pay — M.F.M. 6

No. — Name — Signature O.C. Company, etc. — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1

Place	Date of offence	Rank	Cases of drunken kind	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of earlier dispos ing with trial	By whom awarded	Remarks
				Original Sheet destroyed on completion of six months service.					
In the Field	20Apr 42	Gnr.		A.A.Sec.15(1)WOAS,A.W.L.		7 Days C.B.			Fts.1 Days Pay AR 149(1)(a)
In the Field	5 June 42	Gnr.		A.A.Sec.15(1)WOAS,AWL from 1200 hrs 5 June 42 to 2215 hrs 8 June 42.(Abs.3 days,9 hrs, 55 min).		14 Days C.B.			Fts.4 Days Pay AR 149(1)(a)
In the Field	29 Aug 42	Gnr.		A.A.Sec.15(1)WOAS,AWL from 2215 hrs 29 Aug 42 to 0600 hrs 31 Aug 42.(Abs.1 day,7 hrs, 45 min).		7 Days C.B.			Fts.2 Days Pay AR 149(1)(a)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
In the Field	15 Oct 42	Gnr.		A.A.Sec.15(1)WOAS,AWL from 1200 hrs 15 Oct 42 to 2200 hrs 19 Oct 42.(Abs.4 days, 10 hrs).		7 days ft're of pay. FRI 149(2)			Fts 5 days pay FRI 149(1)(a) Total Ft're 12 Days Pay. Stoppages of Pay of £0:11:6 Cost of return to Unit.
In the Field	7 Nov 42	Gnr.	(1)	(1)A.A.Sec.19 Drunkenness. (2)A.A.Sec.11 Negleting to obey Camp Standing Orders,was in Reading without a Pass.		Admonished. 14 Days C.B. To pay £0:11:6 Ret.to Unit.			
In the Field	25 Jan 43	Gnr.		A.A.Sec.15(1)WOAS,AWL from 1200 hrs 25 Jan 43 to 2030 hrs 26 Jan 43.(Abs.1 day 8 hrs 30 min).		7 days ft're of pay. FRI 149(2) 10 days C.B.			Fts.2 days pay FRI 149(1)(a) Total Ft're 9 Days Pay.
In the Field	15 Feb 43	Gnr.		A.A.Sec.15(1)WOAS,AWL from 2215 hrs 15 Feb 43 to 2045 hrs 16 Feb 43.(Abs.~~xxxx~~ 22 hrs 30 min.)		21 days F.P. with conjoint award of 21 days ft're of pay.FRI 149(1)(b)			Fts 1 Days Pay FRI 149(1)(a) Total Ft're 22 Days Pay.

CERTIFIED TRUE COPY OF ORIGINAL CONDUCT SHEET AS TAKEN FROM HIS MFM "2".

(J.R.McElroy)Capt.,Adjutant,"P" Trng.Wing No. 3 C.A.R.U.

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-679
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H 59917	Gunner	DITCHFIELD, William Henry	No.3 C.A.R.U.

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since completion of six months service	
For A.A.Sec.15(1)	Six (6)	times	Six (6)	times
For A.A.Sec.19	One (1)	times	One (1)	times
For A.A.Sec.11	One (1)	times	One (1)	times
For		times		times

[redacted]

The accused at the present time is under sentence for 21 Days FP beginning on the 18th day of February 1943

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 0 days in military custody, making a total of 0 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 21 years 216 days

6. The date of his attestation specified in his attestation paper is 22 Feb 41

7. The service which the accused is allowed to reckon towards discharge is 2 year 8 days

8. The accused is entitled to reckon 2 years service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward

[redacted]

10. [redacted]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force
..... dated ....., and in his regiment (or corps), the rank of unit
..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with, of accused, Number ..... Rank .....
Name ..... Unit .....
of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Date and Authority by which Trial was Ordered	Date and Place of Trial	Charge upon which convicted	Sentence or the Charge	The Amount Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2nd 5th day of March 1943 A.G. MacKinnon Lieut RCA
(A.G. MacKinnon) Lieut.
Records Officer 3 Clan.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

HURON CAMP
No. 3 C.A.R.U. 2 Mar 43

Commanding Officer,
No. 3 C.A.R.U.

F.G.C.M.

1. Reference my forthcoming trial by Field General Court Martial, it is respectfully submitted that Lieut. T.A. Williams, R.C.A., be appointed as my Defending Officer.

H 59917 Ditchfield W.H.
H 59917 (Ditchfield, W.H.) Gnr.

39-81

Mr. Ditchfield, N.Y.

RECORDED AT CMHQ IN AB 160 5-G-81

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H59917 Pte William Henry Ditchfield 2 Cdn NETD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for: ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for eighteen (18) months

(Sgd) Judge-Advocate, if any. 27 Apr 45 Date awarded. (Sgd) C.A. Barrett Capt President. (RP 45, 51.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) Pte

(1. AA 57A. Delete if not used.)

Date 30/Apr/45 (Sgd) Commanding Force Cdr Italy 1st Echelon RCAF Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
H 54917 Pte Ditchfield WH 2 Cdn NETD	1 May 45	AC Maj Can NETD

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 14 MAY 1945 JAG'S BR C.M.H.Q.

CPA86 (In lieu of AFA3) 40/P&S/1608 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig J. C. Stewart DSO ~~Cdn~~ CBE Cdn Sec 1 Ech AFHQ dated 25 Apr 45

ACCUSED.

(For trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H59917	Pte	William Henry	Ditchfield	2 Cdn NETD

PROCEEDINGS REVIEWED

J.K. Lindsell Capt 14 May 45

REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held at Italy 1st Echelon (Military) on (date(s)) 27 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to as interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Capt	C.A. Barrett	(CIC)	12 Cdn Town Major
Member	Capt	J.C. Brinkhurst	(CIC)	Cdn Sec 1 Ech AFHQ
Member	Lt	W.J. Dulmage	(RCCS)	1 Cdn Bde Sig Sqn
Judge-Advocate				
Prosecutor	Capt	C.D. Rhodes	(CIC)	2 Cdn NETD
Defending Offr	Capt ~~RCA~~	T.B. Harrison	(RCA)	2 Cdn NETD

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans Yes (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment makes(s) (no) (1) plea(s).

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 136, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 20, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A9s to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is advised and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

0-121

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP* 35 *fn* 3. *2. MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans WO.(5)

(*1. RP* 37(*B*). *2. RP* 37(*D*) *fn* 6. *3. RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. *4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 'C', initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP* 37(*A*) (*C*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....

(*1. RP* 155. *2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*a*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP* 43, 117(*A*). *See Notes in Part I of Schedule. 2. RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA* 54(3) (*b*), *RP* 45, 120(*A*). *2. AA* 54(3), *RP* 45, *117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans WO.

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 8. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copies (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(d) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 'D' and Ex 'E' respectively.(3)

(*1. MFB* 353 *or MFB* 294. *2. Below* 6. *3. RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans WO.

(*1. RP* 37(*C*), 46(*D*). *2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 27(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 358, 230, 363-366, *Overseas RO* 309, 2302, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(1), *KR Con* 364. *2. RP* 50. *As to releases from arrest by Confirming Offr see KR Con* 367. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

0216

CHARGE SHEET

The accused, H.59917, Private William Henry DITCHFIELD, No. 2 Canadian Non Effective Transit Depot, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field in Italy, at approx 0800 hrs 28 Nov 44 absented himself without leave until about 1630 hrs 12 Apr 45.
(Total Absence: 135 days, 8 hrs, 30 mins).

D.J. Burgoyne

(D.J.Burgoyne) Major
Commanding Officer
No. 2 Cdn N.E.T.D.

In the Field
21 April 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
Italy
25 Apr 45

(J. C. STEWART) Brigadier
OIC Cdn Sec 1 Emb AFHQ

216

FIELD GENERAL COURT-MARTIAL

CFAAG (In lieu of AFA3)
4/CFAB/1607 (2958)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H59917	Pte		William Henry	DITCHFIELD	2 Cdn NETD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 25 Apr 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint ~~(a) three Offrs to form the Court,~~ (b) a Fd Offr as President, for the reasons I have attached hereto. **None are available due to the exigencies of the service.**
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Unit.)
Capt	L G A BARETTE MBE (CIC)	12 Cdn Town Major

(*Must be named. RP 106.*)

MEMBERS.

(Rank.)		(Unit.)
Capt	D W C BRINKHURST (CIC)	Cdn Sec 1 Bch AFHQ
Lieut	W J DULMAGE (RCCS)	1 Cdn Base Sigs Sec

(*Named or detailed. RP 106.*)

WAITING MEMBER.

(Rank.)		(Unit.)
Capt	I G DRYSDALE (CAG)	Cdn Sec 1 Bch AFHQ

(*Named or detailed, if any. RP 106.*)

JUDGE-ADVOCATE.

(Rank.)		(Unit.)

(*Must be named, if any. RP 106.*)

On Active Service in the Fd

in Italy
(Country.)

Date 25 Apr 45

(*Signed personally. RP 105 fn 2.*)
(J. C. STEWART)
~~[illegible]~~ CIC Cdn Sec 1 Bch AFHQ
Convening Officer.

Brigadier
(Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

6216

MEDICAL OFFICER'S CERTIFICATE.
(KR (Can) 557)

H.59917

I certify that I have this morning examined No.....
Rank.....PTE..... NAME.....DITCHFIELD, W.H. of 2 Cdn N.E.T.D. and
in my opinion he is ~~Cat/unfit~~ to undergo trial by Court Martial.

In the Field
Date.....27 April 45.

.....
Medical Officer.

E3 C116

PLEA OF MITIGATION.

In the case of H.59917 Pte DITCHFIELD, W.H.

Mr President and Members of the Court.

The accused joined the Cdn Army when only 16 years of age on 22 Feb 41, at a time when volunteer enlistment had slowed down considerably, as the Court will recall.

He eventually was taken on strength 4 Lt A.A. Regiment in England in Sept 41 where he was a good soldier as his record shows. His youth then came to light, and he was sent to a Rft unit where he was assigned the humiliating duties of a permanent camp. He was not happy there, and his record shows a succession of AWL charges and other infractions of discipline. In Nov 43 he reached Italy and joined the 2 Lt A.A. Regiment, and his Conduct Sheet shows an immediate improvement because the accused was in the line with a unit doing a worthwhile job. When the Lt. A.A. was broken up in Aug 44 the accused was sent to the Lanark and Renfrew Scottish Regiment as an infantryman, and went into the line with them in Sept 44. When the Regiment came out to rest at Riccione in October the accused went absent for five days, but gave himself up, and served his punishment at 5 Div FP camp. Afterwards at 4 Bn (on discharge from FP Camp) he went absent after a drinking bout, and fearing the consequences he stayed away on the present charge.

The accused is now only 20 years of age, his record does not look good, but I ask the Court to take the facts which I have mentioned into consideration as definite grounds for leniency do exist in this case.

.....
(Capt T.B. Harrison) RCA.
Defending Officer.

Ex "C"
Pg 16

SUMMARY OF EVIDENCE

In the case of H.59917 Private DITCHFIELD, W.H. No.2 Canadian Non Effective Transit Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS for the PROSECUTION

A.104046 Cpl. Wells, H.K., having been duly sworn, states:-

"I am A.104046 Cpl. Wells, H.K. employed in the legal office No.2 Cdn. NETD as clerk and as such I have custody of regimental documents. I present a certified true copy of a Record of the Declaration of a Court of Inquiry dated 27 Dec 44 (Appended hereto as Exhibit "A") and a certificate in accordance with the Army Act, Sec.168(1)(jj) purporting to be signed by the O.C. 111 Provost Coy., C.M.P. Police (Appended hereto as Exhibit "B") both these documents pertaining to H.59917 Pte. Ditchfield, W.H."

H.K. Wells
(H. K. Wells)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

QUESTION TO THE ACCUSED.- "Do you wish to make a statement or give evidence on oath? You are not obliged to make a statement or give evidence on oath, but if you do make a statement or give evidence on oath, it will be taken down in writing and may be brought up in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence, consisting of one (1) page, was taken in the presence and hearing of the accused and that R.P.(4)(c),(d),(e) and (f) have been complied with.

M D Rutgers
Capt.
(R. D. Rutgers)
Officer detailed to take Summary of Evidence.

In the Field.
21 April 45.

THIS IS EXHIBIT "A" REFERRED TO BY ME IN THE CASE OF H.59917 Pte. Ditchfield, W.H.

(R. V. Burnell) Capt.
Officer detailed to take Summary of Evidence

Pro Forma(in lieu of Army Form B-115).

RECORD of the Declaration of a Court of Inquiry assembled at
4 Cdn Rft Bn on the 27th day of December 1944,
for the purpose of investigating and recording the absence, without leave, from his duty, and the deficiency, if any, in the arms, ammunition, equipments, instruments, regimental necessaries or clothing of,

No. H59917 Pte Ditchfield, W.H.

D E C L A R A T I O N

THE COURT declare that No H59917 Pte Ditchfield, W.H. of Lan & Ren Scottish Regt, on strength 4 Cdn Rft Bn, illegally absented himself without leave from 0800 hrs, at In the Field Italy on the 28th day of November 1944, and is still so absent.

Names of President and Members.

President: Capt H.S. Hopper, CIC
Member : Capt C.D. Beatty, CIC
Member : Lieut L.P.J. Mongeon, CIC

Signature of Commanding Officer L. J. Flynn, Lt-col"

Certified true copy (A. E. Davidson) Capt & Adj
4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF.

Signature of Officer having custody of the Original Record.

THIS IS EXHIBIT "B" REFERRED TO IN [illegible] IN THE CASE OF H.59917 Pte. Ditchfield W.H.

(R. D. Hutchell) Capt. Officer detailed to Take Summary of Evidence

Certificate in accordance with the Army Act Sec. 163 (1) (j)

I certify that

No. H/59917 Rank PRIVATE Name DITCHFIELD W.

of the LANARK & RENFREW SCOTTISH REGIMENT

was arrested at S. GREGORIO at 1630 Hrs.,

on the 12th day of APRIL 1945

Signature of P.M., A.P.M., or other Officer into whose custody the above named person was taken on arrest. Rank Captain

Appointment (if any)

Commanding 111 PROVOST COMPANY, C. M. POLICE

Date 12th April 1945.

PSS6 (W2) 2M 1-45

Ex 'D'

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H.59917	PTE	William Henry DITCHFIELD	# 2 Cdn N.E.T.D.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

†See para. 417, K.R., 1940.

* The numbers herein stated should correspond with the entries in the conduct sheets (all entries being given in the most official sequence to each entry, and fines recognized by the words "field punishment").

Insert "Nil" if the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	Since Enlistment.	
For AA. Sec 15(1)	times	13 times.
For AA.Sec 40	times	3 times.
For AA.Sec 19	times	1 times.
For	times	times.
For	times	times.

[redacted]

or

[redacted]

2. [redacted]

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 14 days in military custody, making a total of 14 days, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 20

6. The date of [redacted] attestation as stated in his record of service is 22 Feb 1941.

7. [redacted]

8. [redacted]

9. [redacted]

10. The accused [redacted] possession of or entitled to (*state any military decoration or reward*): CVSM & CLASP.

11. [redacted]

12. [redacted]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. H.59917 Rank FTR Name William Henry DITCHFIELD 2 Cdn NETR Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
F.G.C.M.	Field 5 Mar 43	AA Sec 9(1) WOAS Disobeying in a manner such as to show wilful defiance of authority a lawful command given personally by his Superior Officer in the exec., of his off. to scrub the floor of lect. room 28 Feb 43.	90 days Detn.	
F.G.C.M.	Field 13 Mar 43	AA Sec 15(1) AWL whilst under close arrest from 0850 hrs 9 Mar 43 until apprehended at 0825 hrs 10 Mar 43. Absent: 23 hrs 25 min.	120 days Detn.	Released on 31 May 43. Remission earned 46 days.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27 day of April 1945

Capt & Adjt.
(J.M.Reid) Officer i/c Regtl.
Books & Records, 2 Cdn N.B.T.D.

In the rank of ... years
In the rank of ... years
In other rank of ... years

Date of Promotion

No H.59917 Name DITCHFIELD, William Henry Sqn, Battery, or Company | Corps CIC | Date of enlistment 22 Feb 41 | Service or Proficiency Pay | MFM 6 (AFB 122) E

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Badges | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Insert) ding with trial	By whom awarded	Remarks
Huron Camp	20 Apr 42	Gnr		AWL Absent 11 hrs 30 min.	S/Sgt Briggs	7 days C.B.	21 Apr 42	Maj W.G. Hanson	Fts 1 days' Pay.
In the Field	8 Jun 42	Gnr		AWL from 1200 hrs 5 June until 2155 hrs 8 June (3 dys 55 mins). A.A. Sec 15(1)	Sgt Doyle,F.	14 days F.P.	12 June 42	Maj R.J. Foster	Fts 4 dys pay FR&I 149(1)(a
In the Field	29 Jul 42	Gnr		AWL 1 day 7 hrs 45 min. A.A.Sec 15(1)	Bdr Cook	7 days C.B.	1 Aug42	Maj W.G. Hanson	Fts 2 dys pay FR&I 149(1)(a
In the Field	28 Sep 42	Gnr		Neglected to make his bed AA. 40	S/Sgt Briggs F.A.	3 days C.B.	29 Sept 42	Maj W.G. Hanson	
In the Field	15 Oct 42	Gnr		WOAS AWL 1200 hrs 15 Oct 42 to 2200 hrs 19 Oct 42. (Absent: 4 days 10 hrs).	Bdr Cook	5 days Pay	20 Oct42	Col [illegible]	Fts 2 dys pay

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Dependancy with title)	By whom awarded	Remarks
Reading	3 Nov 42	Gnr	47	(1) WOAS Drunkenness - at 2200 hrs 3 Nov was found frunk in Reading. (2) WOAS Neglect to read standing Orders, in that he was found in Reading without a pass.	Doc L/Bdr Brown,A.	14 days C.B. Stoppage of pay 11/8.	7 Nov 42	Lt Col C.E. Woodrow	AAwarded stappare to the sum of 11/8 for cost of App. under FR&I 158(2).
In the Field	25 Jan 43	Gnr		WOAS AWL 1200 hrs 25 Jan 43 to 2030 hrs 26 Jan 43. (1 day 8 hrs 30 min) AA Sec 15(1).	Doc.	10 days C.B. Fts 7 dys pay FR&I 149(2)	27 Jan 43	Lt.Col. R.M.Bishop	2 days FR&I 149(1).
Field	15 Feb 43	Gnr		AA Sec 15(1) WOAS AWL from 2215 hrs Bdr 15 Feb 43 until surrencering to civil police at Hammersmith at 2045 hrs 16 Feb 43 (22hrs, 30 min).	Mathers Doc.	21 dys F.P. with Conjoint award of 21 D.P. FR&I 149 (1)(b).	18 Feb 43	Lt Col F.J.Thorne.	Ffts 1 D.P. FR&I 149(1)(a) Ffts 2 D.P. FR&I 149(1)ii Total forf 24 dys pay.
Field	28 Feb 43	Gnr		AA Sec 9(1) WOAS Disobeyed in a such manner as to show wilful defiance of authority a lawful command given personally by his Superior Off in the exec of his off. to scrub the floor of lect. room 28 Feb 43.		90 days Detn.	5 Mar43	F.G.C.M.	Ffts 90 D.P. FR&I 149(1)(b) 5 to 13 Mar inclusive to be concurrent with award od 18 Feb 43.

MFM 6
(AFB 122)

No H59917 Name DITCHFIELD, W.H. Sqn, Battery, or Company | Corps | Date of enlistment 22 Feb 41. | Service or Proficiency Pay GC Badges | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9 Mar 43	Gnr		AA Sec 15(1) AWL whilst under close arrest from 0850 hrs 9 Mar 43 until apprehended at 0825 hrs 10 Mar 43. (Abs: 23 hrs 25 min).		120 dys Detn. with award to be concurrent 83 days (5 Mar to 8 Mar inc. and 10 Mar to 27 May 43 inc. with award of 5 Mar 43. Fft 14 D.P. FR&I 149(2)	13 Mar 43	F.G.C.M.	Forf 1 D.P. FR&I 149(1)(a) Forf 120 D.P.FR&I 149(1)(b) Total Forf 121 D.P. of which 83 D.P. to be concurrent with award of 5 Mar 43 leaving total actual forf of pay of 38.
				"Realeased from the Detention Barrack "Headly Down" on May 31 1943, Sentence having expired. Remission earned under "Rules for Detn Bks & Mil Prisons" 46 days.					
Field	5 Jun 43	Gnr		AA Sec 15(1) WOAS AWL from 2359 hrs 5 Jun 43 until 0750 hrs 7 Jun 43 (Absent: 1 day, 7 hrs, 51 mins).	Bdr Orr		9 Jun 43	Lt Col W.H. Taylor	Fts 2 D.P. FR&I 149 (1)(a) Total forf 16 dys pay.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Appreciating with trial	By whom awarded	Remarks
Field	10 Jul 43	Gnr		AA Sec 15(1) WOAS AWL from 2300 hrs 10 July until 0740 hrs 11 July (Absent: 8 hrs, 40 min).	L/Bdr Crocock L/Sgt Maguire Doc.	Fts 7 D.P. FR&I (2) Forf 1 D.P. FR&I (1)(a) Total Forf 8 D.P. 7 dys C.B.	12 Jul 43 19 July 43	W.H.Taylor LtCol. Maj J.A. Biggar	Total Forf 8 days pay.
Field	20 July 43	Gnr		AA Sec 15(1) WOAS AWL from 0730 hrs 19 July 43 until 0835 hrs 19 July 43 (Absent: 1 hrs and 5 min).	Sgt Walsh, R.V. Doc.				
Field	12 Aug 43	Gnr		(1) AA Sec 15(1) AWL from 1400 hrs 12 Aug 43 until apprehended at 2045 hrs 14 Aug 43 at Glasgow (Absent; 2 days 8 hrs 45 min) (2) AA Sec 40 Con to the pred. in that he was improperly dressed when arrested.	Doc. Doc.	28 Days F.P. 28 days Pay	18 Aug 43	Col B.R. Kerr.	Forf 3 dys pay FR&I 149(17) A. Fined 28 dys pay FR&I 149(1)(a) Total 31 D.P. Plus cost of App £1-17-8.
Field	3 Dec 43	Gne		AA Sec 15(1) AWL from a place of parade, at 1535 hrs 3 Dec43.	Lt J.D. Mac Gregor A/S/t Fewings	3 days C.B.	4 Dec 43	Capt A.Noblston.	

No H59917 Name DITCHFIELD, W.H. | Sqn, Battery, or Company | Corps CIC. | Date of enlistment 21 Feb 41. | Service or Proficiency Pay | MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc | Character | Badges

Place	Date of offence	Rank	Cause of detention-tion	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	31.7.44	Pte		Sec 15(1) AA AWL 2 days 6 hrs, 15 mIn.).	L/Cpl Merwin A/L/Cpl Kryskow	28 dys F.P. Forf 28 dys pay.	3.8.44.	Lt.Col.W.C. Dick.	Forf 3 days pay FR&I 149(1)(a)
In the Field	23.10.44	Pte		Sec. 15(1) AWL 4 days 11 hrs 30 Mins.	Sgt Kryskow CSM Vander-grift	28 days F.P. & 28 days pay.	30.10.44.	W.H.Buchanan Lt.-Col.	Forf 5 days pay under FR&I 149(1)(a).

"Certified to be a true copy from the Regtl Books in my Custody.".
21 April 45.

..... Capt & Adjt.
(J.E.Reid)
Officer i/c Regtl Books & Records,
No. 2 CDn N.E.T.D.

(PTO)

LIST OF WITNESSES.

In the case of H.59917 Private William Henry DITCHFIELD, No. 2 Canadian Non Effective Transit Depot, a soldier of the Canadian Army Overseas:-

---

FOR THE PROSECUTION

1. A.104046 Cpl Wells, H.K. -- 2 Cdn N.E.T.D.

FOR THE DEFENCE

NIL

LIST OF EXHIBITS.

1. Exhibit "A" -- Certified true copy of a Record of the Declaration of a Court of Inquiry dated 27 Dec 44.

2. Exhibit "B" -- Certificate in accordance with the Army Act, Sec. 163 (1)(ii) purporting to be signed by the C.C. 111 Provost Coy. C.M.Police.

I, H.59917, Private William Henry DITCHFIELD, request that my Commanding Officer appoint Capt T.B. Hanson to defend me at my forthcoming trial by Field General Court Matial.

DATE 23 Apr 45 W.H. Ditchfield
(W.H. Ditchfield).

ACCUSED'S RECEIPT FOR HIS COPY OF SUMMARY OF EVIDENCE AND CHARGE SHEET.

I, H.59917, Private William Henry DITCHFIELD, acknowledge receipt of a copy of Summary of Evidence and Charge Sheet in connection with my forthcoming trial by Field General Court Martial.

DATE 23 Apr 45 W.H. Ditchfield
(W.H. Ditchfield).

Y16

SPR DIX, D.G.

COUNTER NUMBER 550915

HOUR 1550

OPERATOR'S INITIALS K.P.

RELIEVING OPERATOR G.B.

COUNTER NUMBER 550915

HOUR 1550

OPERATOR'S INITIALS K.L.

RELIEVING OPERATOR G.B.

P.C.C.M. B-26058 Spr. Dix, D.C.
1 C.R.R.U.
DGHQ 5-6-2/120 Y.16

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court

On Active Service, this fourth day of February, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "B" Group Canadian Reinforcement units, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint—

*(1) Three Officers to form the Court.]

*(2) A Field Officer as President.

for the following reasons, namely:—]

* Omit if not applicable.

Norr.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c. of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt. Col.	D.L. Redman - Calgary Highrs	H.Q. C.R.U.

Members.

Rank.	Name.	Regiment.
Capt.	from	1 C.R.R.U.
Lieut.	from	1 C.S.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (P.R. SAURIN) COLONEL
Commanding "B" GROUP CDN. REINF. UNITS
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-26058 Spr. DIX, David George 1 C.E.R.U.	First Charge A.A.Sec 15(1)	Guilty	Guilty Sentence To undergo Detention for a period of One Hundred and Twenty (120) Days. 6th Feb 1943	I confirm the finding and sentence of the Court P.R. Rowell Col 8 Feb 43
	See attached Charge Sheet			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) P.R. Rowell (P.R. ROWELL) COLONEL
Commanding "B" GROUP C.R.U.
Convening Officer (*c*)

(Signed) [illegible]
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 6th day of February 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) The Shorthand writer
*(4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 6th day of February 1943

P.R. Rowell Col
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929

~~I certify that the terms of A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~

~~Signed this 8 day of Feb 19 43~~

P.R. Rowell Col
Confirming Officer.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Promulgated and extracts taken in the case of B-26058 Spr. Dix, D.G. 1 C.E.R.U.

(*a*) (Dated) 10 Feb (Signed) J Johnston Lieut

Promulgated and extracts taken in the case of

(Dated) 10/2/43 (Signed) [illegible]

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

CHARGE SHEET

The Accused, B.26058 Spr. LEIX, David George, No. 1 Canadian Engineer Reinforcement Unit, a Soldier of the Canadian Army (Overseas) is charged with:--

FIRST CHARGE
ARMY ACT 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

In that he,

At Guillemont Barracks, COVE, Hants, absented himself without leave from 0630 hours, 2 January, 1943, until surrendering himself at 2315 hours, 1 February, 1943.

COVE, Hants.
2nd day of February, 1943.

for (G.H. WHYTE) COLONEL
Commanding Officer,
No. 1 Cdn. Engineer Reinforcement Unit,
Canadian Army (Overseas).

/ws.

To be tried by Field General Court Martial.

(P.R.SHIELDS) COLONEL
COMMANDER "B" GROUP
CANADIAN REINFORCEMENT UNITS
CONVENING OFFICER

MEDICAL OFFICER'S CERTIFICATE

K.R. (C.S.) Para. 537

I certify that I have this morning examined

No. 2260052 ... Spr. Dix. D. G. .....

of. Mot. Co. R.E. Unit ..... and in my opinion he

is fit ~~unfit~~ to undergo Trial by Court Martial.

Station ... Lons .....

Date ... 6th Feb. 1942 ....

[signature] Capt.

Medical Officer. M.O.

1 C. Eng. R.U

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT COVE, HANTS.
ON THE 6 DAY OF FEB. 1943

The Accused ...£26058, Spr. DIX D.G. ..... Unit ... 1 C.E.R.U.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 & 23.

The accused is brought before the Court.
The Medical Certificate is presented to the Court.
The order convening the Court is read by the President and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President ... Cn. Col. D. L. Redman ... Unit ... HQ. - C.R.U.
Members ... Capt. C. Errington ... Unit ... 1 C.E.R.U.
... Lt. H.K. Carter ... Unit ... 1 C.S.R.U.

The officers under instruction are duly sworn:-

... Lt. J. M. Acorn ... Unit ... 1 C.S.R.U.
... Lt. C. G. Smith ... Unit ... 1 C.S.R.U.
Prosecutor ... ~~Lt. J. M. Acorn~~ LT. F.H. THEAKSTON ... Unit ... 1 C.E.R.U.
Defending Officer ... Capt. H.A. Hocking ... Unit ... 1 C.E.R.U.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B)
The Summary of Evidence is read.
The Prosecutor is sworn and produces MFB 355 and MFM 6, AFB 296
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) ~~makes a statement in mitigation of punishment~~
(b) ~~calls witnesses as to character~~
(c) ~~calls witnesses in mitigation of punishment~~
(d) addresses the Court by his Defending Officer

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Remarks of Def. Officer transcribed in full & appended hereto.

(OVER)

RE: FGCM OF B-26058, SPR. DIX D.G., 1 CERU.

DJA 1120/Karsen

DEF. OFFICER:- In my plea for mitigation I had hoped to procure evidence to substantiate what I am going to state, and which I believe to be true. I was refused permission to go and get this evidence, and therefore it will have to be given verbally. In summing up the character of the accused, I would like to deal with his army record first. I would point out that Spr Dix joined the army on 14 Sep 39 in No. 1 Cdn Workshop Park, which has since been disbanded, but which was recruited as a mechanical unit for the Cdn Engineers. In Dec 39 he asked permission to transfer to a unit which was going o/s, as the unit he was in had received no equipt, had done no mechanical work, and had undergone no mechanical training. He came o/s and went to France, was evacuated from Brest, came back, and he carries the scar of a wound he received when being bombed. After having an operation he came out of hospital and has worked as a batman at CERU, looking after anywhere from three to nine officers for a period of nine months. He asked again and again to be trade-tested as a mechanic; instead he was appointed to A.D. duties and he has spent several months of his army career going around kicking fire buckets to see they were filled with water or sand, and he was not even allowed to fill them himself but had to detail others to do these menial tasks. He has had crimes, many of them, but none of them serious enough to have him charged before a court martial before. In his civilian life I would point out that Spr Dix was the star left-winger of the Rouge Maroons, O.H.A. champions. He has had a high school education, having passed several of his examinations with honours. His father is Chairman of the Board of Education for the School Board at Scarboro, Ont. His sister is a High School teacher in the city of Toronto. His brother is a graduate of Toronto University. Spr Dix himself operated a fleet of trucks in the Township of Scarboro, which business is still being carried on by his wife and his father. Whilst operating this fleet of trucks, Spr Dix operated also a garage which maintained them. He was in this business for ten years. He has had training in home life which would teach a man that he must make some attempt to do the right thing. Now I come to a matter which Spr Dix is not charged with, but which is the real reason for this crime. Spr Dix arrived at a point where he needed £25 very badly. It was impossible for him to pay the £25 from his army wage. He went AWL for 30 days and received a job in a garage as a mechanic for 28 days, for which he was paid £32, £27 of which he paid to his creditor. He returned to his unit and reported back to carry on doing his best in the army, having lost no kit and having put no-one to any expense, other than himself. In summing up Spr Dix's position I would further point out that this Spr was M&Q tested as A-plus. We have not got before us an ordinary criminal. I might say I have never defended a man at a court martial unless I personally felt that I would be very pleased and glad to have him in any unit with which I was connected; this is particularly true in Spr Dix's case. I would be only too glad to be with a coy composed of men - NCO's and officers - of the same type of men as Spr Dix. Spr Dix was requested by a recruiting officer to join a unit directly connected with the business he was in in civilian life. He did not intend to enlist at the time, but was

interviewed by the recruiting officer; he had taken a party of men and on talking with the recruiting officer was told that the army needed mechanics, that this was a mechanical war, and he was recruited in a mechanical unit. He has asked for mechanical trade tests, not one of which has been granted. He has been put out as a batman. Several officers have asked to take him to the field with them; their requests have been refused because of a scarcity of good batmen in the CERU, and of their being so hard to replace. He was a batman for nine months, and any man who is not a good soldier is not kept in such a position of trust and responsibility the way Spr Dix has been. I maintain that this man's crimes, several of which are small, were caused by the position he has been put in by someone else, not by himself. As regards this charge on which he is facing a FGCM, he has proved himself to be a competent mechanic, being able to earn £32 in 28 days. The army has made no recognition either of his ability or of his background in civilian life, nor of the potentialities of his being of greater service to the army in some other field. While it is true he was AWL for 30 days, he had a reason for being AWL, and he showed some fine qualities in his nature by returning to this unit without being apprehended or putting the unit to any unnecessary trouble.

THE COURT: What category are you now?

ACCUSED: B-2, owing to a mastoid operation. I was never re-classified as A-1. My category was changed to B-2 in Feb 41.

THE COURT: Have you asked for a re-board to see if you are now category A-1?

ACCUSED: I would like that, sir.

DEF. OFFICER: That, sir, is a typical examination of the sort of thing that caused him to go AWL.

CERTIFIED a true and correct transcript of my shorthand notes:-

Sgt

Shorthand Writer.

RE: FGCM OF B-26058, SPR. DIX D.G., 1 CERU.

DEF. OFFICER:- In my plea for mitigation I had hoped to procure evidence to substantiate what I am going to state, and which I believe to be true. I was refused permission to go and get this evidence, and therefore it will have to be given verbally. In summing up the character of the accused, I would like to deal with his army record first. I would point out that Spr Dix joined the army on 14 Sep 39 in No. 1 Cdn Workshop Park, which has since been disbanded, but which was recruited as a mechanical unit for the Cdn Engineers. In Dec 39 he asked permission to transfer to a unit which was going o/s, as the unit he was in had received no equipt, had done no mechanical work, and had undergone no mechanical training. He came o/s and went to France, was evacuated from Brest, came back, and he carries the scar of a wound he received when being bombed. After having an operation he came out of hospital and has worked as a batman at CERU, looking after anywhere from three to nine officers for a period of nine months. He asked again and again to be trade-tested as a mechanic; instead he was appointed to A.D. duties and he has spent several months of his army career going around kicking fire buckets to see they were filled with water or sand, and he was not even allowed to fill them himself but had to detail others to do these menial tasks. He has had crimes, many of them, but none of them serious enough to have him charged before a court martial before. In his civilian life I would point out that Spr Dix was the star left-winger of the Rouge Maroons, O.H.A. champions. He has had a high school education, having passed several of his examinations with honours. His father is Chairman of the Board of Education for the School Board at Scarboro, Ont. His sister is a High School teacher in the city of Toronto. His brother is a graduate of Toronto University. Spr Dix himself operated a fleet of trucks in the Township of Scarboro, which business is still being carried on by his wife and his father. Whilst operating this fleet of trucks, Spr Dix operated also a garage which maintained them. He was in this business for ten years. He has had training in home life which would teach a man that he must make some attempt to do the right thing. Now I come to a matter which Spr Dix is not charged with, but which is the real reason for this crime. Spr Dix arrived at a point where he needed £25 very badly. It was impossible for him to pay the £25 from his army wage. He went AWL for 30 days and received a job in a garage as a mechanic for 28 days, for which he was paid £32, £27 of which he paid to his creditor. He returned to his unit and reported back to carry on doing his best in the army, having lost no kit and having put no-one to any expense, other than himself. In summing up Spr Dix's position I would further point out that this Spr was M&Q tested as A-plus. We have not got before us an ordinary criminal. I might say I have never defended a man at a court martial unless I personally felt that I would be very pleased and glad to have him in any unit with which I was connected; this is particularly true in Spr Dix's case. I would be only too glad to be with a coy composed of men - NCO's and officers - of the same type of men as Spr Dix. Spr Dix was requested by a recruiting officer to join a unit directly connected with the business he was in in civilian life. He did not intend to enlist at the time, but was

interviewed by the recruiting officer; he had taken a party of men and on talking with the recruiting officer was told that the army needed mechanics, that this was a mechanical war, and he was recruited in a mechanical unit. He has asked for mechanical trade tests, not one of which has been granted. He has been put out as a batman. Several officers have asked to take him to the field with them; their requests have been refused because of a scarcity of good batmen in the CERU, and of their being so hard to replace. He was a batman for nine months, and any man who is not a good soldier is not kept in such a position of trust and responsibility the way Spr Dix has been. I maintain that this man's crimes, several of which are small, were caused by the position he has been put in by someone else, not by himself. As regards this charge on which he is facing a FGCM, he has proved himself to be a competent mechanic, being able to earn £32 in 28 days. The army has made no recognition either of his ability or of his background in civilian life, nor of the potentialities of his being of greater service to the army in some other field. While it is true he was AWL for 30 days, he had a reason for being AWL, and he showed some fine qualities in his nature by returning to this unit without being apprehended or putting the unit to any unnecessary trouble.

THE COURT: What category are you now?

ACCUSED: B-2, owing to a mastoid operation. I was never reclassified as A-1. My category was changed to B-2 in Feb 41.

THE COURT: Have you asked for a re-board to see if you are now category A-1?

ACCUSED: I would like that, sir.

DEF. OFFICER: That, sir, is a typical examination of the sort of thing that caused him to go AWL.

CERTIFIED a true and correct transcript of my shorthand notes:-

Shorthand Writer.

Summary of Evidence

The Summary of evidence in the case of B26058 Spr. Dix A G, of No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (O/S).

Evidence taken on oath by order of Colonel G.H. Whyte M.C., V.D., Commanding Officer of No. 1 Canadian Engineer Reinforcement Unit.

FIRST WITNESS - No. B-28577 Cpl. Petrie G. of No. 4 Section, "A" Wing Canadian Engineer Reinforcement Unit, having been duly sworn states as follows:-

At Guillemont Bks, Cove Hants, on 2nd Feb 1943.

At 0630 hrs 2nd Jan 1943 on checking the reveille roll call I found that Spr. Dix was not in his quarters. I reported this incident to C.S.M. Benoy for his action. Again at 0830 hrs on section parade I found that Spr. Dix was still absent from quarters and duty.

The accused declined to cross examine the witness.

Cpl Petrie G

(B-28577 Cpl. Petrie G.)

Second witness -

I.D. No. 500** C.S.M. Benoy 6th "A" Wing Can. Engineer Reinforcement Unit having been duly sworn states as follows:-

On 2nd Jan 1943 Cpl. Petrie reported that Spr. Dix was absent. I adovised him to ascertain the time he was absent from and to report same in the wing absentee report to the best of my knowledge Spr. Dix has been absent from 2nd Jan. 1943 until I ceased to be employed as C.S.M. "A" Wing on the 31st Jan 1943.

The accused declined to cross examine the witness.

G. H. Benoy C.S.M.

Third Witness No. B. 88531 L/Cpl. Landriault, P.E. of H Coy C.E.R.U. having been duly sworn in states as follows:-

Spr. Dix reported to me at 2315 hrs on the night of Feb. 1st and told me that he had been A.W.L. for 31 days so I took the particulars down in the R.S.M.'s book and placed him under close arrest. I had the prequir cpl take him to detention.

The accused declined to cross examine the witness

L/Cpl Landriault P.E.

Fourth Witness

H. 13001 C.S.M. Harris, W.S. of A Wing C.E.R.U. having been duly sworn in states as follows:

On or about the 12th Jan 1943 I was ~~acting~~ being taught the system of administration C.S.M. for A Wing. On or about the 22nd I was given to understand we had a man in the wing who was absent and had been so since Jan 2nd, 1943. Each day on checking absentee reports this man's name appeared as an absentee. On the morning of 2nd Feb 1943 at 0830 hrs I was informed that Spr. Dix was in detention as he reported back the previous night at 2315 hrs. I ~~inform~~ detailed the orderly Cpl. to go to our detention barracks and post bring back Spr. Dix under escort. Also informing the orderly room sergeant to make out the charge. Spr. Dix reported back under escort at 0835 hrs. where I paraded him in to Major Woods O.C. for a hearing of the case. Major Woods

remanded Spr. Dix to the O.C. Holding Unit the same morning 2nd Feb. 1943. I had the man paraded to O.C.'s orders where I understand he was remanded by the O.C. for full Summary of Evidence

Accused declined to cross examine the witness.

A.S. Davies CSM

B.36058 Spr Dix, A.C., Accused, No. 4 Section "A" Wing. No. 1 Canadian Engineer Reinforcement Unit having been cautioned in accordance with A.P. 4 (2) states.

"I was very discouraged with the way things had been going for me for quite some time, very dissatisfied with my work as I am a motor mechanic by trade and I had never worked at that since enlisting. I don't see any reason why I can't make myself of some use in the army. I have owned and operated a transport business of my own for 12 yrs previous to enlisting. It was a much better business when I left then when taking it over. I can't seem to make ~~army life~~. If I was successful in one I don't see why I can't be of some use in the unit if given the chance to follow my trade."

Spr Dix D.C.

I certify that the foregoing summary of evidence consisting of three pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), (f), and (g) have been complied with.

F. H. Sheraton, Lieut

#, C.E.R.U.
Reinforcement Camp
B.R.S.
Feb 2nd, 1943.

SUMMARY OF EVIDENCE

The Summary of evidence in the case of B 26058 Spr. Dix, D.C., of No.1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (O/S).

Evidence taken on oath by order of Colonel G.H Whyte, M.C.,V.D., Commanding Officer of No.1 Canadian Engineer Reinforcement Unit.

FIRST WITNESS:-- No. B-28577 Cpl. Petrie, G. of No.4 Section "A" Wing Canadian Engineer Reinforcement Unit, having been duly sworn, states as follows:--

"At Guillemont Barracks, Cove, Hants. on 2nd Feb. 1943 at 0630 hrs. 2nd Jan 1943 on checking on reveille roll call I found that Spr. Dix was not in his quarters. I reported this incident to C.S.M. Benoy for his action. Again at 0830 hrs. on section parade I found that Spr. Dix was still absent from his quarters and duty.

(B-28577 Cpl. Petrie, G.)

The accused declines to cross examine the witness.

SECOND WITNESS:--M 5004 C.S.M. Benoy, G.H. "A" Wing Canadian Engineer Reinforcement Unit, having been duly sworn states as follows:-

"On 2nd Jan. 1943 Cpl. Petrie reported that Spr Dix was absent. I advised him to ascertain the time he was absent from and to report same in the Wing absentee report. To the best of my knowledge Spr. Dix has been absent from 2nd Jan. 1943 until I ceased to be employed as C.S.M. "A" Wing on the 31st. Jan. 1943

(M-5004 C.S.M. Benoy,G.H.

The accused declines to cross examine the witness.

THIRD WITNESS:--No.B 83521 L/Cpl. Landriault, P.E. of "H" Coy. Canadian Engineer Reinforcement Unit, having been duly sworn in states as follows:-

"Spr. Dix reported to me at 2315 hrs. on the night of Feb. 1st. and told me that he had been A.W.L. for 31 days so I took the particulars down in the R.S.M's. book and placed him under close arrest. I had the picquet Cpl. take him to detention

(B-83521 L/Cpl.Landriault,P.E.

The accused declines to cross examine the witness.

FOURTH WITNESS:--H-13001 C.S.M. Harris, W.S. of "A" Wing Canadian Engineer Reinforcement Unit having been duly sworn in states as follows:

"On or about the 12th Jan 1943 I was being taught the system of Administrative as C.S.M. for "A" Wing on or about the 22nd I was given to understand we had a man in the wing who was absent and had been so since Jan. 2nd, 1943. Each day on checking absentee reports this man's name appeared as an absentee. On the morning of 2nd Feb1943 at 0820 hrs. I was informed that Spr. Dix was in dentention as he reported back the previous night at 2315 hrs. I detailed the orderly Cpl. to go to our detention barracks and bring back Spr. Dix under escort. Also informing the orderly room sergeant to make out the charge. Spr Dix reported back under escort at 0835 hrs. where I paraded him in to Major Woods O.C. for a hearing of the case. Major Woods remanded Spr. Dix to the C.O. Holding Unit the same morning 2nd Feb. 1943. I had the man paraded to C.O's orders where I understand he

he was remanded by the C.O. for summary of evidence.

(H-13001 CSM Harris, W.S.)

The accused declines to cross examine the witness.

FIFTH WITNESS; B-25513 L/Cpl. Petch, T.A., "A" Wing, No.1 Cdn. Engineer Reinforcement Unit, having been duly sworn, states as follows:-

"I received the tattoo report at 2200 hrs. 2 Jan.43. I made out the absentee report and turned it into Command Post with the rest of them."

(B-25513 L/Cpl. Petch, T.A.)

The accused declines to cross examine the witness.

THE ACCUSED; B-26058 Spr. Dix, D.G., accused, No.4 Section, "A" Wing, No.1 Cdn. Engineer Reinforcement Unit, having been cautioned in accordance with R.P.4 (E) states:-

" I was very discouraged with the way things had been going for me for quite some time, very dissatisfied with my work as I am a motor mechanic by trade and I had never worked at that since enlisting. I don't see any reason why I can't make myself of some use in the army. I have owned and operated a transport business of my own for 12 yrs. previous to enlisting. It was a much better business when I left than when taking it over. If I was successful in one I don't see why I can't be of some use in the unit if given the chance to follow my trade."

(B-26058) Spr. Dix, D.G.

I certify that the foregiong summary of evidence consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

(F.H. THEAKSTON) Lieut. R.C.E.

LIST OF APPENDICIES

List of Appendicies in the case of B-26058 Spr Dix, D.G. No.1 C.E.R.U., a soldier of the Canadian Army (O/S).

Nil

LIST OF WITNESSES

List of Witnesses in the case of B 26058 Spr. Six, D.G., No.1 Canadain Engineer Reinforcement Unit, a Soldier of the Canadian Army (Overseas).

B.28577 Cpl. Petrie, G.
No.1 Cdn. Engineer Reinf. Unit.

M.5004 C.S.M. Benoy, G.H.
No.1 Cdn. Engineer Reinf. Unit.

B.83521 L/Cpl. Laudriault, P.E.
No.1 Cdn. Engineer Reinf. Unit.

H.13001 C.S.M. Harris, W.S.
No.1 Cdn. Engineer Reinf. Unit.

B-25513 L/Cpl. Petch, T.A.
No.1 Cdn. Engineer Reinf. Unit.

M.F.M. 6
A.F.B. 122

No. B26058 Name DIX, D.G. Sqn., Battery, or Company — Corps R.C.E. Date of enlistment 14/9/39 O.C. Badges — Service or Proficiency Pay — Signature O.C. Company, etc. F.A.Crich, Major — Character —

Date of last entry in Company Conduct Sheet 12/11/39 — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		OLD		SHEET DESTROYED 22 JUNE 42 (C.A.R.O. 2084)					
Field	8/4/40	Spr.		A.A. Sec.15(2) Failed to appear at a place of parade appointed by his Commanding Officer	Spr. Prust Spr. Davis	8 days Detn.	8/4/40	Henshaw Major RCE	Forfeits 1 days pay
Field	20/6/1940	Spr.		A.A. Sec.19 Drunkeness	Sgt. White Cpl. Bruce	7 days C.B. Forfeits 2 days pay	21/6/40	E.W.Oddleifson Capt.	
Field	16/7/1940	Spr.		A.A. Sec.15(1) A.W.L. 5 days 20 Hrs. 50 Mins.	Spr. Cramb Cpl. Davies	14 days Detn.	25/7/40	E.W.Oddleifson Capt.	Forfs. 6 days pay FR&I 149(1)a
Field	24/8/1940	Spr.		A.A. Sec.15(1) A.W.L. 21 hrs. 30 Mins.	L/Sgt.Bruce CSM Weedmark	72 hrs.Detn.	2/9/40	EW Oddleifson Capt.	Forfs. 1 days pay FR&I 149(1)a

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30/9/40	Spr.		I A.A. sec.15(1) A.W.L. 28 hrs. 30 mins.	Cpl.Rollings	48 hrs. Detn.	2/10/40	E.W. Oddleifson Capt.	
				II A.A. sec.15(2) Absent from duty thereby causing another Sapper to take over his duty	Sgt.Hannah Spr.Alfano	48 hrs. Detn.	2/10/40		
Field	16/11/40	Spr.		A.A. sec.15(1) A.W.L. 1 hrs. 20 Mins.	Cpl.Rollings	Deprived of 1 days pay	18/11/40	E.W. Oddleifson Capt.	
Field	17/11/40	Spr.		A.A. sec.15(1) A.W.L. 3 hrs.	Sgt.Long L/Cpl.Sharples	Deprived of 2 days pay	18/11/40	E.W. Oddleifson Capt.	
Field	16/3/41	Spr.		A.A. sec.15(1) A.W.L. 9 days 23 hrs., 16 mins.	L/C.Yardley Cpl.Rolffe	27 days Detn.	27/3/41	L.F.Barnes Lt.Col.	Forfeits 10 days pay
Released from the Detention Barrack at Witley on Apr.18,1941. Sentence having expired. Remission earned under "Rules for Detention Barracks and Military Prisons" - 4 days.									
Field	31/5/41	Spr.		I A.A. sec.40 did drive a W.D. Vehicle while under the influence of liquor	Lt.Bayne Spr.Banks	14 days ~~FIELD~~ Field Punishment	2/6/41	G.E. Smith, Capt.RCE	
				II A.A. sec.40 did drive a W.D. vehicle without proper authority	Spr.Jacobson				

M.F.M. 6
A.F.B. 122.

No. B 26058 Name DIX, D.G. Sqn., Battery, or Company — Corps R.C.E. Date of enlistment 14/9/39 G.C. Badges — Service or Proficiency Pay

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc. F.A.Crich Major — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
Field	1/9/41	Spr.		A.A. sec.15(1) Absent 10 hrs.	L/S.Davies Cpl.Beauliers	7 days Field Punishment	4/9/41	G.E.Smith Capt.	Forfeits 8 days pay
Field	4/10/41	Spr.		A.A. sec.15(1) A.W.L. 1 day 7 hrs. 30 mins.	Sgt.Hannah Cpl.Beauliers	21 days Fd. Punishment	9/10/41	????????? Lt.-Col	Total Forf. 23 days pay
Field	29/3/42	Spr.		A.A. sec.15(1) A.W.L. 7 days 23 hrs 1 min.	L/Cpl. Light	14 days Detn.	7/4/42	C.N.Mitchell Lt.-Col	Forfs. 8 days pay FR&I 149(1)a
Field	23/8/42	Spr.		A.A. sec.15(1) A.W.L. 15 hrs. 30 mins.	Spr.Welsh Documentary	Forfs.2 days pay A.A.46	24/8/42	C.N.Mitchell Lt.-Col	Forfs. 1 days pay FR&I 149(1)a
Field	2/11/42	Spr.		A.A. sec.15(1) A.W.L. 14 hrs. 30 mins.	Cpl. Petrie	7 days F.P.	4/11/42	G.H.Whyte Col.	Forfs. 1 day pay FR&I.149 (1)a

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5/12/42	Spr.		A.A. 15(1) W.O.A.S., A.W.L. from 2359 hrs. 5/12/42 to 1400 hrs. 6/12/42. Absent 15 hrs.1 min Adm. Wing 1 C. Eng. R.U. Certified that the above is a true copy (29 Jan.43.) O.C. Adm. Wing 1 C. Eng. R.U.		14 days Detn.	7/12/42	G.H. Whyte Colonel	Forfs.14 days pay FR&I 149 (1)b Forfs.1 days pay FR&I 149 (1)a

Army Form B 296.

Statement as to Character and Particulars of Service of Accused.

B26058 Spr David George DIX of the 1 CERU

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 604, K.R. 1923.

*The numbers hereinafter should correspond with the number of Entries in the Conduct sheets, previous being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

	*Within last 12 months.	*Since Enlistment.
For A.A 15 (1)	4 times	12 times.
For A A 15 (2)	times	2 times.
For A A 19 (20 Jun 40)	times	1 times.
For A A 40	times	2 times.

~~Number of instances of gallantry or distinguished conduct~~ Nil

Instructions.—If the charge is for drunkenness, the entries for drunkenness must be recited separately and dated.

or,

~~There are no entries in the Conduct sheets of the accused~~ Stroked out in error
There are no entries in the Conduct sheets of the accused Nil

2. The accused has not been previously convicted,

or,

~~Previous convictions of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 78 of the Army Act, are set out in the Schedule annexed to this statement.~~

W. Mitchell Lt Col

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of February

No. 1 Cdn. Engineer Training Unit, C.A. OFFICER i/c RECORDS

Description of Court by which held, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or of summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

3. The accused is not under sentence at the present time,

or,

~~The accused at the present time is under sentence for~~
~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges

for days in Civil Custody;

and 6 days in Military Custody.

Total 6 days.

Of which days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 35

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 14 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 4/12 yrs.

8. The accused is entitled to deferred pay or gratuity in respect of 3 4/12 yrs years' service.

9. The accused is entitled to reckon 3 4/12 yrs years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward ~~(or is in possession of or entitled to)~~

~~11. *(If the accused is a warrant officer.)* The accused holds (or was made~~ warrant officer last held) the regimental rank of

~~12. *(In the case of an officer.)* The accused holds in the army the rank of~~
~~, dated~~
~~, and in his regiment (or department) the rank of~~
~~, dated~~

~~13. The accused has served as a non-commissioned officer continuously without reduction to the present date.~~

~~In the rank of~~ years,
In the rank of years.
In the rank of years.

~~(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)~~

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name 3260SS Spr David George DIX of the 1 CERU

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

(Continued overleaf.

COUNTER NUMBER 550938

HOUR 16.00

OPERATOR'S INITIALS GB

RELIEVING OPERATOR GmB

5 R 104
Pt. Dep., D.C.

RECORDED AT CMHQ IN AD 163 5R-104.

FIELD GENERAL COURT-MARTIAL

CPASS (In lieu of AFA3) 40/P.R.S./1608 (4/388)

4/388

RECEIVED 14 AUG 1945 CMHQ

Convened by Order of Lt Col R.J. Williams Camp Commandant CMHQ dated 8 Aug 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B26058	Pte	DAVID GEORGE	DIX	24 Gdn Gen Hosp RCAMC

PROCEEDINGS REVIEWED J.R. Kingsmill Capt 28 Aug 45 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 13 Aug 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MAML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet[1] attached thereto.[1] The Court is satisfied that it is properly convened and constituted[2], accused is[1] amenable to military law, and the[1] charge discloses an offence.[2]

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is[1] brought before the Court. At 10.15 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is[1] fit to undergo trial by court-martial.[2] ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.[3]~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to the Interpreter~~ as interpreter? Ans ~~No~~

~~The Interpreter is sworn.~~[1] Do you object to F 97744 Lyt 6 dam C. as shorthand writer? Ans No

The shorthand writer is sworn.[2]

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.[1] President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No[2]

(1. RP 100. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MAML p 742.)

A7. The President, Members, ~~Judge Advocate~~ and Offrs under instr, if any, are sworn.[1] The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D.J. Gordon Res List Patient	24 G Gen H
Member	Capt	R.J. Waldie	RCA Patient 24 G Gen H
Member	Lt	G Cowell	RCOS Patient 24 G Gen H
~~Judge Advocate~~			
Prosecutor	Major	J.O. Patton	RCAMC 24 Gdn Gen Hosp
Defending Offr	Lt	D. Rhodes	RCE Patient 24 Gdn Gen Hosp

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No[1]

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DL p 33)

A8. The accused B26058 Pte Dix David George is not before arraignment make(s) (no[1]) plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is[1] arraigned ~~on the charge sheet~~ on all charges in the charge sheet.[1] The accused does not[1] object to any charge.[2] There is no amendment to be made to the Charge Sheet.[3] The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See query 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B26058 Pte David George Dix 24 Gdn Gen Hosp RCAMC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(b) AWL	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lost of kit see RP 44 fn 8.)

~~At present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for one hundred and twenty (120) days.

13 Aug 45 (Sgd) [illegible] Major President. (RP 45(2))

(Sgd) Judge-Advocate, if any.

~~Not~~ awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760)

(Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence.

~~I direct that the accused be not committed to prison or detention barracks until further orders etc.~~ (1. AA ~~55~~ Delete if inapt.)

Date (Sgd) [illegible] Commanding Confirming Officer.

G.S. WEEDE Major-General Deputy Adjutant General Canadian Reinforcements 18 AUG 1945

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B 26058 Pte DIX, DAVID GEORGE (Part II Order No 196, dated 21 Aug 45)	21 Aug 45	[illegible] Lt Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

* Illegalities or irregularities such as would warrant withholding confirmation.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 82(*C*), 91, 92 ; *accepting and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), or call witnesses as to character and make an address in mitigation of punishment.(1)
(*1. RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Yes, I wish to say in defence. (5)
(*1. RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 3 *para* 3, *MML p* 54 *para* 47. 4. *See para* 2.3 *of Record Form C.*
5. Statement, if any, recorded per Notes.)

The statement is attached hereto, marked Exhibit "A"

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on the charge(s). The accused is ~~(are)~~ so informed, ~~and he (they)~~ ~~change(s) his (their) plea(s) on~~ ~~charge(s).~~ Part I of the Schedule is amended accordingly.(2)
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records findings of Guilty in Part I of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex B, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), *114*, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may elect to make a statement not on oath, which will be recorded, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will only carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans .....
Are they witnesses as to character only ? Ans .....
(*1. RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fn* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CP A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Make the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(2) (*d*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative commencement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement of as to Character and Particulars of Service(1), and certified true ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)
(*1. MFB* 253 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 538. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No (2)
(*1. RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(5), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any.~~(2)
(*1. When several accused tried separately see RP* 77 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 363-366, *Overseas RO* 309, 2323. *As to sentences of imprisonment and detention see AA* 8(*3*), *MML p* 120. *When accused MML p* 60, 752-759. *As to sentences assigned for civil offences by the law of England see AA* 40(*2*), *MML p* 126. *already under sentence of imprisonment or detention see AA* 44(*1*)(*b*), 68(*1*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE-SHEET

THE ACCUSED, B.26058 Pte. DIX, David George, R.C.A.S.C., 24 Canadian General Hospital RCAMC, a soldier in the Canadian Army Overseas, is charged with:-

First Charge
Sec 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

At No. 24 Canadian General Hospital, absented himself without leave from 0500 hrs 14 Jul 45 until 2359 hrs 2 Aug 45.
(Total absence 19 days 18 hrs 59 mins)

~~Second Charge~~
~~Sec 11~~
~~ARMY ACT~~

~~WHEN ON ACTIVE SERVICE~~
~~NEGLECTING TO OBEY HOSPITAL STANDING ORDERS~~

~~in that he~~

~~at 24 Canadian General Hospital, neglected to report to the Guard Room when leaving the hospital area.~~ D.F.P.

~~Third Charge~~
~~Sec 24(2)~~
~~ARMY ACT~~

~~LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES~~

~~in that he~~

~~at 24 Canadian General Hospital at 0640 hrs on 3 Aug 45 was deficient of the following articles:~~

~~Vests Woollen~~	~~1~~	~~$1.20~~
~~Brushes Hair~~	~~1~~	~~.34~~
~~Brushes Cloth~~	~~1~~	~~.48~~
~~Discs Identy Sets with cord~~	~~1~~	~~.02~~
		~~$2.04~~
~~Less 25%~~		~~.51~~
	~~TOTAL~~	~~$1.53~~

D.F.P.

~~Prices charged in accordance with Overseas R.O. 5516 as amended by Overseas R.O. 5728.~~

D.F. Porter
(D.F.W. Porter) Colonel RCAMC
Commanding Officer
24 Canadian General Hospital.

The Field, U.K.
3 Aug 45.

To be tried by Field General Court Martial on First Charge.

D/K

R. J. Williams
(R.J.Williams) Lt.Col.
Camp Commandant
Canadian Military Headquarters.

UK 9 Aug 45.

AA [illegible]
RP 87(B).

FIELD GENERAL COURT-MARTIAL

There should [illegible] der his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or see RP 62, and as to [illegible] iliate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, As to reasons for shortn[illegible] privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23.

[illegible] rson to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 108. As to two or more accused charged jointly see RP 16, 109.

Number.	(a) Prmnt R. (b) Appmt, A/[illegible] (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)	[illegible]SED. Christian Names.	Surname.	Unit.
B.26058	Pte	[illegible]nge	DIX	HCAMC 24 Cdn Gen Hosp HCAMC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 9 Aug 45 endorsed by me, (~~or by an offr of my rank or more~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable or duly expedient to convene over a superior qualified offr~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

(~~I am unable to appoint [illegible] Offrs to form the Court, (a) a [illegible] Offr as President [illegible] other Dal Lands.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~I also appoint as Judge Advocate [illegible] Offr [illegible] hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	D. J. CUDDY (Must be named. RP 106.)	Gen List	Patient 24 C.G.H. (Unit.)	

MEMBERS.

Capt.	R.J. WALDIE	RCA	Patient 24 C.G.H.	
Lieut. (Rank.)	G. CAVELL (Named or detailed. RP 106.)	RCOS	Patient 24 C.G.H. (Unit.)	

WAITING MEMBER.

Capt. (Rank.)	D.A. MCGREGOR (Named or detailed, if any. RP 106.)	RCAMC	Patient 24 C.G.H. (Unit.)	

JUDGE-ADVOCATE.

(Must be named, if any. RP 106.)

(Rank.) On Active Service in the Fd in ENGLAND (Country.)

Dat: 9 Aug 45.

R. Holtham J (Rank.)
(Signed personally. RP 105 fn 2.)
(R.J. Williams) Lt.Col. Camp Commandant
Canadian Military Headquarters.
Commanding Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CPA 90. (In lieu of AFA 3 and P & E 1941 (45-46))

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 1(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit. RCAMC
B.26058	Pte		David George	DIX	24 Cdn Gen Hosp RCAMC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 9 Aug 45 endorsed by me, (~~or by an offr of my unit for me~~), "To be tried by Field General Court-Martial". R/S

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified Offr~~) R/S

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) the Offr to form the Court, (b) a GS Offr as President for the reason I have attached hereto.~~ R/S

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate the GS/DA Offr mentioned hereunder.~~ R/S

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	D. J. CUDDY (Must be named. RP 106.)		Gen List	Patient 24 C.G.H. (Unit.)

MEMBERS.

Capt.	R.J. WALDIE		RCA	Patient 24 C.G.H.
Lieut. (Rank.)	G. CAVELL (Named or detailed. RP 106.)		RCCS	Patient 24 C.G.H. (Unit.)

WAITING MEMBER.

Capt. (Rank.)	D.A. McGREGOR (Named or detailed, if any. RP 106.)	RCAMC	Patient 24 C.G.H. (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

Date 9 Aug 45.

R. Williams (Signed personally. RP 105 fn 2.)

(R.J. Williams) Lt.Col. Camp Commandant Canadian Military Headquarters. (Rank.)

Commanding Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

KR Can
Para 557

This is to certify that I have this morning examined

B.26058 Pte DIX, D.G. (RCASC) 24 Cdn Gen Hospital RCAMC

and in my opinion he is fit to undergo trial by Court-Martial.

Capt
RCAMC

Medical Officer 24 Cdn Gen Hosp RCAMC

STATION: 24 Cdn Gen Hospital
England

DATE: 13 August 1945.

Record Form B 2

Exhibit "A"

D/Lt Col Major
President

DEFENDING OFFICER:

Sir, and the Members of the Court: the accused has pleaded guilty and is throwing himself on the Court because he believes that although he knows that he has committed a crime against Military Law, he feels that circumstances behind the reasons for his offence are things that he was unable to avoid.

The accused came over in December 1939. He had been married in Canada since February 1939. He has been over here five years and 6 months or so and in this time he has met another woman in this country and they have had a child which they have put out for adoption and its future is assured and he has looked after that matter.

Now, on 14 July of this year, the accused had a pass from the hospital. He went up to visit his lady friend in London and discovered that she was ill and what was more important, her mother was seriously ill in Haywards Heath. This girl is alone and he has a certain moral responsibility, which the Army does not recognize. He came down here when his pass expired and handed it in. He felt from past experience that it was not much use asking for an extension of time, as previously, as his record will show, this same lady's house in London was bombed and though he applied in the proper way for an extension of leave and went to CMHQ to get it, he was sent back to his unit and had Field Punishment for being late. Now, having had this experience previously, he felt he would not get an extension in this case and went away again.

Each day, he and the lady friend went to the hospital to see the mother and on 26 July the mother died of a brain tumor. The girl was overcome with grief and was not well. He stayed with her and made all arrangements for everything and saw it all through. The mother was buried on 30 July and he took the girl back to London and on 2nd August he reported back here.

I should like to ask the Court to consider this background of the offence in the light of the fact that although it is illegal from the Army point of view, there was little else he could do under the circumstances. I should also like the Court to consider the time he has been over and though he has not a very clear MFM 6, practically all the charges are absence charges. So that all I could ask on behalf of the accused is that he was taking care of responsibilities that he has over here and I would ask the Court to use all the consideration it can in this case.

Exhibit "B"
to Buddy Boyce
President.

SUMMARY OF EVIDENCE

in the case of

B.26058 Pte. David George DIX, RCASC, 24 Canadian GeneralHospital RCAMC, a soldier of the Canadian Army Overseas placed on Active Service, taken by order of Colonel D.F.W. Porter, E.D., Commanding Officer, 24 Canadian General Hospital RCAMC.

CHARGES:
1. ABSENCE WITHOUT LEAVE (Sect. 15(1) A.A.)
2. NEGLECTING STANDING ORDERS (Sect. 11 A.A.)
3. LOSING BY NEGLECT (Sect. 24(2) A.A.)

The Commanding Officer directs that evidence be taken on oath.

FIRST WITNESS

B.155143 Cpl. BASTON, A.K. (RCASC: 24 Cdn Gen Hosp RCAMC) having been duly sworn, states:

I am employed as Cpl Cook at 24 Cdn Gen Hosp. B.26058 Pte Dix D.G. was given a pass expiring at 0500 hrs 14 Jul 45. He was due on duty in the cook-house at the expiration of his pass but did not report for duty. I looked for him but could not find him. I reported him absent from the time he was due back and did not see him again until now.

The accused does not wish to cross examine this witness.

A.R. Baston Cpl.

(A.K. Baston) Cpl. B155143
RCASC, 24 Cdn Gen Hospital.

SECOND WITNESS

B95111 Sgt. HEWITT, W.C. (24 Cdn Gen Hosp) having been duly sworn, states:

I was duty NCO last night. At 2359 hrs it was drawn to my attention at the Guard House that the accused, Pte. Dix, had reported in at the Guard House. Knowing that the accused had been AWL I ordered him to be held at the Guard House and went there and found him and placed him under xxxxxxx close arrest.

The accused declines to cross examine this witness.

W.C. Hewitt Sgt

(W.C. Hewitt) Sgt. B95111
24 Cdn Gen Hospital.

THIRD WITNESS

B.148061 L/Cpl. POWER K.S. (24 Cdn Gen Hosp) having been duly sworn, states:

I was on night duty at the Guard House last night. At 2359 hrs (2 Aug 45) the truck arrived from the station: B26058 Pte Dix D.G. got off and reported to me. He was sober and properly dressed. Knowing that the accused was absent without leave, I reported him to the Duty Sergt who was there and who placed him under close arrest.

The accused declines to question this witness.

K.S. Power

(K.S. Power) L/Cpl. B148061
24 Cdn Gen Hospital.

2/5

FOURTH WITNESS

P.30280 RSM (WOI) Marshall, T.Q. (24 Cdn Gen Hosp RCAMC) having been duly sworn, states:

I am RSM 24 Cdn Gen Hospital.
~~I produce herewith extract of Hospital Standing Orders showing stating that all ranks of Cpl and below will report to Guard Room when leaving the hospital area.~~
Pte Dix had a pass until 0500 hrs 14 Jul 45 at which time he was to be back on duty. His pass was turned in approximately five hours before this, but he did not report for duty. He was not found in camp and had not reported out, subsequent to the time of expiry of his pass.

The accused declines to question this witness.

T.Q. Marshall
(T.Q. Marshall) RSM
24 Cdn Gen Hospital.

FIFTH WITNESS

F57893 L/Cpl BARTLETT T. (24 Cdn Gen Hosp) having been duly sworn states:

I was on Guard Duty at the Guard House of 24 Cdn Gen Hosp on the night of 13/14 Jul 45.
At approximately 2359 hrs, Pte. Dix reported in and handed in his pass in. He went into camp and I did not see him leave again. I remained on duty until 0600 hrs 14 Jul 45.

The accused declines to question this witness.

T. Bartlett
(T. Bartlett) L/Cpl. F57893
24 Cdn Gen Hosp.

The accused is warned:

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

REPLY BY ACCUSED:

I do not wish to say anything at the moment.

Rules of Procedure 4(b), (c),(d),(e) and (f) have been complied with.

Taken down before me in the presence of the accused at Horley Military Hospital, Surrey, this 3rd August 1945.

Norman VanWyck

(Norman VanWyck) Major RCAMC
24 Cdn General Hospital
Officer Directed to Take Summary of Evidence.

Exhibit "B-2"
A/Judge Advocate
President

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B.26058	Pte.	DIX, David George	24 Can Gen Hospital RCAMC (RCASC)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 877, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, provision being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.W.L.	two times	twenty times.
For Drunkenness	nil times	once ~~times~~
For Conduct to Prejudice	nil times	two times.
For	times	times.
For	times	times.

Nil ~~Number of instances of gallantry or distinguished conduct,~~

~~or~~

Nil ~~There are no entries in the conduct sheets of the accused.~~

Nil 2. ~~The accused has not been previously convicted.~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

Nil 3. The accused is not under sentence at the present time, ~~The accused at the present time was awarded imprisonment, on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and eleven (11) days in military custody, making a total of eleven (11) days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 38 years.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 14 Sept 1939.

Nil 7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

Nil 8. ~~The accused is entitled to deferred pay or gratuity in respect of service.~~

Nil 9. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

10. The accused is in possession of, or entitled to, ~~no military decoration or military award (or is in possession of or~~ entitled to (*state any military decoration or reward*) : 1939-43 Star C.V.S.M. & Clasp
Defence Medal

Nil 11. (~~If the accused is a warrant officer.~~) ~~The accused before he was made a warrant officer last held the regimental rank of~~

Nil 12. (~~In the case of an officer.~~) ~~The accused holds in the army the rank of, dated~~ and in his regiment (or corps or department) the rank of, dated

(2)
[illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B.26058 Rank Private Name DIX, D.G. of 24 Cdn Gen/ Hospital Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charge upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
F.G.C.M.	6 Feb 43 The Field.	A.A. Sec. 15(1) Absent from 0630 hrs 2 Jan 43 to 2315 hrs 1 Feb 43. (Absent 30 days 16 hrs 45 minutes)	To undergo Detention for a period of 120 days.	nil

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th day of August 1945.

(G.H. Bourne) Major RCAMC
OIC Records & Registrar 24 Cdn Gen Hosp RCAMC
for Officer Commanding Depot

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

Date of Promotion.

(Instructions.—If any entry is made in any of the above columns caused to result from the regimental books the paragraph must be struck through, except in the case of a trial by field general court-martial the information may be collected from such sources as are available and the sources consulted recorded accordingly.)

No. B26058 Name DIX, D.G. Sqn., Battery, or Company } Corps RCOC Date of enlistment } 14/9/39 G.C. Badges } Tradesmen's Rates of Pay } M.F.M. 6 (A.F.B.122)

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. 2 Signature O.C. Company, etc. } Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				Old sheet destroyed 22 Jun 42 (CARO 2084)					
Field	8-4-40	Spr		AA Sec 15(2) Failed to appear at a place of parade appointed by his Commanding Officer.	Spr Prust Spr Davis	8 days Detn	8-4-40	Henshaw Maj. RCE	Forfeits 1 days pay
Field	20-6-40	"		AA Sec 19 Drunkeness	Sgt White Cpl Bruce	7 days CB	21-6-40	Oddleifson Capt	
Field	16-7-40	"		AA Sec 15(1) AWL 5 days 20 hrs 50 mins.	Spr Cramb Cpl Davies	14 days Detn	25-7-40	Oddleifson Capt	Forf 6 days pay FR&I 149.1
Field	24-8-40	"		AA Sec 15(1) AWL 21 hrs 30 mins	CSM Weedmark	72 hrs Detn	2 Sep 40	EW Oddleifson Capt	
Field	30-9-40	Spr		AA Sec 15(1) AWL 28 hrs 30 mins AA Sec 15(2) Absent from duty.	Sgt Hannah	48 hrs Detn 48 hrs Detn	2 Oct 40	EW Oddleifson Capt	

Exhibit "D" Page 1
[illegible]

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16-11-40	Spr		AA Sec 15(1) AWL 1 hr 20 min	Cpl Rollings	1 days pay	18-11-40	EW Oidleifson Capt	
Field	17-11-40	Spr		AA Sec 15(1) AWL 3 hrs	Sgt Long	2 days pay	18-11-40	EW Oidleifson Capt	
Field	16-3-41	"		AA Sec 15(1) AWL 9 days 23 hrs 16 mins	Cpl Roffe	27 days Detn	27 Mar 41	LF Barnes Lt Col	
Released from the Detn Bks at Witley on Apr 18 1941. Sentence having expired. Remission earned 4 days.									
Field	31 May 1941	Spr		1. AA Sec 40 did drive a WD Vehicle while under the influence of liquor 2. AA Sec 40 did drive a WD Vehicle without proper authority	Lt Bayne	14 days Fd punishment	2 Jun 41	GE Smith Capt	
Field	1 Sep 41	Spr		AA SEc 15(1) AWL 10 hrs	Sgt Davies	7 days Fd punishment	4 Sep 41	GE Smith Capt	
Fld	4 Oct 41	"		AA Sec 15(1) AWL 1 day 7 hrs	Sgt Hannah	21 days Fd punishment	9-10-41	?????	

CERTIFIED TRUE COPY OF MFM 6 IN MY POSSESSION

(G.R. Bourne) Major RCAMC
Registrar & OIC Records 24 Cdn Gen Hosp.

No. B26058 Name DIX D.G. Sqn., Battery, or Company } Corps RCE Date of enlistment } 14/9/39 G.C. Badges } Tradesmen's Rates of Pay } M.F.M. 6 (A.F.B.122)

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. 2 Signature O.C. Company, etc. } Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	29-3-42	Spr		AA SEC 15(1) AWL 7 days 23 hrs 1 minute	L/Cpl Light	14 days Detn	7-4-42	CN Mitchell Lt.Col	
Field	23-8-42	"		AA SEC 15(1) AWL 15 hrs 30 mins	Spr Welsh	Forf 2 days pay AA 46	24-8-42	CN Mitchell Lt.Col	
Field	2/11/42	"		AA Sec 15(1) AWL 14 hrs 30 mins	Cpl Petrie	7 days FP	4-11-42	GH Whyte Col.	
Field	5-12-42	"		AA Sec 15(1) AWL 14 hrs 1 min		14 days Detn	7-12-42	GH Whyte Col	
Field	2 Jan 43	"		AA Sec 15(1) AWL 30 days 16 hrs 45 mins	CSM BENOY	To undergo Detn for a period of 120 days	6 Feb 43	FGCM Finding & sentence of the Court confirmed by Col PR Shields Cmdr "B" Gp 8-2-43.	

Admitted "D" page 4
D/ Buddy Page
Pte

(P.T.O.)

Place	Date of offence	Rank	Cause of inability	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or if order dispensing with trial	By whom awarded	Remarks
Field	17-12-43	L/Cpl		AA Sec 15(1) AWL 3 days 30 mins	S/Sgt Osborne	Reverted to rank of Pte.	22-12-43	Capt WE McInnes	
Field	26-12-43	Pte		AA Sec 15(1) AWL 2 days 22 hrs 19 mins	S/Sgt Osborne	12 days pay	30-12-43	Capt WE MacInnes	
Field	9/1/44	Pte		AA SEC 15(1) AWL 1 day	Sgt Dawson	4 days pay	12-1-44	Maj CJ Carter	
Field	24-8-44	"		AA SEC 15(1) AWL 21 hrs	Lt WH Stewart	7 days FP	28-8-44	HW Woods Lt.Col.	
Field	31-5-45	"		AA SEC 15(1) AWL 12 days 20 hrs		21 days Detn	13-6-45	Col FB Bowman	13 days pay FR&I 149

CERTIFIED TRUE COPY OF DOCUMENT IN MY POSSESSION

(G.R. Bourne) Major RCAMC
OIC Records & Registrar 24 Cdn Gen Hosp.

5 Q-14

Mt Dixon Q.

8

13 P.S.

No. P-87981 Name DIXON A | Sqn, Battery, or Company | Corps CIC | Date of enlistment | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 46/PAY/136 15418

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Nov 44	Pte		(1) WOAS AWL from 1855 hrs 7 Nov 44 until 1800 17 Nov 44 (Absent 10 days 55 mins) AA sec 15 (1)	Sgt J J Wharrie L cpl EASTMN S				
Field	17NOV 44	Pte		(2) WOAS an act to the prejudice etc in possession of a false pass AA Sec 40	L cpl Swasing D	Forf 15 days pay PRMI 149(1)	24 Nov 44	Capt V H Road CC	Forf 11 day Pay PRMI 140 (1)(a)
						to replace kit at own expense			Total forf 26 days pay
	7 Nov 44			(3) WOAS Losing by neglect his equipment & regtl neces aries, i.e. was deficient in kit to a full value of $64.81 and a value of unexpired wear $60.64 AA Sec 24(2)	L-11002 Sgt E O'Donnell EM	on 513 in the amount of $64.81			

Certified true copy [illegible] possession (PTO)

No. F-87981 Name DIXON A | Sqn, Battery, or Company | Corps | Date of enlistment 3 Jun 41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/136 (1413)

Date of last entry in Company Conduct Sheet 29 Jul 41 | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc H W Powell Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	Previous Sheet			destroyed on completion of six months service		13 Dec 41			
Field	1 Jan 43	Pte		AA 40 Improper use of Cdn MT Vehicle	L cpl Woods Sjt Rose DOC	28 days pay	8 Jan 43	Lt Col Mothersill	
Field	4 Oct 43	Pte		WOAS A WAL from 0300 hrs 4 Oct 43 to 1230 hrs 5 Oct 43 (Absent 1 day 9 hrs 30 mins) AA 15 (1)	CSM Harvey W	Admonished	5 Oct 43	H W Powell Major	Auto forf 2 days pay QR&I 149(1)(a)
Field	31 Oct 43	Pte		AA 15(1) AWL from 2359 hrs 31 Oct 43 to 1610 hrs 1 Nov 43 (Abs 16 hrs 11 min)	Pte Gorman Doc	2 days pay	1 Nov 43	D Sarvis Lieut	1 day 149-1- 2 dys pay 149-2
Field	19 Dec 43	Pte		AA 8 c 40 WOAS Improperly dressed	Doc	3 days pay	21 Dec 43	[illegible] Lt col	QR&I 149-2

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon	Jan 30 44	Pte		WOAS Sec 40 Improperly dressed	Documentary	7 days CB	Feb 3 44	Lt-Col	
Field	13 Mar 44	Pte		WOAS AWL 4 hrs	Cpl Adams CB	2 days Forf of pay	16 Mar 44	Major J R Hapwood	
Bordon	15 Apr	Pte		WOAS AWL 3 days 1 hr 10 mins	Doc	5 days pay	27 Apr	Major White	3 days Auto forf
London	15 Apr	Pte		WOAS Improperly Dressed	Doc	8 days CB	27 Apr	" "	
Field	13 Jun 44	Pte		Sec 15 (1) AA AWL in that he at "AA" Bldg did absent himself 1st cut leave from 0930 hrs 13 Jun 44 until 1200 hrs 13 Jun 44 Total time absent 2 hrs 30 mins	B53474 Spl Constable J.	14 days CB	14 days	CB 14 6 44	W Steele Lt col
Field	16 Jul 44	Pte		WOAS AWL while on Can Force Leave from 2400 hrs 16 Jul 44 to 0025 17 Jul 44 Total 1 hr 25 mins	Sjt Windeyer NC	2 days FP and Forf of pay	18 Jul 44	Col WJ Wingham	Total Forf 5 days pay. Total 149 1 b.

EJB
MC

Army Form B 296 (War)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martials only)

Number	Rank	Name	Regiment (or as the case may be)
7-870[illegible]	Pte	DIXON A	X4 List (13Dn) Essex Scottish - 1 Cdn Disc Centre

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court-martial or a civil court:-

For Sec 35 (1) 2 6 times

For Sec 40 1 5 times

For S.o.24 (2) 1 1 times

For _____ _____ times

Date of first entry in Field Conduct Sheet 8 Jan 43

Date of last entry in Field Conduct Sheet 7 Nov 44

2. Previous convictions of the Accused by a Cour-Martial or a civil court are set out in the Schedule overleaf.

3. The accused at the present time is under sentence for N/A

beginning on the N/A day of N/A.

4. The accused has been awaiting trial on the present charges for Nil days in civil custody and for 25 27 days in military custody, i.e. NO days in Open Arrest 25 27 days in Close Arrest, of which NO days were spent in hospital.

5. The present age of the accused is 22 years 3 months old.

6. The date of his Attestation is 3 Jan 41.

7. The service which the accused is allowed to reckon _____.

8. The accused is in possession of CVSM & CLASP.

9. (If the accused is a warrant Officer or NCO). The accused has served continuously without reduction, to the present date:-

	Date of Promotion
In the substansive rank of _____	_____
In the War substansive rank of _____	_____
In the acting rank of _____	_____

SCHEDULE OF CONVICTIONS BY COURT MARTIAL OR CIVIL COURT

I HEREBY CERTIFY that the foregoing particulars which have been extracted from the regimental books in my custody are correct to the best of my knowledge and belief.

Signed this 11 day of Jun 1945

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-87981 Pte Angus DIXON X-4 List (13 Bn) Essex Scot att 1 Cdn Disciplinary Centre

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA sec 15 (1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~(1) present under sentence for~~ (beginning on (date))

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 27 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a Period of 150 Days

(Sgd) Judge-Advocate, if any. Date awarded. 11 June 45 (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 44(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the aforesaid be not promulgated for periods of detention beyond such further orders~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) (J G Spragge) Brigadier
Commanding 2 CDN BASE RPT GP
Confirming Officer.

Date 13 JUN 45

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

F87981 PTE ANGUS DIXON 19 JUNE 45 W J Richmond Lt-Col

CR 592 (SHEET 1 ISSUE)

d/19 Jan 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 150 K 159-14

FIELD GENERAL COURT-MARTIAL

CPA66 (To replace AFA3) 40-P-A&E-(4035)-4/388

Convened by Order of Brig J G Spragge DSO OBE CD 2 CBRG dated 21 May 45

RECEIVED 30 JUN 45 JAG BRANCH N.D.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, (b) Appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Permt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-87981	Pte		Angus	DIXON	X-4 List (13 Bn) Essex Scot att 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

~~HOLLAND~~ BELGIUM on (date(s)) 11 JUN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 84/24

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused ~~Do you object to~~ as interpreter? Ans ~~No~~

~~Do you object to~~ as shorthand writer? Ans ~~No~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71. (8, MML p 742.))

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G G MacKENZIE MBE	FGH	Cdn C M Centre
Member	CAPT	PJ POULIN	RCA	Cdn Com Centre
Member	CAPT	GK BISSETT	CHQ	Cdn Com Centre
Judge-Advocate				
Prosecutor	CAPT	KR MACKENZIE	CIC	Cdn Com Centre
Defending Offr	CAPT	AJ THOMPSON	CIC	Cdn Com Centre

Questions by President: Is the Prosecutor a lawyer? Ans ~~Yes~~ Is the Defending Offr a lawyer? Ans ~~Yes~~ (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be recorded separately with proceedings for information of Court Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused F-87981 Pte Angus DIXON before arraignment makes(s) (no) ~~no~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsF cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRG Vol. 7. p. 125

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto; or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M.M.L. p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accusod the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans. No.[5]

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his plea(s) (three pleas) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.[1]

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.[1]

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 2.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....[1]

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.[1]

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.[1]

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ..... Do you intend to call witnesses on your behalf? Ans. ..... Are they witnesses as to character only? Ans. .....

(1. RP 115. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1; 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(A).)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.

(1. RP 40, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.[1]

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]

(1. AA 54(3) (d), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative pronouncement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B ter C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?[1] Ans. Witness as to character.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 3. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.[3]

(1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?[1] Ans. Ex B & C.[2]

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 343-346. Overseas RO 309, 2303. MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 44(1)(i), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 304. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 347. As to assembly and disposal of record after trial see insert on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
F-87981	Pte		Angus	DIXON	X-4 List (13 Bn) Essex Scot att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 21 May 45 endorsed by me, ~~(or by an offr of my staff for me),~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.;~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	G G MacKENZIE MBE *(Must be named. RP 106.)*	FGH	Cdn C M Centre (Unit.)

MEMBERS.

Capt	P J POULIN	RCA	Cdn C M Centre
Lieut (Rank.)	G K BISSETT *(Named or detailed. RP 106.)*	CH o f O	Cdn C M Centre (Unit.)

WAITING MEMBER.

(Rank.)	*(Named or detailed, if any. RP 106.)*	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	*(Must be named, if any. RP 106.)*	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 21 May 45

(Signed in ink. RP 105 fn 2.)
(J C BRAGGE)
Commanding 2 Cdn Base Rft Gp
Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, F-87981 Pte Angus DIXON, M4 List (13 Bn) Essex Scottish Regt, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 1000 hrs 25 Nov 44 until apprehended at 0001 hrs 6 Mar 45.

(Total absence: 100 days 14 hrs 1 minute)

Remanded for Summary of Evidence

In the Field
18 May 45

(J W Medhurst) Lt col
Commanding
1 Cdn Discipline Centre

Remanded for Field General Court-Martial

In the Field
18 May 45

(J W Medhurst) Lt col
Commanding
1 Cdn Discipline Centre

To be tried by Field General Court-Martial

In the Field
21 May 45

(J G Rivers) Brigadier,
Commander
2 Cdn Base Rft Gp

CASE OF

F. 97981. Pte DIXON, Angus. (Essex Scot)

First witness for the Defence.

Capt. R.W. Meanwell Adj 1/Bn. Essex Scottish, having been duly sworn, identifies the accused and states; Pte Dixon was posted to us on April 18 as reenforcement and was immediately put on strength of C' Coy, a rifle Coy. He was not under arrest until receiving a message from this Unit on the afternoon of May 14 18. There was no charge against him up to that time. Not to our knowledge. Reports I had on the accused, conduct from April 18 to May 14 18 have been good, and in that time, he committed no breach of discipline.

RP23B Completed with,
S/J Forbes Q/1

Case of F 87981 Pte Dixon A. 4 E3

Mitigation Plea

The accused enlisted in Jun 41, and came to France with his unit about (Sep) 44, serving in a rifle company until he was wounded at the beginning of November (October) & sent to hospital. He and a friend were put in a ward with some Germans, and were unable to get any pay, and received only seven cigarettes a day. They got fed up with this being treated no better than the Germans, and on leaving the hospital they went on a drunk, and while they were drunk they went A.W.L.

The accused subsequently was to 20 Cdn General Hospital to have a cut hand dressed, and told them there that he was A.W.L. From there he was sent to 9 British and then to 106 British hospital, and thence to 11 Bn. From there he was sent to his unit, and not being under arrest or charged he was posted to a rifle company where he served in action from 15 Apr. until V E day, and he was not charged with this offence until 15 May.

In view of his previous good service and the fact that he was wounded, and particularly in view of the fact that since returning to his unit he served in action and conducted himself well, I would ask the court to be lenient in punishment.

J. Thompson Capt.
Defending officer

Ex A-
16

Summary of Evidence in the case of F-87981 Pte DIXON A, X4 List (13 Dn) Essex Scottish Regt, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt II Order No 82 dated 14 Dec 44

Exhibit "B" - Certified true copy of Extract from Pt II Order No 57 dated 7 May 45

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

M. Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

Dated in the Field
18 May 45
MR

Exhibit A
M Rousseau Capt

PART II ORDER EXTRACT FORM

TO:

99/20/

19

EXTRACTS FROM: UNIT X4 List (13 Bn) ESSEX SCOTTISH REGT

Part II Order No. 82 dated 14 DEC 44

ABSENT WITHOUT LEAVE

A.W.L. from 1000 hrs 25 NOV 44 (X4 List 13 Bn)

R87981 Pte DIXON A

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records
Cdn. Sec. 2 Ech. HQ. 21 A Gp.

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

Originating Clerk's Initials WVG for (JR FIELDEN) CAPT for Officer in Charge Canadian Section, GHQ, 2nd Echelon

1/70 [illegible] 40/7 & S/1276 (6794)

Exhibit 'B'
M Rousseau Capt

PART II ORDER EXTRACT FORM

TO: AG

99 ~~RX~~ 34/X-ESSEX SCOTS/1(A5C3)

7 May 19 45

EXTRACTS FROM: UNIT X-4 List (11 Bn) ESSEX SCOTTISH REGT

Part II Order No. 57 dated 7 MAY 45

STRENGTH DECREASE

TOS X-4 List (11 Bn) on app from des wef 0001 hrs 6 MAR 45.

F87981 Pte DIXON A

The following documents are { attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records
Cdn. Sec. 2 Ech. HQ. 21 A Gp.

Originating Clerk's Initials WVG

for Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 [illegible]

LIST OF ENCLOSURES

NIL

Certified true copy of Extract from Pt II Order No 82 dated 14 Dec 44	"A"
Certified true copy of Extract from Pt II Order No 57 dated 7 May 45	"B"

144.T.

L/Cpl. DIXON, C.

App C.

(1) I hereby acknowledge that I have been served with a true copy of the summary of evidence taken at Jasper Camp, Witley, Surrey, preliminary to my Court-martial. I further acknowledge that I have been served with a true copy of the charge upon which I am being brought to Court-Martial.

Dated at Witley, Surrey,
this 25th day of
November, 1942

L Dixon

(2) I hereby acknowledge that I have been served with a true copy of an additional summary of evidence taken at Jasper Camp, Witley, Surrey, preliminary to my Court-martial.

(3) I hereby request that the Convening Officer to appoint an Officer to represent me at my trial.

I desire the services of Lieut. L.A. Kitz if he is available.

Dated at Witley, Surrey,
this 25th day of
November, 1942.

L Dixon

A.E.T. Paquet Draftsman

Π.Ε.Ε. Γεφυρών Δημοσίων Έργων

E1.

A.F.B.296

STATEMENT as to CHARACTER & PARTICULARS of SERVICE of ACCUSED.

P-79582 L/Cpl. Cecil Dixon, C.B. Highrs, 5 C.I.R.U. (Arm'd Div.)

1. The following is a fair and true summary of the entries in the regimental conduct sheet of the accused, exclusive of convictions by a court-martial or a civil court, and of cases in which trial has been dispensed with:

	Within last 12 months	Since Enlistment
	2	2

Number of instances of gallantry or distinguished conduct. NIL.

2. The accused is not under sentence at the present time.

3. The accused has not been previously convicted by a Court-Martial or a civil Court.

4. The accused has been in confinement, awaiting trial on the present charges, for 0 days in civil custody, and 2 days in military custody, making a total of 2 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 20 years, 321 days

6. The date of his attestation specified in his attestation paper is 26 Nov 41.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 367 days

8. The accused is entitled to deferred pay or gratuity in respect of 367 days Service.

9. The accused is entitled to reckon 367 days service for the purpose of determining his pension, etc.

10. The accused is in possession of or entitled to no military decoration or military reward.

SCHEDULE

of convictions by a court-martial or a civil court and of cases in which trial has been dispensed with of the accused.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Jasper Camp,
Witley, Surrey
25 Nov 42

(R.A.C. Johnson) Lieut.
RECORDS OFFICER
5 C.I.R.U. (Arm'd Div.)

A.E.C. Inquiry Major
President

No. F79582 L/Cpl. Name DIXON, Cecil | Sqn., Battery, or Company: CBH | Corps: 5 CIRU(AD) | Date of enlistment: 26-11-41 | G.C. Badge: | Service or Proficiency Pay: | M.F.M. 6 (A.F.B. 122) 175M—7-41 (1215-39) H.Q. 1772-39-1052

Date of last entry in Company Conduct Sheet: NIL | No. and date of last drunk: NIL | Period not reckoning towards freedom from extra fine: | Sheet No. 1 | Signature O.C. Company, etc.: A.L. Porter Capt. | Character:

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Embarkation Leave granted from 9-3-42 until 15-3-42 O.C. "G" Coy. #14 A.I. (R) T.C. (CA)					
Field.	3-8-42	Pte.		W.O.A.S. Absent without leave from 1200 hrs 2-8-42 until 0215 hrs 3-8-42. Total 14 hrs, 15 mins A.A. Sec 15 (1)	L/Cpl. Banks C.	7 Days CB	3-8-42	N.D. Theobald Major	Forfeits 1 Days Pay FR&I 149 (1) a
Field.	9-10-42	L/C.		W.O.A.S. Neglect to the Prejudice etc., A.A. Sec 40	Cpl. Blenkhorn	Reprimanded	10-10-42	A.B. Noble Lt-Col.	

O.C. C & MGRS. COY.

CERTIFIED TRUE COPY

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dismissing with sess	By whom awarded	Remarks

A. J. Ellis Major

CERTIFIED TRUE COPY

O.C. C & H.Qrs. Coy.
5 C.I.B.G. (ARM'D. DIV.)

A.B.T. Rapier Capt
for Adjutant

B 5

LIST OF WITNESSES

In the case of F-79582 L/Cpl. Cecil Dixon, C.B. Highrs., on strength of 5 C.I.R.U. (Arm'd Div.), a soldier in the Canadian Army Overseas.

FOR THE PROSECUTION

1. C-5573 Cpl. S.F. Ray, No. 7 Provost Coy., Canadian Provost Corps.

2. A-3308 L/Cpl. M.J. Higgins, No. 7 Provost Coy., Canadian Provost Corps.

3. Police Constable 307, Owen Hovilard Beach, Mobile Police Station, Godalming.

4. Temporary Constable 55, Albert Harry Hall, County Police, Godalming.

5. Temporary Constable 89, George Albert Johnson, County Police, Godalming.

FOR THE DEFENCE

NIL

R.C.T. Paquet Instr Pnrs

A.C.T. Paquet Mafra

Summary of Evidence in the Case of P 19582 Pte Cpl
Cecil Dixon, Canterbury

The accused was cautioned as follows:-
Do you wish to make any statement or to give evidence on
oath? You are not obliged to say anything or give evidence
unless you wish to do so, but whatever you say or any
evidence you give will be taken down in writing and may be
given in evidence

The accused has been duly warned in accordance with
Rule of Procedure 41 (2) and reserves his defence.

I certify that the foregoing Summary of Evidence consisting
of nine pages was taken down in the presence and hearing of
the accused and that Rules of Procedure 41 (2) (4) (5) and (6)
have been complied with.

M.J. Bell Capt
Main Body Summary

Cooper Corp
Withy Summ
N Zeal Ex

M.C.T. Raquel Major for

Q2. If I was fighting, do you know the man with whom I was fighting?
A2 - I don't know the name but the man he was fighting had a
young lady with him.
Q3. Could you identify the man I was fighting with?
A3. No, because there were so many in the room.
Q4. How can you identify me and not the other man
A4. Because he was white & had his hat off
Q5. How could you identify me since there were other colored soldiers
present?
A5. Because you were standing inside the door and one of the other
men, a Cpl, tried to pull you out of it.
Q6 Were you present when I was told to pay for the glasses which
were broken?
A6 - I don't remember that
Q7. Were you present when the Cpl told me not to pay for the glasses
but to stop & stop the fight
A7 - I did not hear him say that

H. C. T. Paquet Major
Pres

G. A. Johnson T649

Summary of Evidence in the Case P79582 Hyde Accd dismissed Cost 9

Fifth Witness
For the Prosecution

George Albert Johnson, Temporary Constable 79 County Police, Featherston Station, being duly sworn states:

I am George Albert Johnson, Temporary Constable 79 County Police, Featherston Station. I was on duty 13 Nov 42 at about 2100 hrs, 13 Nov 42 I was called by the landlord of the Duke of Wellington Public House because soldiers were fighting there. When I arrived at the public house I found a fight in progress. I recognise the accused as being one of the men in the public house. The participates in the fighting with the help of the Landlord I stopped the fight and became of the disturbances I ordered the Landlord to close. The men went then to my Station about 2135 hrs I was called to the Church Hall in Cooper St Extn. When we arrived we found general fight in progress. The accused was in the hall but I cannot prove that he was mixed up in the fighting. The fighting continued until it came beyond our control. I then sent for help to the police station. Help came but the fighting continued until it resembled the proportion of a riot. The Canadian Provost had arrived on the scene by this time. On the fighting which continued One of the Provost was injured and I saw him wearing bandages. After that I heard they sergeant call for help and went to his assistance. He had been hit on the helmet with a brick. I tried to get him up but was hit by a piece of brick. I do not know who hit me. I helped to carry the sergeant to the room of the Hall where he was given attention before being removed to the hospital for further treatment.

Cross - examined by the accused

Q1 Was I fighting in the hall or trying to stop a fight?

A1. You were fighting

A.C.T. Paquet Traffic Provost

Summary of Evidence in the case of T 7952 Dept Civil Service
Cont'd

The account declares to cross-examine the witness

- A.H. Hull. T.C. 55
of Ottawa.

R.C.T. Paquet Stenographer.

Depositions of Evidence in the case of R v Joseph Lucas and Others

Q1 - Did you tell me in the Lecture Hall where the statements were being taken that I did not have anything to do with the fight.

A1 - I cannot remember.

Q2. Didn't you say that I was standing at the back of the hall when the argument was going on.

A2. I did not say that.

Q3. Did you see me hit any of the Provost.?

A3. No, I did not.

Amery H Branch

Pc 307.

Sworn & taken
In the Presence

Temporary Constable 55. Albert Harry Hall, County Police, Bodalwing station, being duly sworn states:

I am T.C. 55 Albert Harry Hall, temporary Constable of the County Police, Bodalwing station. I was on duty on 12 Nov 42. I was in plain clothes. I was at the Chemist Hall at about 2000 hrs. There was a fight at the street door about 2030 hrs. I had been told by my sergeant that there would be two constables patrolling between the ends of Wellington St and Tinsdale and the Chemist Hall. When the disturbance arose I went outside and joined the Constables. On going back there was a number of fights in the hall. I could see that we were going to be outnumbered so I rang up Bodalwing Police Station for more assistance. During my absence one of my Colleagues, T.C. Smith was hit over the eye. I can identify the accused as being present in the hall.

A.E.T. Paquet Magistrate

Testimony of witness in the case of P. 79582 Pfc Cecil Wade - Cont'd

back part of the Church Hall where there were fights going on. When we tried to break up these fights, we were again attacked by Pvt C.B. Hughes - one of these men with whom I was fighting I can now identify as Pfc Wade. It was then that Pfc Jewell threw a tea pot which hit Pfc Kay. Cpl Kay tried to arrest Cpl Jewell when Pfc Wade tried to intervene

Cross examined by accused

Q1. Was I fighting in the dance hall?
A1. I didn't see you in the dance hall.
Q2. Did you tell me I was in the kitchen
A2. Yes
Q3. What with?
A3. With your fist
Q4. Did I hit Cpl Kay with anything?
A4. No, I did not see you strike Cpl Kay
Q5. Were you in the Ground House the day the Accused was questioning me?
A5. No, I was not there
Q6. Were you the fellow questioning Clayton?
A6. No, it was not me
Q7. Were you in the kitchen when I was taking a number fellow out of the door
A7. I don't remember seeing that
Q7. Were you present during the time I was giving my statement
A7. Just part of the time I was in only entered room, when accused.
Q1. Were you present when the police were questioning me?
A1. I was there part of the time
Q9. Were you there when I first came in?
A9. Yes.
Q10. What did the policeman say when I first came in?
A10. I think he said I'm saying that I saw you fighting in the dance hall.

D.C.I Request that P.C. ——

Q10 - Do you say that I was fighting in the dance hall

A-10 - I am not sure

Q11 - How many times did I hit you in the dance hall?

A11 - Just once

Q12 - Did I knock you out

A12 - No

Q13 - Did I knock you off your feet?

A13 - No.

Q14 - How comes I hit you & still took the number ten out of the hall

A14 - I did not say that I saw you take a number ten out of the hall.

- M. J. Higgins

This is the statement made by the prosecutor

Police Constable 307, Wm Howland Brand, of the Mobile Police station, Godalming being duly sworn states.

I am P.C. 307, Wm Howland Brand, of the Mobile Police station, Godalming. I was on duty on 13 Nov 47. at about 2145 hrs in response to a telephone call I attended the Liberal room Hatteban Rd, Farncombe where there was a disturbance. I had difficulty in getting access to the hall as soldiers and girls were rushing out. When I entered the hall a temporary police Constable, Smith, by name, had been injured. Dancing was about to stop and there were a number of soldiers still left in the dance hall. The soldiers' room was in a ferment about to leave the hall. I entered the hall and saw the accused. When I was arranging, I saw the accused fighting but cannot say who he was fighting with as there were other people fighting on

Cross-examined by the accused

W.C.T. Piquet Inspr [illegible]

Preliminary Evidence of the Cons J 7958 Hqpl Cecil Burton
Continued.

Q3. Did you say that I helped Hqpl Jewell to beat you
A3. You did in a way until Hqpl Johnson came to help me.
Q4. Did you tell me in the Guard Room that I was the one
who hit you with the bottle.
A4. No, I did not.
Q5. When I asked you in the Guard Room if I was the one
who hit you with the bottle, didn't you say, That it would not
at most have been Hqpl Jewell.
A5. No, I did not.
Q6. When the Provost asked you if I was up on any charge,
didn't you reply, yes, that he and I is up for hitting me with a
quit bottle
A6. I don't remember
Q7. Did you see me take a drunken man out of the hotel?
A7. No, I never saw you.
Q8. Were you present when I gave my statement to the Police
A8. Yes

Cpl. Roy. S. Fr.

Record Police

For the Prosecution

A 3308 Hqpl Higgins M.J. No. 7 Provost Coy, Canadian Provost Corps, a soldier in the Canadian army witness, being duly sworn states:

I am A3308 Hqpl Higgins M.J. No. 7 Provost Coy, Canadian Provost Corps. I was on duty in Bedalming on 13 Oct. I was on duty with Cpl Roy. S.F. At about 2.00 hrs that night we were told to report to the dance hall at Fauvelle as there might be some trouble there. When we arrived at the dance hall which is also known as the Church Hall. There were several fights going on between members of the C.A Rughes and Calgary Highers. We tried to break these fights up while we were trying to break up the fights we were attacked by several members of the C.A Rughes. After we broke up these fights I proceeded with Cpl Roy to the

(B4)

Summary of Evidence 1958

Summary of Evidence in the case of Cpl Cecil Brown, C.A. (Regular), on the strength of 5 C I U (A D) A Saskatoon in the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

First witness

The Prosecution

C5573 Cpl. Ray, D.F. No.1 Provost Corps, a soldier in the Canadian Army Overseas, being duly sworn states:

I am C5573 Cpl Ray, D.F. No.1 Provost Corps. I was on duty on the 13 Nov 42. At approximately 0700 hours 13 Nov 42 Cpl Higgins and myself were called to the Armed Hall, Fameche, to quell a disturbance. On arriving there we found a terrible fight going on. As the main fight was going on in the kitchen of the Canteen Hall we at once proceeded there. Soon as we arrived there and they saw that we were Provost they immediately attacked us. We then pulled out our revolvers and arrested them for creating disturbance. Members of the Fameche Police who were also present came to our assistance. Cpl Jewell threw a tin pot which struck me on the side of the head. In trying to arrest him he was identified as Cpl Johnson came to our assistance, we found myself engaged in a fight with both Cpl Johnson and Cpl Jewell. Cpl Johnson of the Provost then came to my assistance and Cpl Higgins was put outside. During the fight I noticed that Cpl Higgins was one of the men who were throwing things about the room.

Cross-examined by the accused

Q1 Where was I when I was throwing the stuff

A1 In the kitchen

Q2 Did you say I jumped on you

A2 Yes, I think

R.C. Provost Corps

SUMMARY OF EVIDENCE

In the case of F-79582 L/Cpl. Cecil Dixon, C.B. Highrs. on strength of 5 C.I.R.U. (Arm'd Div.) a soldier in the Canadian Army Overseas.

By direction of the Commanding Officer the Summary is taken on oath.

FIRST WITNESS
FOR THE PROSECUTION

C-5573 Cpl. Ray, S.F., Provost Corps, a soldier in the Canadian Army Overseas, having been duly sworn states:

I am C-5573 Cpl. Ray, S.F., No. 7 Provost Coy., I was on duty on 13 Nov. 42. At approximately 2200 hours 13 Nov. 42 L/Cpl. Higgins and myself were called to the Church Hall, Farncombe, to quiet a disturbance. On arriving there we found a terrible fight going on. As the main fight was going on in the kitchen of the dance hall, we at once proceeded there. As soon as we arrived there and they saw that we were Provost, they immediately attacked us. We then pulled our revolvers and used them for our own protection. Members of the Godalming Police who were present came to our assistance. L/Cpl. Jewell threw a teapot which struck me on the side of the head. On trying to arrest him, the man I now identify as L/Cpl. Dixon came to his assistance and I found myself engaged in a fight with both L/Cpl. Dixon and L/Cpl. Jewell. L/Cpl. Johnson, of the Provost, then came to my assistance, and L/Cpl. Dixon was put outside. During the fight I noticed that L/Cpl. Dixon was one of the men who were throwing things about the room.

Cross-examined by the accused.

Q.1 Where was I when I was throwing the stuff?
A.1 In the kitchen.
Q.2 Did you say I jumped on you?
A.2 No, I didn't.
Q.3 Did you say that I helped L/Cpl. Jewell to beat you?
A.3 You did in a way, until L/Cpl. Johnson came to help me
Q.4 Did you tell me in the Guard Room that I was the one who hit you with a bottle?
A.4 No, I did not.
Q.5 When I asked you in the Guard Room if I was the one who hit you with the bottle, didn't you say, that if it wasn't you it must have been L/Cpl. Jewell?
A.5 No, I did not.
Q.6 When the Provost Sergeant asked you if I was up on any charge, didn't you reply, yes, that he (Dixon) is up for hitting me with a milk bottle?
A.6 I don't remember.
Q.7 Did you see me take a drunken man out of the kitchen?
A.7 No, I never saw you.
Q.8 Were you present when I gave my statement to the Police?
A.8 Yes.

S. F. Ray.

Signed:
(S.F. Ray,) Cpl.

SUMMARY OF EVIDENCE

In the case of F-79852 L/Cpl. Cecil Dixon, (Cont'd)

SECOND WITNESS
FOR THE PROSECUTION

A-3308 L/Cpl. Higgins, M.J. No. 7 Provost Coy., Canadian Provost Corps, a soldier in the Canadian Army Overseas, having been duly sworn states:

I am A-3308 L/Cpl. Higgins, M.J. No. 7 Provost Coy., Canadian Provost Corps. I was on duty in Godalming on 13 Nov. 42. I was on duty with L/Cpl. Ray, S.F. At about 2200 hours that night we were told to report to the dance hall at Farncombe as there might be some trouble there. When we arrived at the dance hall, which is also known as the Church Hall, there were several fights going on between members of the C.B. Highrs. and Calgary Highrs. We tried to break the fights up. While we were trying to break up the fights we were attacked by several members of the C.B. Highrs. After we broke up these fights we went into the back part of the Church Hall where there were more fights going on. When we tried to break up these fights we were again attacked by same C.B. Highrs. One of these men with whom I was fighting I can now identify as L/Cpl. Dixon. It was then that L/Cpl. Jewell threw a teapot which hit L/Cpl. Ray. Cpl. Ray tried to arrest L/Cpl. Jewell when L/Cpl. Dixon tried to intervene.

Cross-examined by the accused.

Q.1 Was I fighting in the dance hall?
A.1 I didn't see you in the dance hall.
Q.2 Did I hit you while I was in the Kitchen?
A.2 Yes.
Q.3 What with?
A.3 With your fist.
Q.4 Did I hit Cpl. Ray with anything?
A.4 No, I did not see you strike Cpl. Ray.
Q.5 Were you in the Guard House the day the Provost Sergeant was questioning me?
A.5 No, I was not there.
Q6 Were you the fellow questioning Clayton?
A.6 No, it was not me.
Q.7 Were you in the kitchen when I was taking a drunken fellow out of the door?
A.7 I don't remember seeing that.
Q.8 Were you present when the police were questioning me?
A.8 I was there part of the time.
Q.9 Were you there when I first came in?
A.9 Yes.
Q.10 What did the policeman say when I first came in?
A.10 I think he said, "I'm saying that I saw you fighting in the Farncombe dance hall.
Q.11 Did he say that I wasn't fighting in the dance hall?
A.11 I am not sure.
Q.12 How many times did I hit you in the dance hall?
A.12 Just once.
Q.13 Did I knock you out?
A.13 No.

B4 (3)

SUMMARY OF EVIDENCE

In the case of F-79852 L/Cpl. Cecil Dixon, (Cont'd)

SECOND WITNESS
FOR THE PROSECUTION (Cont'd)

Q.14 Did I knock you off you feet?
A.14 No.
Q.15 How could I hit you and still take the drunken man out of the hall?
A.15 I did not say that I saw you take a drunken man out of the hall.

Signed: M.J. Higgins

(M.J. Higgins) L/Cpl.

THIRD WITNESS
FOR THE PROSECUTION

Police Constable 307, Owen Hovilard Breach, of the Mobile Police Station, Godalming, being duly sworn states:

I am Police Constable 307, Owen Hovilard Breach, of the Mobile Police Station, Godalming. I was on duty on 13 Nov. 42. At about 2145 hours, in response to a telephone call, I attended the Church Tottenham Road, Farncombe, where was a disturbance. I had difficulty in getting access to the hall as soldiers and girls were rushing out. When I entered the hall a temporary Police Constable, Smith, by name, had been injured. Dancing was about to stop and there were a number of soldiers still left in the dance hall. Other soldiers and women in the kitchen were about to leave the hall. I entered the hall and saw the accused, whom I now recognize, present. I saw the accused fighting but cannot say who he was fighting with as there other fights going on.

Cross-examined by the accused.

Q.1 Didn't you tell me in the lecture hall, where the statements were being taken, that I didn't have anything to do with the fights?
A.1 I cannot remember.
Q.2 Didn't you say that I was standing at the back of the hall when the argument was going on?
A.2 I did not say that.
Q.3 Did you see me hit one of the Provost?
A.3 No, I didn't.

Signed: Owen H Breach.

(Owen Hovilard Breach)
P.C. 307.

FOURTH WITNESS
FOR THE PROSECUTION

Tempoary Constable 55 Albert Harry Hall, County Police, Godalming Station, having been duly sworn states:

A.C.T. Paquet Major for

B4(4)

SUMMARY OF EVIDENCE

In the case of F-79852 L/Cpl. Cecil Dixon. (Cont'd)

FOURTH WITNESS
FOR THE PROSECUTION (Cont'd)

I am Temporary Constable 55, Albert Harry Hall, County Police, Godalming Station. I was on duty on 13 Nov. 42. I was in plain clothes. I was at the Church Hall at about 2000 hours. There was a bit of a scuffle at the entrance door about 2030 hours. I had been told by my Sergeant that there would be two Constables patrolling between the Duke of Wellington, at Farncombe and the Church Hall. When the disturbance arose I went outside and picked the Constables. On going back, there were a number of fights in the hall. I could see that we were going to be outnumbered, so I rang up Godalming Police Station for more assistance. During my absence, one of my colleagues, Temporary Constable Smith, was hit over the eye. I can certify the accused as being present in the hall.

The accused declines to cross-examine this witness.

Signed: Albert Harry Hall. T.C.55.

(Albert Harry Hall)
T. C. 55
Godalming.

FIFTH WITNESS
FOR THE PROSECUTION

George Albert Johnson, Tempory Constable 89, County Police, Godalming Station, having being duly sworn states:

I am George Albert Johnson, Temporary Constable 89, County Police, Godalming Station. I was on duty 13 Nov. 42. At about 2100 hours, 13 Nov. 42 I was called by the landlord of the Duke Of Wellington Public House, because soldiers were fighting there. When I arrived at the Public House I found a fight in progress. I recognized the accused as being one of the men in the Public House. He participated in the fighting. With the help of the landlord I stopped the fightand because of the disturbance I asked the landlord to close. The men went their way. At about 2135 hours I was called to the Church Hall in company of Police Constable 106, Smith. When we arrived we found several fights in progress. The accused was in the hall but I cannot swear that he was mixed up in the fighting. The fighting continued until it came beyond our control. I then sent for help to the Police Station. Help came but the fighting continued until it reached the proportions of a riot. The Canadian Provost had arrived on the scene by this time. In the fighting which continued, some of the Provost were injured and were wearing bandages. At this time I heard the Sergeant call for help and went to his assistance. He had been hit on the helmet with a brick. I do not know who hit him. I helped carry the Sergeant

B 4 (s)

SUMMARY OF EVIDENCE

In the case of F-79852 L/Cpl. Cecil Dixon. (Cont'd.)

FIFTH WITNESS
FOR THE PROSECUTION (Cont'd)

to the rear of the hall where he was given attention before being removed to the hospital for further treatment.

Cross-examined by the accused.

Q.1 Was I fighting in the Pub or trying to stop a fight?
A.1 You were fighting.
Q.2 If Iwas fighting, do you know the man with whom I was fighting?
A.2 I don't know the name but the man he was fighting had a young lady with him.
Q.3 Could you identify the man I was fighting with?
A.3 No, because there were so many in the room.
Q.4 How can you identify me and not the other man?
A.4 Because he was white and had his hat off.
Q.5 How could you identify me since there were other coloured soldiers present?
A.5 Because you were standing inside the door and one of the other men, a Corporal, tried to pull you apart.
Q.6 Were you present when I offered to pay for the glasses which were broken?
A.6 I don't remember that.
Q.7 Were you present when the landlord asked me not to pay for the glasses but to try and stop the fight?
A.7 I did not hear him say that.

Signed: George Albert Johnson

(George Albert Johnson)
T.C. 89

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused has been duly warned in accordance with Rules of Procedure 4 (E) and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of five pages was taken down in the presence and hearing of the accused, and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

M J Geller Lieut

Jasper Camp,
Witley, Surrey,
25 Nov. 42.

(M.J. Geller) Lieut.,
Officer Taking Summary.

A.C.T. Taylor Maj. Pros.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT..... ON THE..... DAY OF..... 42

TRIAL OF:-No. F 79582 Sapl. Dixon.C. Unit C.B.Wksrs. & C.I.R.U. (armd div)

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lieut M.J. Gilchrist (Unit) Perth Rgt. 5C1RU.

Defending Officer:- (Name) Lieut L.A.Veitz (Unit) C.B. Wksrs. 5C1R.U.

At 0950 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - ND

The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:

President. Major R.E.T. Paquet Engr. (Unit) P.D.C.L.I.

Members Capt A.C. Holland (Unit) Halifax P.E.R.

Capt A.S. Cadie (Unit) Perth Rgt.

~~The officers under instruction are duly sworn.~~ R.E.T.P.

~~Q2 Do you object to.....acting as shorthand writer? A2 -~~

~~The shorthand writer is duly sworn.~~ R.E.T.P.

~~The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(b) is duly complied with.~~ R.E.T.P.

~~The summary of evidence is read, signed by the President, and attached to the proceedings.~~ R.E.T.P. R.E.T.P.

~~Court is closed to consider its finding. Court is re-opened.~~

~~Name.....(Unit).....sworn,~~ produces AFB 296 and MFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

~~Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 -~~

~~Q4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 -~~ R.E.T.Paquet Major Pres.

~~BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE~~

Opening statement in the case of F-79582 L/Cpl. Cecil Dixon, C.B. Highrs., on strength of 5 C.I. R.U. (Arm'd Div.)

BY THE PROSECUTION

The facts in this case, briefly, are these: There was a dance at the Church Hall, Farncombe. During the course of the dance arguments among many of the soldiers developed. This was followed by fighting. The situation was considered serious enough by the civil policeman who was present to call for help and as a result two more civilian police arrived at the Hall to quell the disturbance. The situation became even more intense and the Provost were called. The Provost were attacked when they attempted to break up the disturbances. Pots, pans, and other articles were thrown about the kitchen, and the whole scene had the atmosphere of a brawl.

The Prosecution will introduce witnesses who will place L/Cpl. Dixon at the Church Hall. Witnesses will be introduced whose evidence will show L/Cpl. Dixon to have participated in the general fighting which took place, witnesses will also show that the actions of L/Cpl. Dixon contributed to the brawl which resulted in the disturbance in which he is charged as a participant.

COURT MARTIAL PROCEEDINGS

In the case of F-79582 L/Cpl. Cecil Dixon, C.B. Highrs, on strength of 5 C.I.R.U. (Arm'd Div.)

Q.I. Are you F-79582 L/Cpl. Cecil Dixon?
A1 Yes, sir.
Q.2 Do you wish

A.2 No, Sir.

The Prosecutor Makes an opening address. He states that the charges of creating a disturbance will be proved by the Prosecution.

The Prosecutor proceeds to call his witnesses.

C-5573 Cpl. Ray S.F. #7 Cdn. Provost Corps having been duly sworn, is examined by the Prosecutor.

Q.3 Give your name, rank, number and appointment.
A.3 C-5573 Cpl. Ray S.F. #7 Cdn. Provost Corps.
Q.4 Were you on duty on the night of Nov. 13, 42.
A.4 Yes, Sir.
Q.5 Where were you stationed?
A.5 Godalming, Sir.
Q.6 Tell the Court what happened on the night of 13 Nov. 42.
A.6 At approximately 2200 hours I was asked by a civilian policeman to report at the Church Hall, Farncombe, as there was trouble there. On arriving there, accompanied by L/Cpl. Higgins, we found many fights going on.
Q.7 Did you see the accused in the Hall?
A.7 Yes, Sir.
Q.8 Do you recognize the accused in this Court Room now?
A.8 Yes, Sir.

Prosecutor asks witness to continue.

As the main part of the fight was going on in the kitchen we at once proceeded there. As soon as they saw we were Provost they made for us.
Q.9 What did you find when you arrived at the Hall?
A.9 There was fighting going on.
Q10 Was the accused mixed up in this fighting?
A10 Yes, Sir.
Q11 Prosecutor: Tell the Court what difficulty you experienced in handling the men who ganged up on you.
A11 It was just a case of self defence.
Q12 What did you do on finding yourself overpowered by so many?
A12 There was nothing I could do but try and keep them away from us.
Q13 In addition to actual fighting what other thing did you notice in the Kitchen?
A13 Two civilian police came to our assistance.
Q14 Tell the Court how these police happened to come to you assistance.
A14 They were on duty there.
Q15 Prosecutor: Tell the Court what happened after this.
A15 I wish to look at my notes, Sir, in order to refresh my mind. L/Cpl. Higgins was then struck on the head by a soldier known as L/Cpl. MacDonald of the C.B. Highrs. Sgt. Malgon of the civilian police was struck over the head by Pte McNeil, also of the C.B. Highrs. Police constable Preach then took L/Cpl. MacDonald outside. L/Cpl. Johnson, Peters and Roberts of the Provost then came to our assistance. L/Cpl. Johnson was struck by a milk bottle thrown by Pte. Mc Neil. Pte. Mc Neil was then attacked by L/Cpl. Higgins.
Q.16 Prosecutor: Just tell the Court what kind of a disturbance all this fighting created.
A.16 I would say it was more of a rior than a dsiturbance.

FIRST WITNESS:Cont'd.

Cross-examined by Defending Officer.

Q.17. Tell the Court the part the accused played in this disturbance.
A.17. He was fighting, Sir.
Q.18. A few days after this riot took place you were given the opportunity of picking out the persons who participated in this riot.
A.18. Yes, Sir , the next morning.
Q.19. Did you at that parade pick out the accused?
A.19. They were picked out before I arrived there by other members of the Provost.
Q.20. Did you get hit in the fighting?
A.20. I got hit Sir, but not seriously. I was dazed for a minute.
Q.21. In this fighting which you say was of the proportions of a riot were you able to discern clearly the acts of McNeil, Breach, Higgins, and defend yourself at the same time?
A.21. Yes, Sir.
Q.22. Who were the accused fighting with?
A.22. He came to L/Cpl. Jewells' assistance while he was fighting with me.
Q.23. Why Cpl. did you not mention this important fact in your voluminous statement before?
A.23. I had not got that far yet, Sir.
Q.24. How long did this fighting go on between the accused and yourself?
A.24. For the matter of a few minutes.
Q.25. How did it finish?
A.25. It finished by L/Cpl. Johnson and a police constable taking him outside.
Q.26. What was the police constables' name?
A.26. I would not definitely say which one it was, Sir.
Q.27. Did you go outside with them?
A.27. No, Sir.
Q.28. Did this fighting make much of an impression in your mind?
A.28. It certainly did, Sir.
Q.29. Then why is it that you have to make constant reference to your notes on a matter which affected your personal safety.
A.29. Sir, as a military policeman we have different cases to attend to every day.
Q.30. This is just an ev ry day occurence with you?
A.30. Yes, Sir.
Q.31. Did you tell your Provost Sgt. the following day the accused was charged with throwing a bottle?
A.31. No, Sir.
Q.32. How many persons would you say took part in the fracas?
A.32. I'd say about 15 or 16 of the C.B.Highrs.
Q.33. Fifteen or sixteen of the C.B.Highrs, more or less mixed in the fighting?
A.33. Yes, Sir.
Q.34. Were there men from other Regiments engaged in this fighting?
A.34. In self defence, yes, Sir.
Q.35. Your opinion is the C.B.Highrs were beating up everybody in the Hall?
A.35. They were, Sir.
Q.36. How many people were there in the Hall?
A.36. I didn't have time to count them.
Q.37. As an experienced Provost Personnel how many people do you think were in the Hall?
A.37. I'd say approximately 35 or 40.

The Prosecutor declines to re-examine the witness.

Rules of Procedure 83 B Has been complied with.

SECOND WITNESS:
For the Prosecution.

A-3308 L/Cpl. M.J. Higgins of the 7th Provost Coy., Cdn. Provost Corp. Having been duly sworn is examined by the Prosecutor.

I am A-3308 L/Cpl. M.J. Higgins of the 7th Provost Coy., Cdn. Provost Corp.

Q.38. Where were you stationed on the night of Nov.13,42?
A.38. In Godalming.
Q.39. Tell the Court what happened in connection with your duties that night?
A.39. At about 2200hrs. we were told to report to the Church Hall, Farncombe, as there was trouble expected there. When we arrived there were several fights going on?
Q.40. Do you recognise the accused in this Court now.
A.40. Yes, Sir.

Q.41. Will you tell the Court what part if any the accused had in the fighting you say was taking place in the Hall?
A.41. He was interfering with a military policeman in the execution of his duties.
Q.42. Give the Court the details of the inferference you refer to?
A.42. There was a teapot thrown by a man now known to be L/Cpl. Jewel. This tea pot struck Cpl. Ray on the head. Cpl. Ray then tried to arrest L/Cpl. Jewel. It was then that a man now known to be L/Cpl. Dixon came to L/Cpl. Jewels' assistance. I saw L/Cpl. Dixon fighting with Cpl. Ray.
Q.43. Will you describe to the Court the scene at the Church Hall during the disturbance?
A.43. When we arrived at the kitchen there were several fights going on which we tried to break up. Both Cpl. Ray and myself were then attacked by several soldiers. It was then that this incident happened.

Cross-examined by the defending Officer.

Q.44. At about what time of the night was this fighting taking place, and the date?
A.44. About 2205 hrs., 13 Nov., Sir.
Q.45. How far is this Hall from Godalming?
A.45. About a mile.
Q.46. How far is the Church Hall from Farncombe Station?
A.46. I don't know, Sir.
Q.47. There were a number of fights going on when you arrived?
A.47. Yes.
Q.48. You say you saw the accused strike L/Cpl. Ray later on in the Dance Hall?
A.48. Yes, Sir.
Q.49. Did the accused strike you?
A.49. No, Sir.
Q.50. Are you giving information to this Court which is fact?
A.50. I wouldn't be giving it unless it was so?
Q.51. Do you remember giving the following evidence, given in the Summary of Evidence against the accused?(Page 2 of the Summary is read by defence)
A.51. I did, Sir.

Re-examined by the Prosecutor.

Q.52. Will you tell the Court if in the general fracas which took place whether you had any encounter with the accused?
A.52. I did, Sir.
Q.53. Tell the Court the nature of your encounter, with the accused?

Objection by the Defending Officer, to Prosecuting Officer, asking the same questions brought in direct examination
Objection sustained.

SECOND WITNESS:Cont'd.

Q.53. Prosecutor: extract from Summary of Evidence,(One of the men with whom I was fighting was L/Cpl. Dixon) Will you confirm that statement now?
A.53. Yes, Sir.
Q.54. In your evidence at the Summary you were asked the question by the accused, (Did I hit you while in the kitchen? the answer was "Yes". Question 3 was what with? the answer was with your fist.) Did you understand the defending Officer when he asked if you had seen the accused strike Cpl. Ray?
A.54. Not exactly Sir.

Rules of Procedure 83 B have been complied with.

THIRD WITNESS:
For the Prosecution.

Police Constable 307 Owen Havilard Beach, mobile Police Station Godalming having been duly sworn states:-

I am Police Constable 307 Owen Havilard Beach, Mobile Police Station, Godalming.

Q.55. Tell the Court what happened?
A.55. At about 9.45 P.M. 13 Nov. 42 in response to a telephone message I attended the Church Rooms, Tottenham Road, Farncombe. I had difficulty in gaining access to the Hall.
Q.56. What did you find on getting there?
A.56. I found people rushing out of the Hall. This included soldiers and women. On entering the Hall I saw a T.C. had been injured. I attended to his wound and seeing the situation. I saw quite a number of C.B.Highrs and other soldiers. It appeared to me that the trouble was with this Regt. and that some of them were fighting.
Q.57. Was there any fighting going on while you were present?
A.57. Yes, Sir.
Q.58. Do you recognise the accused in this Court?
A.58. Yes, Sir, I also recognise him as one of the soldiers fighting in the Hall. I ghought the best policy to adopt was to try and ease the situation by asking soldiers not belongin to the C.B.Highrs to leave the Hall and get well away. I was then engaged arresting another soldier who is not before this Court.

Cross-examined by the Defending Officer.

Q.59. There was fighting going on when you entered the Hall, about how many people were fighting?
A.59. There was some fighting when I entered and more fighting developed later on.
Q.60. How far is the Church Hall from the Farncombe Station?
A.60. About ¾ mile.
Q.61. About how many people were in the Hall when you arrived?
A.61. I don't know.
Q.62. Would you say as many as a hundred?
A.62. I don't know.
Q.63. Would you say as many as fifty?
A.63. I don't know.
Q.64. Would you say as many as twenty-five?
A.64. I would say there were under 50 people in the Hall when I arrived as a rough estimate.
Q.65. How many people were there in the kitchen and the Hall when you arrived?
A. 65.Over fifty.
Q.66. Could you recognise the man whom the accused was fighting with?
A.66. No.
Q.67. Did you see how the fight finished?
A.67. No.
Q.68. Was there any fighting with men of other Regts when you entered?

THIRD WITNESS:Contd.

A.68. No, Sir.
Q.69. Then the C.B.Highrs were fighting amongst themselves?
A.69. I do not say they were fighting amongst themselves, they appeared to be fighting with other people not belonging to their Regt.
Q.70. Have you a quick way of identifying?
A.70. No. I can identify people by looking at them.
Q.71. How do you tell they were C.B.Highrs?
A.71. By the name of the Regt. and by the red on their forage cap.

The Prosecutor declines to re-examine the witness.

Rules of Procedure 83 B has been complied with.

Court adjourned at 1220 hours.

Court re-opens at 1415 hours.

FOURTH WITNESS:
For the Prosecution.

T.C. 89, George Albert Johnson, Count Police, Godalming, having been duly sworn, is examined by the Prosecutor.

Q.72. Were you on duty night of 13 Nov.42?
A.72. Yes, Sir.
Q.73. Will you tell the Court what happened that night?
A.73. At 9 P.M. I was on duty outside the Duke of Wellington Public House when I was told there was trouble inside.
Q.74. How did you learn there was trouble inside?
A.74. I was sent for by the publican.
Q.75. What happened when you got inside?
A.75. I saw several fellows fighting. I saw one soldier trying to hit a small Canadian soldier who was with a young lady. With the help of one of his Cpl.s we managed to stop the fighting.
Q.76. Do you recognise the accused in this Court?
A.76. Yes, Sir.
Q.77. Where have you seen him before?
A.77. I saw him just inside the door as I entered the Public House.
Q.78. What was he doing?
A.78. He was fighting.
Q.79. Where next did you see the accused?
A.79. After, I got the Publican to shut his house at 9.30 P.M. I was informed there was fighting going on at the Church Hall, Dance Hall. When I arrived there was dancing going on and several fights. I tried to stop the fighting but it was too much. I then saw one of my comrades hit across the forehead causing a nasty gash over the left eye. I then found I had to send for more reinforcements as it was a proper riot,at this time, I saw the accused in the Hall but can't say I saw him fighting. I then helped another of our constables to take one soldier to the police station. On my return I heard my sergeant calling for help. I found he had been hit by a stone or some other missle as he was bleeding from the face and his helmet had been bashed in at the top. With help I took him to the kitchen where he was attended to. I then saw some of the Provosts being bandaged in the Hall.

Cross-examined by the Defending Officer.

Q.80. You say you helped a constable remove another soldier to the police station?
A.80. Yes, Sir.

Rules of Procedure 83 B has been complied with.

The Prosecution is closed.

Q.81. Do you apply to give evidence yourself as a witness?
A.81. Yes.
Q.82. Do you intend to call any other witness in your defence?
A.82. Yes.
Q.83. Is he a witness as to character only?
A.83. They are witnesses as to facts.
Q.84. Do you (Defending Officer) wish to make an opening address.
A.84. No, Sir.

The accused F-79582 L/Cpl. Cecil Dixon, C.B. Highrs on strength of 5 C.I.H.U.(Arm'd Div.) being duly sworn is examined by the Defending Officer.

Q.85. Where were you on the night of 13 Nov. 42?
A.85. At the Parncombe Church Hall Dance.
Q.86. Tell the Court what happened there that night?
A.86. Sir, I was at the dance and saw arguing going on. I saw one of my friends, Pte. Morrison, who wanted to fight so I grabbed him and took him out of the dance hall door. He broke away from me and rushed into the kitchen. I then went into the kitchen by the kitchen, grabbed him, and took him out by the main door. I took Pte. Morrison 30 yards up the main road and went back to Camp.
Q.87. Who did you hit at the dance hall?
A.87. No one, Sir.

Cross-examined by the Prosecution:

Q.88. Cpl. Dixon what time were you with Pte. Morrison?
A.88. 2210 hours.
Q.89. Where were you before that time?
A.89. I was outside.
Q.90. Were you at the Wellington Pub that night?
A.90. Yes, Sir, about 2150 hours.
Q.91. Was there a fight at the Pub while you were there?
A.91. No, Sir.
Q.92. Who was with you at the Pub?
A.92. L/Cpl. O'Connel.
Q.93. Was L/Cpl. Jewel also there?
A.93. I didn't see him.
Q.94. Was everything peaceful at the Pub while you were there?
A.94. One soldier there was making a lot of noise so I told him to keep quiet. When I told him that a few of the soldiers started rushing at me. There was a table between us with some glasses on it. The table was pushed and the glasses were knocked off the table. The manager asked me to try and stop the disturbance. I offered to pay for the broken glasses. The manager said not to bother but to try and stop the disturbance.
Q.95. Why did you leave the Pub?
A.95. I went to the Dance.
Q.96. Did you know the Wellington pub was closed on the advice of the Constable as a result of this disturbance?
A.96. No, Sir.
Q.97. What time did you arrive at the Church Hall Parncombe?
A.97. About 2205 hrs.
Q.98. What did you see on entering the dance hall?
A.98. Everybody was standing on the floor when I went in.
Q.99. Were any fights in progress?
A.99. I didn't see any.
Q.100. Did you go to the kitchen?
A.100. When I took Pte. Morrison out I went to the kitchen, that was the only time.
Q.101. Were the Provost in the kitchen at that time?
A.101. I didn't see any Provosts.
Q.102. Were the Civil Police in the kitchen at that time?
A.102. I didn't see any.
Q.103. Were the Provost in the Hall?
A.103. I didn't see any.
Q.104. Were the Civil Police in the Hall?
A.104. There were two.

Q.105. While in the kitchen did you see anything being thrown?
A.105. I wasn't in the kitchen that long.
Q.106. Did you at any time that night, see L/Cpl. Higgins or Cpl. Ray?
A.106. No, Sir.
Q.107. Did you come to the assistance of L/Cpl. Jewel?
A.107. No, Sir.
Q.108. Did you do any pushing or shoving at the Hall?
A.108. No, Sir.
Q.109. Did you see any fights or disturbances in the Hall?
A.109. No fighting but it seemed to be leading up to it.

Rules of Procedure 83 B has been complied with.

The Defence declines to re-examine the witness.

Second witness for the Defence.

F-55719 Pte. Vickers J.F. C.B.Highrs. having been duly sworn is examined by the defending Officer.

Q.110. Where were you night Nov 13, 42?
A.110. I was at the Parncombe Church Hall Dance.
Q.111. Did you see L/Cpl. Dixon, there?
A.111. I did.
Q.112. What mixup did you see him in?
A.112. I saw him trying to take Pte. Morrison out of the kitchen, Pte. Morrison was drunk.
Q.113. Was there fighting between Pte. Morrison and L/Cpl. Dixon?
A.113. No, Sir.
Q.114. Who did you see L/Cpl. Dixon fighting with?
A.114. With no one, Sir.

Cross-examined by the Prosecution:

Q.115. You say you saw L/Cpl. Dixon with Pte. Morrison in the kitchen?
A.115. Yes, Sir.
Q.116. Were there any others in the kitchen?
A.116. There were quite a few there.
Q.117. Did you see any fighting going on in the kitchen at that time?
A.117. No fighting but some scrambling and pushing.
Q.118. Did you notice anyone throwing things in the kitchen?
A.118. No, Sir.
Q.119. Were the Provost Cpls. in the kitchen at that time?
A.119. No Sir.
Q.120. Did you see the Provst Cpls. in the Church Hall proper?
A.120. I didn't notice them.
Q.121. Did you see the civil Police either in the kitchen or the church hall proper?
A.121. I didn't notice them.
Q.122. Did you see any fighting in the Hall?
A.122. No, Sir, just scrambling and pushing?
Q.123. Whenis the last time you saw L/Cpl. Dixon?
A.123. When he took Pte. Morrison out.
Q.124. About what time was that?
A.124. Couldn't say what time.
Q.125. What time did you leave the Hall?
A.125. I couldn't say.
Q.126. Did you leave before L/Cpl. Dixon?
A.126. No, Sir.
Q.127. How much longer after L/Cpl. Dixon left did you remain?
A.127. Shortly after, but can't say just when.

The Defence declines to re-examine the witness.

THIRD WITNESS:
For the Defence.

F-97271 Pte. Meyers, K.R. C.B. Highrs having been duly sworn is examined by the defending Officer.

Q.128. Meyers, were you at the Dance Hall 13 Nov. 42?
A.128. Yes, Sir.
Q.129. Was L/Cpl. Dixon, there?
A.129. Yes, Sir.
Q.130. Who did you see him hit?
A.130. No one, Sir.

Cross-examined by the prosecution.

Q.131. How late did you remain at the dance?
A.131. About 2200 hours.
Q.132. What time did you get there?
A.132. About 2100 hours.
Q.133. While there did you notice any fighting going on?
A.133. No fighting but squabbling and pushing.
Q.134. Was there a lot of shouting and hollering?
A.134. Just squabbling and pushing.
Q.135. Were you in the kitchen?
A.135. No, Sir.
Q.136. Did you see the Provosts in the Hall?
A.136. No, Sir.
Q.137. Did you see the civil Police in the Hall?
A.137. I saw one civil Policeman in uniform there.
Q.138. What was this policeman doing?
A.138. He was standing by the door.
Q.139. Did he try to quiet the disturbance?
A.139. I never noticed him doing so.
Q.140. Did you notice any things, being thrown?
A.140. No, Sir.

The Defence asks;

Q.141. Did you have to do any pushing or shoving?
A.141. No, Sir. I spent my time dancing.

Rules of Procedure 40(C) (iv) -41 (A) (1) and (iii) - 83B have been complied with.

1 pp "B"

Summing up by prosecutor.

The prosecutor in his summing up, is of the opinion that S/Capt Dixon should be found Guilty of the charge against him. Because. it was proven ~~that~~ by the prosecution that Capt Dixon was present at church Hall Farncombe, and did participate in the Parade which took place therein.
This was presented and not contradicted by the defence
References given to and evidence of witnesses
for the prosecution.

A.C.T. Paquet Instr
pros.

17. E-T. Paquethaefer

App. (a) (1)

ADDRESS BY THE DEFENDING OFFICER

In the case of F-79582 L/Cpl. Cecil Dixon, C.B. Highrs, on strength of 5 C.I.R.U. (Arm'd Div.)

Mr. President, Gentlemen:

The weak case set up by the Prosecution has been adequately answered. I suggest that your task here is relatively easy.

Are you able to say that in this confused atmosphere of this lettle Church Hall at Farncombe on the unlucky Friday the 13th that the accused was creating a disturbance.

Firstly do you think that there is a possibility, a chance, that the witness, Ray, mistook the witness Mayers for the accused. You can see and give necessary consideration to their stray similiarity of appearance.

In a drawing room of good society the dragging out of a drunk might very well constitute the creation of a disturbance. But I think that I can have little fear that you will consider it a crime under these circumstances.

Rather, indeed, in taking out a drunken friend where a riotous state is incipient he acted more than properly

Let us have a look at another point. We have a police constable arriving and taking over and telling all but C.B.H. to leave the Hall, though others he says were fighting. Does that not smack of prejudice? Do you not think that the Provost had made up their minds that a C.B.H. man was guilty. He said,"It appeared to me the trouble was with this Regiment", when he had only arrived in the Hall at that moment. The fact that the Provost Corporal, Higgins, says in a summary that he was hit with the accused's fist, and say here that he was not struck at all. That in the summary that he did not hit Cpl. Ray, but here says that he did hit him.

It boils down to this; Cpl. Ray says he saw him hit L/Cpl. Higgins. The accused has denied it. A police constable says he saw him fighting. Is it not possible that he saw him taking out Morrison?

Have I raised a doubt in your mind to these facts, it so you must acquit. Are you going to convict the accused for being present at this place and take the evidence of the Provost Ray, who was watching the affairs of a half dozen other people as well as his alleged view of the accused.

In conclusion, having answered the allegations of the Prosecution, it will be entirely within the evidence of both Prosecution and Defence to acquit the accused.

Jasper Camp,
Witley, Surrey,
4 Dec. 42

(L.A. Kitz) Lieut.,
Defending Officer.

CLOSSING ADDRESS BY PROSECUTION

In the case of F-79582 L/Cpl. Dixon, C.B.Highrs on Strength of 5 C.I.R.U. (Arm'd Div.) a soldier in the Canadian Army Overseas.

You have heard the evidence of two members of the Provosts Corps and three members of the Civilian Police They have described to you the scene which they witnessed at the Church Hall, in Parncombe. Witnesses have stated that there were arguments which developed into fights and these grew in intensity, until, as one witness states, it reached the proportions of a proper riot.

The defence attempts to disparage the evidence of the two Provosts by denying that the accused was fighting with the Provosts. The accused has not been charged with fighting with them. The accused has been charged with participating in a brawl. Witnesses for the prosecution have described the action of the accused and have recited the part he played in contributing to the general disturbacnes.

The accused and his witnesses say there were no arguments, that there was no fighting, everthing, they say, was peaceful. If this was so why did it become necessary for the Civilian Police to call for reinforcements from the Civil Police Station at Godalming. If everything was as peaceful as the defence claim, why was it necessary, after the Civilian Police were reinforced to call upon the Provosts for further assistance. If there was such a total absence of fighting as the defence claim, why the necessity to treat for first aid persons who were injured during the brawl which the prosecution claims did take place.

Can there be any question that there was a brawl? Can there be any question that the accused was one of these, who did participate in the brawl?

M.J. Talbot
for the Prosecution

A.3.

MEDICAL CERTIFICATE (K.R. San. 557)

I certify that I have this morning examined No. F.19582 Wc Davies C.

Of E.R. Sc. Ewl and and in my opinion he is fit to undergo trial by unfit

Court Martial.

Station. Willen, Surrey. Medical Officer. W. Allen Captain R.A.M.C.

Date. 28-Nov-42

B 2.

CHARGE SHEET

The accused No. F-79582 L/Cpl. Cecil Dixon. C.B. Highrs., on strength of 5 C.I.R.U. (Arm'd Div.), a soldier in the Canadian Army Overseas is charged with:-

FIRST CHARGE
SEC. 40
ARMY ACT.

When on Active Service, An Act to the Prejudice of Good Order and Military Discipline,

In that He,

At the Church Hall, Farncombe, at about 2200 hours 13 Nov. 42, did Participate in a brawl, thereby causing a disturbance.

JASPER CAMP,
Witley, Surrey,
25 Nov. 42.

A.B. Noble,

(A.B. Noble) Lt.-Col.,
Officer Commanding,
5 C.I.R.U. (Arm'd Div.)

To be tried by Field General Court Martial.

J.R. Stewart Lough

(J.R. Stewart Lough) Colonel,
Commanding,
"A" Group Cdn. Reinf. Units,
C.A.(O).

Convening Officer.

Witley, Surrey,
26 Nov. 42.

M.C.T. Paquet Majr. pres

A2

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F-79582 L/Cpl. Cecil DIXON C.B. Highrs. 5 C.I.R.U.(Arm'd Div.)	First Charge A.A. Sec. 40	Not Guilty	Guilty.	Confirmed J.K. Stewart Lt. Colonel H Dec 42.
SEE CHARGE SHEET ATTACHED.			To undergo detention for (60) Sixty days. A A 183 (4) note 6 R.E.T. Paquet Major 28. Nov. 42.	

* Question to be asked of accused, if he pleads *not* guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" A - NO
Answer (*to be recorded on separate sheet if necessary*):—

(*Signed*) J.K. Stewart Lt. Colonel, (*Signed*) R.E.T. Paquet Major P.A.C. (Prov)
Commanding "A" Gp. Cdn. Reinf. Units, *President.*
Convening Officer (*e*) C.A.(O).

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of November, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~ N.A.T.S.
*~~(4. The officers under instruction)~~

~~were duly sworn.~~ N.A.T.S.

* Omit if not applicable.

Signed this 28th day of November 1942.

R.E.T. Paquet Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See Section (b) at page 262 K.R. & O. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

R.E.T. Paquet Major
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 4th day of December 1942.

J.K. Stewart Lt. Colonel.
Confirming Officer.

Promulgated and extracts taken in the case of F-79582 L/C Cecil Dixon, C.B.Highrs 5 C.I.R.U. (Arm'd Div.)

(*a*) (Dated) 5 Dec 42 (Signed) A.S. Lothian Lt. Col.
Part II Order # 135, d/5 Dec 42. Officer Commanding 5 C.I.R.U. (Arm'd Div)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

F-79582 L/Cpl. Cecil DIXON
C.B. Highrs. 5 C.I.R.U.
(Arm'd Div.)

144 T.

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 26th day of NOVEMBER, 1942.

Whereas it appears to me, the undersigned, an officer in Command of "A" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O). , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[illegible]

*(1. [illegible]

*(2. [illegible]

[illegible]

* Omit if not applicable.

Proceeding Reviewed

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	A.E.T. PAQUET (P.P.C.L.I.)	1 C.D.I.R.U.

Members.

Rank.	Name.	Regiment.
Captain	J.D. Fairhead (R.Regt.C.)	2 C.D.I.R.U.
Captain	A.C. Holland (Hast.& P.E.R.)	1 C.D.I.R.U.
Waiting Member		
Captain	A.S. Eadie (Perth R.)	5 C.I.R.U.(Arm'd Div.)

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [illegible] Colonel,
Commanding "A" Group Cdn. Reinf. Units, C.A.(O).
Convening Officer.

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FF-47

PTE DIXON C.H.

FF 47

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this TWENTY-SEVENTH day of MAY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of FOURTH CANADIAN INFANTRY BRIGADE CANADIAN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~and that it is not practicable to delay the trial by reason of the absence of a superior qualified officer~~

JES

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*I am unable to appoint~~
~~*[illegible] Officers to form the Court~~
~~*A Field Officer as President~~
~~*Three Officers having more than one year's service~~

jes
jes
jes
jes

~~*As the following Officer is unavailable~~

jes (3)

UNDER INSTRUCTION:-

Lieut. G.A. Ram, Essex Scot.
Lieut. D.W. McIntyre, Kent Regt., attached Essex Scot.

G
J.E. Findlay

President.

Rank.	Name.	Regiment.
Major	D.M. FINDLAY	Q.Y.R. att R. Regt. C.

Members.

Rank.	Name.	Regiment.
Capt.	M.C. Upper	R.H.L.I.
Lieut.	D.H. Brown	R.H.L.I.
WAITING MEMBER	One Lieut to be detailed by C.C. R.Regt.C.	R. Regt. C.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed J.E. Sager
(JE SAGER) Brig.
Commanding 4 CDN INF BDE
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A21118 Private, DIXON, Charles, Hall, 1st Bn. The Essex Scottish Regiment, a Soldier of the Canadian Army (Overseas)	FIRST CHARGE A.A. Sec.40 Neglect to the prejudice of good order and military discipline. (See Charge Sheet Attached).	Not guilty	not guilty 28 May 43 H.E. Findlay Maj.	~~Confirmed~~ ~~Commd's Con. Int. Bde.~~

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J.E. Page (J.E. PAGE) Brigadier, Commanding 4 CDN. INF. BDE. *Convening Officer* (a)

(Signed) H.E. Findlay Maj. Q.V.R. and A. & S.H. *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of May 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 28th day of May 1943.

H.E. Findlay Maj.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or having such authority, recommends suspension.

Signed this ~~29th~~ day of ~~May~~ 19~~43~~

~~J.E. Page~~
Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

I command have elected trial by D.G.C.M.

CHARGE SHEET

The accused A.81118 Private Charles Hall DIXON of the 1st Bn., Essex Scottish Regiment of the Canadian Army, Overseas is charged with:-

FIRST CHARGE
Army Act
Sectio n 40

Neglect to the prejudice of good order and military discipline,

in that he,

in the field, on 17 Feb 43 was negligent whilst driving a Norton Solo Motorcycle C.4600234 to the extent that it became involved in an accident ~~causing~~ damages to the other vehicle C.4319629, ~~to the extent of~~ ~~£7:16:9.~~ property belonging to the public.

In the Field
27..May 43.

(J.H. MOTHERSILL, ED) Lt. Col.,
Officer Commanding,
Essex Scottish Regiment.

To Be Tried By Field General Court Martial

In the Field
27..May 43.

(J.E. SAGER, ED) Brigadier,
Commander,
4 Cdn Inf Bde.

By J. W. Findlay Maj.

I desire to have Capt P.D. Wambaugh
represent me at my proposed Field General Court Martial
If this officer is not available I then desire to have
Lieut Taylor represent me.

Chas. H. Dixon.

MEDICAL OFFICER'S REPORT

I certify that I have examined this morning
and that he No. A.3118 Pte. Dixon C.H.
of Essex Scottish Regiment is in a Good state of health,
and Physically Fit to undergo Trial by Court martial.

J.R. Dixon Major
Medical Officer
1 Bn. The Royal Regiment of Canada.

Station In the Field

Date 28 May 1945

M. F. B. 246

J.A.J. The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Lieut G.A. Lan 1/Bn Essex Regts
Lieut S.W. McIntyre Kent Regt. attd 1/Bn Essex Regts

Charge-Sheet

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The prosecutor informs the Court that the accused elected trial by Court Martial

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

J.A.J. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read? *Question to the accused.*

"Not Guilty" *Answer.*

J.A.J. Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

J.A.J. Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

J.A.J. Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

J.A.J. ~~The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.~~

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

J.A. Lindsay
Maj

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field - General Court-Martial held in the Field on the 28th day of May 1943 by order of Brigadier J. E. Auger Commanding 11 Can Inf Bde dated the 27th day of May 1943

President.

Major D. M. Findlay Q i/c Rang atter L. Lieut. Co.

Members.

Capt. M.C. Upper 1 Bn R.H.L.I.
Lieut D.L. Brown 1 Bn R.H.L.I.

~~Waiting Member~~

~~Judge Advocate~~

Trial of* A 21118 Pte Charles Hall Dixon

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that~~ is not available to serve owing to

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Lieut I. Macdonald 1 Bn Essex Scots

Counsel‡ or defending officer† Capt F.A. Wansborough 1 Bn Cameron Highlanders of Canada

At 0915 o'clock the Trial commences.

The order convening the Court is read, and is marked "G" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Forms B. 271
10M—6-40 (5715)
H.Q. 1772-39-224

J. D. Findlay
May

C

Proceedings on Plea of Not Guilty

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. "No, proceed"

The prosecutor makes an opening address [hands in a written address, which is read, marked "H", signed by the President, and attached to the proceedings.]

The Court reserves its conclusion on the Prosecutor's statement.

The prosecutor proceeds to call witnesses.

First witness for prosecution.

M 20 Gunner Clayton Bouchee 18 A Tk Bty 2 A Tk Regt.

being duly sworn, is examined by the prosecutor.

I just went up to tell the A Tk Tp to follow the inf and our sgt was doing traffic control and as I went to make the turn there was a crash and I dont know any more about it. Practically all that really happened at that time. Place about 2½ mi from a little place. Took place on 17 kilos approx 1000 - 1030. Little place called Amberley. Was N.L.O. Amberley. I was DL for Tp Comd attd to Essex Scots.

Q. By Pres How tell us from the beginning what happened.

A. I was ordered to tell the sgt to have the A Tk follow the Essex and after I finished giving him the order I began to turn and I got about half way around and there was a crash.

Q. By Pres Was this part of a column

A. Was a convoy.

Q. Proceeding in what direction
A. Proceeding east on the north side of road
Q. How far was the Sgt from your officer.
A. The offr was in Amberley and the Sgt 2½ mi from him.
Q. How far was the Essex Scot from your Sgt.
A. There was inf mixed in the vehicles and they were all along the road.
Q by Pros. What happened after the crash.
A. When I picked myself up there was another MC and a DR doing a handspring, rolling around the ~~round~~ road. It was the accused here.
Q. Before you made the turn did you look up and down the road.
A. Yes Sir.
Q. What was the condition of the road.
A. Flat country for 400-600 yds. East I saw there were men all over the road, on both sides.
Q. Did you do anything else besides looking up and down the road.
A. No Sir, except leaning the bike the traffic control was about 10 ft east of me.

The accused and defending officer decline to cross-examine the witness

R.P. 83(b) complied with.

Lt. Lindley sworn.

The prosecutor states that there are no further witnesses and no further evidence for the prosecution as he considers the other witnesses at the taking of the summary as being essentially defence witnesses and having been detailed only on the previous night he knows of no witnesses beyond those present at the summary. He further states that he is aware that he has not proven a case and that the Court has the discretion to dismiss the case without calling upon the defence.

The prosecution is closed and the Court is closed for consideration of case for the prosecution.

J. W. Bridley
maj

The Court conclude that no prima facie case has been made out for the prosecution and dismiss the charge.

The Court re-opened and the decision is announced in open Court and the accused released.

J. W. Bridley
maj

The prosecutor states that there are no further witnesses and no further evidence for the prosecution as he considers the other witnesses at the taking of the summary as being essentially defence witnesses and having been detailed only on the previous night he knows of no witnesses beyond those present at the summary. He further states that he is aware that he has not proven a case and that the Court has the discretion to dismiss the case without calling upon the defence.

The prosecution is closed and the Court is closed for consideration of case for the prosecution.

J. Tridley
sig.

The Court conclude that no prima facie case has been made out for the prosecution and dismiss the charge.

The Court re-opened and the decision is announced in open Court and the accused released.

J. Tridley
sig.

Mr. President and members of the court.

I was handed the summary in this case last night with instructions to prosecute the accused. On reading over the summary I have been unable in my opinion ~~offhand~~ to find sufficient evidence to convict the accused. Of the three witnesses to be called two are plainly defence witnesses and I do not think the evidence of the one witness for the prosecution is sufficient ~~offhand~~ enough in its content to convict the accused. I will proceed to call my only witness if the court so wishes but I believe the court should acquit the accused.

J. Macdonald, Lieut

H
J.Z. Findlay
Maj

Summary of Evidence

In the case of A 21118 Private Dixon, 1st Bn.,
The Essex Scottish Regiment, a soldier of the Canadian Army (overseas)

The accused is informed of his rights.

The Commanding officer directs that the evidence be taken on oath.

First Witness for the Prosecution - M-20 Gnr. Bowles, C of the 18 A.Tk. Bty, 2nd A.Tk Regt. R.C.A, having been duly sworn states:-

"On 17 Feb. 43 around 1000 hrs, I was ordered to tell the A/Tk Troop to follow the infantry. As I came to the last truck I stopped and gave the Sergeant the order. I was facing East. I looked back behind and in front of me and didn't see anything coming so I turned around. As I was turning something hit the front wheel of my motorcycle. I was knocked down but not hurt. I got up and found another motorcycle had struck me. I could see approximately 400 yds in either direction up the road. The road was in good condition and enabled a two ways traffic up and down the road. The road was in level, flat country and it was not a built up area.

East of me on the other side of the road the column was halted with one of the vehicles about 20 yds East of me and another vehicle about 100 yds down the road from it with infantry between the two trucks. I saw one of the cars was signal.

The accident took place about 2½ miles north east of Embury.

G Bowles

The accused declines to Cross-examine the witness

Second Witness for the Prosecution - C 4942 Sgt Mary N.I. of the Essex Scottish Regiment, having been duly sworn states,-

On the morning of 17 Feb. 43 at about 1000 hours while acting as witness on exercise "Tuck" I was marching with the "O" Group of 13 pl. along the highway leading to Houghton. The Driver acting

Sworn (Witness for the Prosecution (Cont'd)

ad D.R. passed us on his motorcycle travelling at a speed of 20-26 M.P.H. He was passing one of the Artillery Trucks when an artillery D.R. who was talking to the driver of the truck from across the road without looking in our direction wheeled his bike around in the centre of the road. There was no signal given to show that he (Gunner) was going to turn about in the road. Dixon did not have time to give any warning of pulling up. His (Gunners) front wheel hit Dixon's bike somewhere near the centre and threw him off balance causing him to swerve and topple over. Dixon got up and jumped to one side of the road.

Visibility was good and it was not a built up area.

Cross-Examined by the accused.

Q I - Sgt. Merry are you sure I was passing an artillery truck at the time of the accident?

A I - I was about 50 to 100 yds. behind the truck when Pte. Dixon passed us on his motorcycle. I looked up and in the excitement of the moment, my first impression was that Pte. Dixon was passing the Artillery Vehicle. Subsequently knew that I passed the vehicle to come up to the spot where Pte. Dixon was sitting beside the road.

N.J. Merry. 64942.

I, Sworn (Witness for the Prosecution

Lieut. J.S.M. Mac Fillan of the Essex Scottish Regiment, Support Company having been duly sworn states:

At approximately 1000 hrs. 17 Feb. 43, while I was moving up to Houghton Buisson, Pte. Dixon passed me while I was walking at the head of my platoon having a short distance we passed up just in time to see a motorcycle swing completely around on the road and the motorcycle which Dixon was riding slide off to the left of the road. Pte. Dixon's speed was very moderate and the County was not built up. The road did not actually have the accident that road did not see.

J.S.M. Mac Fillan Lieutenant

The accused declines to cross examine the witness.

The accused having been duly cautioned in accordance with R.P. 4(e) says:
"I do not wish to say anything at this time."

Certified that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

Taken down by me both in the presence and hearing of the accused this 25th day of May 1943.

S. W. Jones Lieut
Cdrs Scottish Regiment

SUMMARY OF EVIDENCE

In the case of A21118 Private Charles Hall DIXON, 1st Bn., The Essex Scottish Regiment, a soldier of the Canadian Army (Overseas).

The accused is informed of his rights.

The commanding officer directs that the evidence be taken on oath.

FIRST WITNESS for the Prosecution - M20 Gnr Gouchee, C. of the 18 A/Tk Bty, 2nd A/Tk Regt., R.C.A., having been duly sworn states:-

"On 17 Feb 43 around 1000 hrs, I was ordered to tell the A/Tk troop to follow the infantry. As I came to the last truck I stopped and gave the sergeant the order. I was facing east. I looked both behind and in front of me and didn't see anything coming so I turned around. As I was turning something hit the front wheel of my motorcycle. I was knocked down but not hurt. I got up and found another motorcycle had struck me. I could see approximately 400 yds in either direction up the road. The road was in good condition and enabled a clean view both up and down the road. The road was in level, flat country and it was not a built up area.

East of me on the other side of the road the column was halted with one of the vehicles about 20 yds east of me and another vehicle about 100 yds down the road from it with infantry between the two trucks. Either one of us gave any signal.

The accident took place about 2 ½ miles north east of Amberley."

Signed: 'C. GOUCHEE'

The accused declines to cross-examine the witness.

SECOND WITNESS for the Prosecution - C4942 Sgt. Merry, N.J., of the Essex Scottish Regiment, having been duly sworn states:-

"On the morning of 17 Feb 43 at about 1000 hrs while acting as umpire on exercise 'PUNCH' I was marching with the 'O' Group of 13 Pl along the highway leading to Haughton. Pte. Dixon acting as D.R. passed us on his motorcycle travelling at a speed of 20 - 26 m.p.h. He was passing one of the Artillery trucks when an artillery D.R., who was talking to the driver of the truck from across the road without looking in either direction wheeled his bike around in the centre of the road. There was no signal given to show that he (Gouchee) was going to turn about in the road. Dixon did not have time to give any warning of passing. His (Gouchee) front wheel hit Dixon's bike somewhere near the centre and threw him off balance causing him to swerve and topple over. Dixon got up and limped to one side of the road.

Visibility was good and it was not a built up area."

Cross-examined by the accused:

Q.1 - Sgt. Merry, are you sure I was passing an artillery truck at the time of the accident?

A.1 - I was about 50 to 100 yds behind the truck when Pte. Dixon passed us on his motorcycle. I looked up and in the excitement of the moment, my first impression was that Pte. Dixon was passing the Artillery vehicle. I definitely know that I passed the vehicle to come up to the spot where Pte. Dixon was sitting beside the road.

Signed: "N.J. MERRY C4942"

THIRD WITNESS for the Prosecution - Lieut. J.S.M. MAC LELLAN of the Essex Scottish Regiment, Support Company, having been duly sworn states:

"At approximately 1000 hrs, 17 Feb 43 while bn was moving up to Haughton Bridge, Pte. Dixon passed me while I was walking at the head of my platoon. Hearing a shout ahead of me I glanced up just in time to see a motorcycle swinging completely around on the road and the motorcycle which Dixon was riding veer off to the left of the road. Pte. Dixon's speed was very moderate and the country was not built up. While I did not actually see the accident this much did I see."

Signed 'J.S.M. MAC LELLAN'

The accused declines to cross-examine the witness.

The accused having been duly cautioned in accordance with R.P. 4(e) says:

"I do not wish to say anything at this time."

Certified that Rules of Procedure 4 (c)(d)(e) and (f) have been complied with.

Taken down by me both in the presence and hearing of the accused this 25th day of May 1943.

(S.W. JONES) Lieut.,
Essex Scottish Regiment.

4K66.
Cpl. Dixon D.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K54451 Corp DAVID DIXON SH of C.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	124(a) AA	NOT GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~———~~ beginning on (date) ~~———~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 29 days, of which 11 1/2 days were spent in hospital.(2)

(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: ~~To be~~ reduced to the ~~rank of Private~~ ranks. ~~To be~~ and undergo ~~———~~ six months detention.

(Sgd) ——— 23 Nov 44 (Sgd) L. L. Clough Major

Judge-Advocate, if any. Date awarded. President. (RP 43, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ——— (Sgd) ——— Commanding ———

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Misuse of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the court

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) Nil.

(1. AA 57A. Delete if not used.)

Date 28 Nov 44 (Sgd) W. Bogert Lt Col

Commanding 2 Can Inf Div Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K54451 Cpl Dixon D	29 Nov 44	Alex L McDougall Capt The Seaforth Highlanders of Canada

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160. 4K-66.

RECEIVED 8 JAN 1945 JAG BRANCH

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40-P-A-S-1898 (2964)

Convening Order: Lt Col J.R. Stone A/Comd 2 Can Inf Bde dated 20 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K54451	Corporal		David	DIXON	Seaf

PROCEEDINGS REVIEWED, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held at Fd in (country) ITALY on (date(s)) 23 Nov. 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2F-72

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr~~, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 1g. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ——— as interpreter? Ans ———

~~The Interpreter is sworn.(1) Do you object to~~ ——— as shorthand writer? Ans ———

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(3). If objection, see procedure AA 51, RP 25, 71, 187, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc.:

President	Major	L.R. Clough	Sask L.I.
Member	Capt	A.S. Ernest Smith	PPCLI
Member	Lt.	V.S. Allan	PPCLI
Judge-Advocate			
Prosecutor	Lt.	A.H. Mullin	SH of C.
Defending Offr	Lt.	M.P. Finnerty	SH of C.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment where RP 89 (B) and fn 2 were not followed. See Dir p 2.)

A8. The accused K54451 Corp DAVID DIXON before arraignment make(s) (no) ~~———~~ plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (OR), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned ~~———~~ on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 1.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5, *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part 1 of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No.(1)
(1. *If "yes", use RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*); (*B*), 90, 91(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the First charge(2). The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the First charge(2), and allowed on the ..... charge(2), and that, accordingly, the trial will proceed ~~on the former, but the accused is (are)~~ found Not Guilty on ~~the latter charge(s)~~.
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 80(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Give evidence on oath. Do you intend to call witnesses on your behalf? Ans YES Are they witnesses as to character only? Ans No.
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the First charge(s), being subject to confirmation, will be promulgated later.(1) ~~If the President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated, [illegible] and signs~~.
(1. *AA* 54(*2*) (*a*), *RP* 45, *120(A).* 2. *AA* 54(*2*), *RP* 45, *117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~s~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *AFB* 233 *or AFB* 294. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans No thanks.(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if oral, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*6*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. *Where several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 328, 330, 563-566. *Overseas RO* 309, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *Where accused already under sentence of imprisonment or detention see AA* 44(1) (*b*), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

K54451 Cpl David DIXON, The Seaforth Highlanders of Canada, a soldier in the Canadian Army (Overseas) placed on Active Service, is charged with, when on active service,

First Charge: Sec. 12(1)(a) Army Act.

WHEN ON ACTIVE SERVICE,
DESERTING HIS MAJESTY'S SERVICE,

in that he, in the field, at 2200 hours 13 Oct 1944, after having been duly warned to proceed into action, with intent to avoid so proceeding into action absented himself without leave from The Seaforth Highlanders of Canada from 2200 hours 13 Oct 1944 until apprehended by C.M.P. in Capua at 1930 hours 30 Oct 1944.
Time absent 16 days 21 hours 30 minutes.

In the Field (H.P. Bell-Irving) Lt.-col.
OC The Seaforth Highlanders of Canada.

To be tried by F.G.C.M.

In the field
20 Nov 44

(J.M. Stone) Lt Col
A/Comd 2 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR. Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
K54451	Corporal		David	DIXON	Seaf of C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 Nov 44 endorsed by me, (~~or by no offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is expedient that the accused should be tried by~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed as ~~X~~ or detailed hereunder.

4. ~~I appoint as Judge Advocate [illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	L.L. CLOUGH (Must be named. RP 106.)	Sask LI (MG) (Unit.)

MEMBERS.

Capt	A.S.E. SMITH	PPCLI
Lt (Rank.)	V.S. ALLAN (Named or detailed. RP 106.)	PPCLI (Unit.)

WAITING MEMBER.

Lt (Rank.)	E.M.K. MacGregor (Named or detailed, if any. RP 106.)	LER (Unit.)
	~~JUDGE ADVOCATE~~	
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

Date 20 NOV 44

J.R. Stone (Signed personally. RP 105 fn 2.)

(J.R. STONE)

A/ Commanding 2 Cdn Inf Bde

LT COL (Rank.)

Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (FAGO (To Sec of AFAS) 60-7 & 8/1567 - 400)

(See overleaf for notes and notes for use on trial.)

This is to certify that I have this date examined K54451 Spl DIXON, D., The Seaforth Highlanders of Canada, and find him fit/~~unfit~~ to undergo trial by Field General Court Martial.

Date 23/11/44

Robt. Wheeler
(signature of Medical Offr)

Trial of K5445 Corporal Evans, David Seaf. R.C.A.C.

Prosecuting Officer Lieut H.A. McMullen S&I R.C.

Defending Officer Lieut. M.P. Finnerty S&I R.C.

The accused pleads not guilty.

First Witness for Prosecution

The witness having been duly sworn states as follows: I am K52376 Sgt Boivin G. on the 13 Oct 44 while acting as Sgt I was at Pl. 15 platoon billets at 2200 hrs I noticed the pl billets at 2200 hrs on the night of the 13 Oct 44 and found the accused to be absent from his quarters and company lines although I had made a roll call of the lines for him. I reported his absence to the R.S.M. I did not see the accused again until he was made arrest in the lay lines at 1700 hrs the 6 Nov 44

R.P. 83(b) complied with

Defence fails to cross examine

2nd Witness for Prosecution

The witness having been duly sworn states as follows: I am M29183 Sgt Wilson J. on the 13 day of Oct 44 at about 1300 hrs I noticed the 15 platoon billet and examined that the lay was as I have notice to move I made this statement loud enough so that anyone in the room could hear me. The accused was present at the time. At that time I was commanding 15 pl the accused was a member of that section.

Prosecutor

Q. You are certain the accused was present.

A. Yes Sir

Q. Where was he at the time

A. He was standing beside his bed near the table

97. Q. Did thank you.
H. He made no reply.

Cross examination by Defence.

Q Where were you standing in the room
H Down just inside the door about 10 feet from the accused.
Q You said you spoke loud to
Q How many platoons were in the battle
H All of 10 platoons and about half of 11 pl so it may have been 13 pl.
Q What are you estimate the dimensions of the room
H About 40 feet long by 30 feet wide
Q Who were you warning at the time
H Anyone in the room.
Q In a loud did you speak
H Spoke in quite a loud voice.
Q The room was 40x30 how many men were in the room
H Approximately 40 men.
Q And many men from 5 Platoon.
H There were 29 as near as I can figure
Q Did you call the roll
H No sir.
Q You recognize him as one of the men. How can you be sure
H Knew him because he was taking in my section into battle.
Q Where was the accused in the room
H Standing by his bed near the table
Q Was anyone standing beside him
H yes a number of persons had the table

3. Q. Were they standing
H. Some were sitting and some were standing.
Q. You are prepared on oath to say he was by his
bed near the table.
H. Yes sir Dann.
Q. You gave the warning order to the Pl.
H. Yes sir.
Q. Was anyone except Pte Dann present
H. I did not call the Roll.
Q. You don't know if all pl was there or not
H. I do not know if anyone was there.
Q. Was Pte Beaver present.
H. I can't be sure.
Q. When you perceived the accused present could
you have seen anyone within a few yards
H. At the time possibly yes sir Dann
not sure of anyone else.

R.P. 83(b) complied with

3rd Witness for the witness having been duly sworn
Prosecution states Sir Dann K48133 Pte Thompson
W.C. I say I am A/Sgt whilst doing
my duty as say Sgt for I say on the
2 day of November 1942 at approx 1700
hrs the accused whom I recognise as
being a member of No 1 Platoon
that he had been absent from parades
he was sober and properly dressed.

Cross examined by Defence

Q Have you seen Pte Dann parade in full dress.
A Yes on full strength sir.

R.P. 83(b) complied with

Prosecutor Lieut HH McMullen SAPC having been duly sworn deposes.

I produce as evidence certificate under sec 125(1) N

HH which certifies that the accused 65474 51

Cpl Reiss D was arrested at

check point Capua by "R" Provost Coy RMP

at about 1930 hrs 30 Oct 1944 this evidence being attached

herewith as Appendix "A"

R.P. 13(1)(i) complied with

Defence.

The defending Officer submits that the prosecution has not established a Prima Facie case against the accused in that the prosecution has failed to show any intention not to return to his Majesties Service at all or to avoid some particular important service.

Decision of the Court.

The Prosecution has produced evidence to show that the accused did intend to avoid some particular service and therefore the submission is disallowed.

5th Defence recalls 1st Witness for Prosecution.
Cross Examination by Defence.

Q. In your statement you have said that a time
you warned the defendant you were absolutely
sure that he was present. At what
time was this.

Q.L.O. H. At about 1300 hrs Sir.

Q Did you at that time see the face of the
accused.

H. Yes Sir I did

Q Where was he.

H. He was standing near his bed by the
table.

Q How far was that from you.

H. Appros two feet.

Q Where were you standing in the room

H Just inside the door.

Q Do you remember anyone else in the room
at that time.

H. Yes.

Q Whom.

H. Two orderlies from 15 P.L.

Q. What are their names.

H. Pte Whitside and Pte Cundy

Q Are you positive in your mind that this
accused heard this warning order.

H. Yes.

Q Why are you positive

H. Because I was close enough and spoke loudly enough
for anyone ordinarily fit to hear me.

Q. Did Pte Beaver hear you?
A. Dare not swear he was in the room.
Q. Was Pte Beaver A.W.L. from the 6th?
A. Pte had not been reported absent.
Q. To best of your knowledge was Pte Beaver present.
A. To best of my knowledge he was there.
Q. ~~Could Pte Beaver have been~~ Pte
Pte . Tabernacle by deceased.
The deceased having been duly sworn deposed
Jan 53rd 51st Regt Brian D. On May 15th 1895
to the morning of the 16th inst. I was in
Pte Beaver and myself got into a conversation
seeing that it was a clear day decided that
we would go into the town Kerrera that we
were allotted in Bay near time we were dressed
and cleaned up and went to breakfast when we
got into the lines we were appointed night fatigue
the first thing we received our breakfast and
returned to our quarters. Pte Beaver slept in
the next bed to me so to pass the time
found a table and a few chairs. We had the
table between our beds at which we ate
our meals. We ate our lunch at the table
when we had finished we washed our messtins
put them away and departed for town at
1230. Arriving in town we stopped at a
house which was a private house. We
had some tea and after while decided to
go further town the time to Oban. We
entered there and remained more two We
got quite intoxicated and after awhile

We decided to go to Rome. We went on from Pisaro to St Agatha from St Agatha we caught a ride down to Fiscano. We stopped at Fiscano approx three days and the Romans liked it there so decided to go to Rome.

Prosecution Cross Examines

Q Where you are from.

A Polish.

Q It is not your intention to desert army but you not give yourself up.

A. I was interrogated at time Delft Germans later on sent to Stalag. We were there same by as myself and we were not may to give ourselves upon them we were apprehended by the N.K.P.

Q. Did you intend at the time of your capture that you would go into action as soon time

A. He did not I did not have further to go we were on out of action

Questions by Court.

Q. Did you know with your own personal knowledge your letter as appeared for some time past before your court martial.

A. Yes Sir.

Questions by Defence

Q were you ever taken as a P/W of Germans

A Twice as a P/W of Germans

R.P.E.W. completed with

8 good
Witness for Defence. The witness having been duly
sworn states - Jan 4,73691 PC Evans, Ex.
on Friday the 13th myself and the accused
got Witness had decided about eleven o'clock
that we would go to town on the afternoon so
we had dinned and after dinner we left
camp and went to town. Then we had some
drinks and it started to get late so we
decided to keep on going.

Defence
Q. At about what time do you believe you left camp.
A. About 1230
Q Where did you eat lunch
A In our sleeping quarters.
Q During time in sleeping quarters did you or
did you not hear a fight occuring inside.
A I did not hear.
Q In what shape were you arranged after arriving
to the Bar.
A. A.W.L.

Prosecution fails to cross-examine
R.P. 83(2) complied with

9. Closing address by Defence Pte
Under the charge of desertion under third Art
Accus is charged first under 17 Defence Act 1903 &
the first wording is the intention between desertion
and A.W.O.L. to intention. It is not necessary
for the defence to rebut this intention but it
is necessary for the prosecution to prove this
intention. In this case there has been no
attempt by the prosecution though they have
mentioned desertion must have to prove
desertion. It is true that Pte Brown court
absent without leave this regiment was on a
not area therefore under sec 17 HH Act
Brown has not and cannot be proved a
deserter. Further Sec 30 of the same act the
prosecution must prove that an accused was
guilty of trying to avoid some particular service
and that the accused "in a dishonest or
clandestine manner with a view of shirking
some important service absented himself"
Now the evidence of Pte Wilson is to
that effect that he entered a room occupied
by 2 Inf. Pls and obtained words to the
effect that we are on two hours notice
He did not tell the roll it was 8 o'clock
1300 hrs. He does not know anyone in the
room except he does identify Pte Brown he
does not identify Pte Brown actually according
to his evidence he identifies no one but Pte
Papers We have the evidence of Pte Baker &
Pte Brown take make oath saying that by
1300 hrs they had both left their billets
in which they were at rest in Ripiano

19

from this evidence it is quite obvious that the
Jury got up & stopped inside the door and shouted
out answer to his notice could not possibly
identify a man in such case unless he at the
time by the evidence was not present. Which
time. by the evidence was not present. Which
is point not once again is the most
that but the accused was present at this
time that he could not have been guilty &
Counsel because the prosecution has not proved
or attempted to prove any intent to desert. I
wish further to draw to the attention of
the court that Pte Deane guilty of same
offence was charged with A.W.L. and desert
& and the court can two men commit the
same offence at same time and one be
guilty of A.W.L. the other guilty of desertion.
I ask the court to find accused not guilty &

[illegible]

11/ Closing Address by Prosecutor

It is the duty of the prosecuting officer to assist the court in the administration of justice. The counsel for the defence has tried to prove both "Alibi" and "Insanity" had the accused intended to return to the Bar whether it were in action or not during the 16 days preceding the matter for the matter stands. "Intent" is proved by the prosecution showing any form of [illegible] It is immaterial that the Bar was in rest at the time of the accused was wanted [illegible] on the road following. Even if the court is undecided that he was not with the MP's when he was wanted

[illegible]

P.O.

Gen in Mitigation

Gen Bissa joined the respectable Highlanders before the battle line and fought in the battle line. Since he was wounded slightly and returned to the Ba in time for the battle at Florence. When we moved over to this coast he came with us and was in the battle line. At the time he went A.W.L. This Ba was not in the line of Battle but in the rear. I mean to say that the type of battle in which we were involved in the Apennines and in the battle line is the type of NCO and soldier that we want in this regiment. I submit to this court that Gen Bissa even though on a spree at the moment "Idea" did go absent but by his previous conduct and by the very fact that he did become a Gen in the Regt should be dealt with very very leniently. I think the court will realize that it is difficult enough for us here in Italy to get NCO soldiers who are capable of doing their Gen in action that we cannot afford to waste NCO material because it is just foolish crime. After studying the men & this man you will notice Twenty a simple case which could have happened to any Gen. Do not let Idea assume the court will not consider this to the detriment of a Gen serving in action

Gen

APPENDIX "A"

"Y" pl.

Certificate in accordance with the Army Act Sec. 163 (1) (jj)

I certify that

No K 54451 Rank Cpl Name DIXON, E.

of the 'Q' Coy 2nd Battalion Seaforth Highlanders, Canada.

was arrested at Great Point, OAHU at 1930 Hrs.,

on the 30 day of Oct 194 4.

Signature of P. M., A. P. M., or other Officer into whose custody the above named person was taken on arrest. } Rank

Appointment (if any)

Commanding R Pioneer Coy Bn P

Date 30-10-44

PSSN/771/5-44/2 500

EXHIBIT. A

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K54451	Cpl	Dixon, D.	Seaforth of C

F.C.A.D

1. The following is a fair and true summary of the entries in the ~~regimental and squadron, battery or company~~ conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein entered should correspond with the number of entries in the conduct sheets, production being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For	AA Sec 40	1 times	1	times.
For		times		times.
For		times		times.
For		times		times.
For		times		times.

[redacted] K54452.

[redacted] K54452.

2. The accused has not been previously convicted [redacted]

Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. [redacted] The accused is not at the present time [redacted] under sentence [redacted] K54452.

[redacted] K54452.

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 29 days in military custody, making a total of 29 days, of which nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 21 yrs 5 mos 12 days K54452

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 30 Nov 42 K54452.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr 11 mos 20 days

8. [redacted] K54452

9. [redacted]

10. The accused is in possession of, or entitled to, no military decoration or military award [redacted] K54452

[redacted] K54452.

11. [redacted] K54452

[redacted]

12. [redacted] K54452.

[redacted] K54452.

(P.1.6200) W.1.10402/166 175.1000 8/42 A.S.S.W. Ltd. Gp.679

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. K57745 Rank Cpl Name DIXON D. of S.H. 4C Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried; or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
nil	nil	nil	nil	nil

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~10th~~ 23rd day of Nov 44

Robt L McDougall, Capt

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of Cpl 5 mos 10 days XXXX Date of Promotion 30 Apr 44

In the rank of ____ years ____

In the rank of ____ years ____

(Instruction—If any matter be any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a man by field general court-martial the information may be collected from such sources as are available and the particulars inserted accordingly.)

MFM 6
(AFB 122)
10/PAS/158 (5488)

No K54451 Name Dixon, D. Sqn, Battery, or Company — Corps Cdn Inf Corps — Date of enlistment 30:11:42 — GC Badges — Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 13 Feb 43 — No and date of last drunk Nil — Period not reckoning towards freedom from extra fine n/a — Sheet No One — Signature OC Company, etc Thos. A. Bate, Lt — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 30 May 43 on completion of 6 mos service.					
Shipboard	21:2:44	Cpl	-	WOAS "Neglect of duty" Failed to see men were awakened and hammocks slung & rolled at 0700 hrs 21:2:44 contrary to Orders for Draft Orderly Sgt. AA 40	Lt MO Scott	Reprimand	21:2:44	Maj. HWJ Paterson Det Comd Draft Serial 800/2/9	HWJ Paterson Major

Certified to be a true copy of records in my possession
Robert L McDougall, Capt
ADJT CGAC OFC

EXHIBIT B/16

(PTO)

Summary of Evidence in the case of K 52376
Sgt. Dixon, D. W. The Seaforth Highlanders of Canada
By direction of the Commanding Officer, the
evidence is taken on Oath.

1ST WITNESS

K 52376 Sgt. Booth, G. having been duly
Sworn States:- " I am K 52376 Sgt. Booth G of the
Seaforth Highlanders of Canada. On 13 October
1944 I was acting as Platoon Sergeant of number
15 Platoon, "C" Company, of the Seaforth Highlanders
of Canada. At 2200 hours 13 Oct 1944 I
entered number 15 Platoon Billets to make sure
that all of the Platoon were present. I found
that the accused, a member of No. 15 platoon,
and whom I recognize, was absent from
the Billets, and was not to be found in
the company lines, although I instituted a
search for him. I reported his absence
immediately to the Coy. Sgt. Major. The next
time Sgt. Dixon he was under arrest in the
Coy. lines - this was the morning of 6 Nov 44.

(Signed) G. Booth

The accused declines to cross examine

2ND WITNESS

M 29183 L/Sgt. Wilson, J. having been
duly Sworn States:- " I am M 29183 L/Sgt.
Wilson, J. of the Seaforth Highlanders of Canada
At about 1300 hrs. 13 Oct 1944, I entered number
15 Platoon, "C" Company Billets and
announced that the Company was on a two
hour notice to move forward. I made the
statement loud enough for everyone in the
room to hear. The accused, Sgt. Dixon, D.
whom I recognize, was present at that time.
I passed the two hour warning order on to
the Platoon from information I received from

the Coy. Orderly Sergeant. At that time I was commanding number 7 Section, "C" Coy, The Seaforth Highlanders of Canada, and Cpl. Dixon was a member of that Section."

(Signed) J. Wilson

The accused declines to cross examine

3RD WITNESS

K 48736 L/Cpl Thompson, W. J., having been duly sworn states: "I am K 48736 L/Cpl Thompson, W. J., "C" Coy. The Seaforth Highlanders of Canada. I am the Company Orderly Room Clerk and whilst in the performance of my duties on 6 November 1944, Cpl. Dixon, D., whom I recognize as a member of "15 Platoon, of "C" Coy., the Seaforth Highlanders of Canada reported in to me at about 1700 hours I knew that he had been absent from parades.

(Signed) W. J. Thompson

The accused declines to cross examine

4TH WITNESS

Capt R.L. Mc Dougall, Adjutant, the Seaforth Highlanders of Canada, having been duly sworn states: "I am Capt. R.L. Mc Dougall, Adjutant, the Seaforth Highlanders of Canada. I produce an evidence certificate under Sec. 163 (1)(W) Army Act which certifies that the accused K 54461 Cpl. Dixon, D. whom I now recognize, was arrested at Check Point, CAPUA, by "R" Provost Coy. C.M.P. at about 1930 hrs. 30th Oct 1944, this evidence being attached herewith as Appendix "A".

(Signed) Robt L. Mc Dougall, Capt.

The accused declines to cross examine

The accused having been warned under R.P.4(c) as follows. "Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused reserves his defence

(SIGNED) Victor

This page, and the two preceding pages taken down by me in the presence of the accused this 9th day of November 1944. R.P.4 (C)(D)(E)(F) and (G) have been complied with.

A.H. McMULLEN, LT.

In the Field
9 Nov 44

(Signed) A.H. McMullen Lt
Officer taking Summary

Lt

List of witnesses in the case of K54451 Cpl Dixon, D., The Seaforth Highlanders of Canada.

K52376	Sjt	Booth, G.	Seaf of C
M29183	L/S	Wilson, J.	Seaf of C
K48735	L/C	Thompson, W.I.	Seaf of C
	Capt	R.L. McDougall	Seaf of C

List of exhibits in the case of K54451 Cpl Dixon, D., The Seaforth Highlanders of Canada

Certificate of apprehension under AA Sec 163 (1)(jj) Appendix "A"

2b

OC Seaf of C

Sir:

I respectfully request that Lt. M.P. Finnerty

represent me at my forthcoming Field General Court Martial.

Dixon D

4I 78

Pte DIXON E.H

Pte B Gunz

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
6538200	Pte	Dixon E.A.	5 D & G Highlanders

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For AA Sec 15(1)	3 times	6 times.
For AA Sec 15(2)	times	1 times.
For AA Sec 40	times	1 times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, nil

~~There are no entries in the conduct sheets of the accused.~~ N/A

2. The accused has not been previously convicted, *or*

~~The previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ N/A beginning on the ____ day of ____

4. The accused has been in confinement, awaiting trial on the present charges, for ____ days in civil custody, and ____ days in military custody, making a total of ____ days, of which ____ days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ record of service is 30 years.

6. The date of his ~~attestation~~ specified in his ~~attestation paper~~ record of service is 4 July 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or is in possession of or entitled to (state any military decoration or reward)*). GVSM

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of ____ dated ____ and in his regiment (*or corps or department*) the rank of ____ dated ____

(70000) W1.24000/1730 20,000 10/43 A.& E.W.,Ltd. (Gp.698)
(28000) W1.20034/1499 15,000 5/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ____ Rank ____ Name ____ of ____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13 day of Oct 44

(Officer i/c Regtl Documents)

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion

In the rank of ____ years, ____

In the rank of ____ years, ____

In the rank of ____ years, ____

(Instructions—If any matter in any of the above five spaces cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be obtained from such enquiries as are available and the paragraph completed accordingly.)

MFM 6
AFB 122)
AB/136 (3438)

No 05325 Name Dixon E A | Sqn. Battery or Company B Coy | Corps CIC | Date of enlistment 4 Jul 40 | GC Badges | Service or Proficiency Pay

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20 Apr 42	Pte		AWL from 2359 hrs 20 Apr till 1150 hrs 22 Apr 42 (AA Sec 15(1)	Col Bradford	6 days pay fine	25 Apr 42	Lt Col W Rutherford	
Field	15 Nov 42	Pte		Failing to appear at place of parade appointed by his CO AA Sec 15(1)	L/Cpl Sory	5 days CB	17 Nov 42	Capt R. Willis	
Field	18 Dec 42	Pte		Improperly in possession of public property	Capt L D Foster	5 dys FP	23 Dec 42	Lt Col Christiansen	
Field	19 Feb 44	Pte		AWL from 2359 hrs 19 Feb till 1900 hrs 23 Feb 44 (AA 15(1)	Sgt Clout	1½ days CB 1½ days pay	29 Feb 44	Lt Col Christiansen	
Field	17 Jun 44	Pte		AA Sec 15(1) AWL 1 day 2 hrs	Col Harvey	28 days loss of pay	19 Jun 44	Capt Howat Forf 28 days pay	
Field	1 Jul 44	Pte		AWL from 1600 hrs 1 Jul till 1750 hrs 2 Jul 44 (AA 15(1)	CSM Campbell	28 days FP	4 Jul 44	Capt Howat Forf 28 days pay	

Certified to be a true copy taken from documents in my possession
(Offr i/c Regtl Documents)

(PTO)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C/53250 Pte Earl Augustus DIXON, S D & G H

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 40(1)	(Guilty)	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 24 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Sixty days Field Punishment and to forfeit sixty days pay.

(Sgd) ..... 26 Nov 44 (Sgd) G A M Edwards, Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or [illegible] barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 4 Dec 44 (Sgd) J M Rockingham
(J M Rockingham) Brig
Commanding 9 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
C 53250 Pte Earl Augustus Dixon	6 Dec 44	[signature] Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 20 DEC 1944 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 140 45/P & S/1808 (A5181)

FIELD GENERAL COURT-MARTIAL 4/38B

Convened by (Name of Offr) Brig J M Rockingham Comd 9 Inf Bde dated 22 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/B or A/Appmt.	Full Christian Names.	Surname.	Unit.
C/53250	Pte	Earl Augustus DIXON	S D & G H	

PROCEEDINGS RECEIVED 21 Dec 44 A/Lt Riviere Lieut

REVIEWING OFFICER'S JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 7th Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) —

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand-writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G A M Edwards	HLI of C
Member	Capt	A C Lundie	1 Cdn Scot Regt
Member	Capt	W H Hayward	North Shore (NB) Regt
Judge-Advocate			
Prosecutor	Lieut	[illegible]	[illegible]
Defending Offr	Lieut	[illegible]	[illegible]

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 1 were not followed. See Dir p 3.)

A8. The accused C/53250 Pte E A DIXON before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 25(A), 113), or in bar of trial (RP 26), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 5

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

pages 141

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your pleas and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans. .....[5]

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 2, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on the ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]

(*1. RP 23(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. ..., initialled and read aloud by the President.[1]

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....[1]

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.[1]

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]

(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is re-opened, and the President announces that the submission is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. .....

Do you intend to call witnesses on your behalf? Ans. .....

Are they witnesses as to character only? Ans. .....

(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).[1] The Court is re-opened.

(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.[1]

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?[1] Ans. .....

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s)[1] as to Character and Particulars of Service[2], and certified true copy (copies) of Conduct Sheet(s)[3], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. ... and Ex. ... respectively.[4]

(*1. MFR 253 or AFB 294. 2. MSM 6. 3. RP 45, KR Con 538. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?[1] Ans. .....[2]

(*1. RP 27(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove as much anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]

(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and (in private), is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 343-346, Overseas RO 309, 2323, MML p 62, 717-719. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(i), 68(1), KR Con 504. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 547. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, number C53280 Pte Earl Augustus DIXON, Stormont Dundas and Glengarry Highlanders, a soldier in the Canadian Army Overseas, is charged with, while on Active Service

FIRST CHARGE
A.A. Sec 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from 0200 hrs 29 Oct 44 until 1700 hrs 2 Nov 44. (Absent 4 days, 15 hours).

Roger Rowley Lt Col

(R. Rowley) Lt-Col.,
Commanding,
S D & G Highlanders.

Field,
13 Nov 44.

To be tried by Field General Court Martial

J M Rockingham

(J M Rockingham) Brig
Comd 9 Cdn Inf Bde

In the Field
22 Nov 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his consd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-53250	Pte	-	Earl Augustus	Dixon	SD&G Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 Nov 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior quintified offr~~);

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	G A M Edwards	HLI of C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	A C Lundie	1 C Scot R
Capt	W H Hayward	N Shore R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)

Dat 22 Nov 44

J M Rockingham (Signed personally. RP 105 fn 2.)

J M Rockingham

Commanding 9 Cdn Inf Bde

Convening Officer.

Brig (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFA 65. (In lieu of AFA 2) 40-5-8 E/1697 (6143))

(See overleaf for notes and notes for use on trial.)

TRIAL BY COURT-MARTIAL

I hereby certify that I have this day examined C53250 PTE DIXON, E.A.
Number, Rank, Name
and in my opinion he is fit to undergo Trial by Court-Martial.

Station F.F.A.A.
Date 26.Nov.44.

M.O. G.D.A.G. Highrs.

E1

STATEMENT OF C 53901 SGT. BURNS, E.J., CHARACTER WITNESS
IN THE CASE OF
C 53250 PTE. DIXON, E.A.

I, C 53901 Sgt. Burns, E.J. am Platoon Sergeant of No. 10 Platoon, "B" Company, S.D.G. Highrs.

C 53250 Pte. Dixon, E.A. has been a member of my platoon for a period of approximately three months, and during that time, he has always been a cool man in action. He has done his job willingly and well, no matter how tough a position we were in.

For this reason, I am quite willing to have Pte. Dixon back in my platoon

E J Burns
.....
C 53901 SGT. BURNS, E.J.

E3

PLEA FOR MITIGATION IN THE CASE OF

C 53250 PTE. DIXON, E.A.

This soldier, Pte. Dixon has pleaded guilty to the charge of Absence Without Leave.

This was Pte. Dixon's first offence since coming to a field of action, but please remember this, gentlemen, THIS OFFENCE WAS NOT COMMITTED IN THE FRONT LINES, but rather while his unit was out of the lines on a rest.

Pte. Dixon was a member of an organized party that proceeded to Brussels to spend the day, and on arriving in Brussels, they were broken off to roam around as they pleased.

As everyone present in this Court to-day knows, his unit had been going through some of the toughest fighting since D-Day, and, as is the habit and privilege of every one of us when on rest, he had a few drinks to celebrate, and also, undoubtedly, to relieve the tension that had been on his mind during the fighting. No one would deny this soldier or any other soldier the opportunity of having a few drinks, but, unfortunately, he extended his celebration to the perpetual "one too many", and did not return to the appointed place of rendezvous, from which the party was to return to the unit.

Upon sobering up, he realized that he was Absent Without Leave, and immediately starting searching for possibilities of returning to his unit. This was more difficult than he at first realized, but finally, he managed to obtain transportation on a truck belonging to the Highland Light Infantry Of Canada. If it had not been for the difficulty of obtaining transportation, Pte. Dixon would have been back with his unit much sooner.

As already brought out in the statement by Sgt. Burns, Pte. Dixon is a good man in action, has always done his work well, irregardless of how tought the position was. For this reason, I would ask the Court to give as light a sentence as possible, so that a good man may return to action.

In summing up, I would ask the Court to consider the following facts:

1) That this offence was not committed in the front lines.
2) That Pte. Dixon returned to his unit of his own accord.
3) That this soldier is a cool man in action, and
4) That Pte. Dixon's platoon sergeant is very willing to have him back in his platoon.

SUMMARY OF EVIDENCE in the case of C053804 Pte Dixon E.A., Stormont Dundas and Glengarry Highlanders, a soldier in the Canadian Army Overseas. By direction of the Commanding Officer the summary is taken on oath.

1st Witness for the Prosecution

C53804 CSM Peer J.W., having been duly sworn, states At 0200 hrs 29 Oct 44 Pte Dixon was reported absent to me by Cpl Monk, his section comd. I checked the coy area for Pte Dixon and he could not be found. I did not see him again until 3 Nov 44. J W Peer.

The accused declines to cross examine the witness.

2nd Witness for the Prosecution

C122615 Cpl Monk F.T., having been duly sworn, states At 0200 hrs 29 Oct 44 I checked my section and found Pte Dixon absent. I immediately reported his absence to CSM Peer. I did not see him again until 3 Nov 44. Monk F.T.

The accused declines to cross examine this witness.

3rd Witness for the Prosecution

RQMS Davidson H. having been duly sworn, states Pte Dixon reported in to me at "B" Echelon at 1700 hrs 2 Nov 44. I returned him to his coy 3 Nov 44. H Davidson

The accused declines to cross examine this witness.

The accused, having been duly cautioned in accordance with Rule of Procedure 4(E), reserves his defence.

Certified that Rule of Procedure 4(C) (D) (E) (F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 13th day of November 1944, in the field.

(S P Lafontaine) Capt & Adjt
S D & G Highlanders.

Date of last entry in Company Conduct Sheet } ... Bty., or Company } Corps R.C.A.S.C. Date of enlistment } 5.9.39 Sheet No.

No. and date of last drunk } G.C. Badges } Long Service and G.C. Pay } Signature O.C. Company, etc. }

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Inkerman	1/5/40	Pte		AA 15 (1) 0100 hrs 1/5/40 till 2345 hrs 1/5/40	Pte.Bates. Sgt.Clark	14 days C.B.	2/5/40	Maj.Dean	
Godstone	15/3/40	Pte		AA 15(1) 15/8/40(2300 hrs) till 0930 hrs 16/8/40	Sgt.Lettington	10 days CB	16/8/40	Capt.Partington	Forf. 1 days pay.
Godstone	14/9/40	Pte.		AA 15(1) 2200 Hrs 14/9/40 till 0845 Hrs 17/9/40	Cpl Cook	7 days FP	18/9/40	Maj Hallam	
Field	18/10/40	Pte.		AA 15(2) Failing to appear at a parade appointed by OC	Sgt.Lettington	7 days pay			
Field	9/1/40	Pte		AA40 Conduct did use W D Vehicle without permission for his own use.	L/C Torrie Capt.Partington L/C White	5 days FP 5 dayspay 28 days Det.	21/10/40	Maj.Hallam	forf 1 days pay.
Field	"	"		AWLAA15(1) 1700 hrs 9/1/41 to 0815 hrs 10/1/41	Pte.Wilson	28 days pay	13/1/41	Maj. Dean	
				Released - Aldershot - 25-3-41 Remission 14 days.			13/1/41	Maj. Dean.	

[P.T.O.

Army Form B.122

Date of enlistment 5.9.39 Sheet No.

No. 5-82563 Name DIXON, E.E. Sq., Batty., or Company Corps R.C.A.S.C.

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Badges | Long Service and G.C. Pay | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Inkerman	1/5/40	Pte		AA 15 (1) 0100 hrs 1/5/40 till 2345 hrs 1/5/40	Pte.Bates. Sgt.Clark	14 days C.B.	2/5/40	Maj.Dean	
Godstone	15/8/40	Pte		AA 15(1) 15/8/40(2300 hrs) till 0930 hrs 16/8/40	Sgt.Lettington	10 days CB	18/8/40	Capt.Partington	Forf. 1 days pay.
Godstone	14/9/40	Pte.		AA 15(1) 2200 Hrs 14/9/40 till 0845 Hrs 17/9/40	Cpl Cook Sgt.Lettington	7 days FP 7 days pay	18/9/40	Maj Hallam	
Field	18/10/40	Pte.		AA 15(2) Failing to appear at a parade appointed by OC	L/C Torrie Capt.Partington	5 days FP 5 daysspay	21/10/40	Maj.Hallam	forf 1 daye pay.
Field	9/1/40	Pte		AA40 Conduct did use W D Vehicle without permission for his own use.	L/C White Pte Wilson	28 days Det. 28 days pay	13/1/41	Maj. Dean	
Field	"	"		AWLAA15(1) 1700 hrs 9/1/41 to 0615 hrs 10/1/41	P te.Wilson		13/1/41	Maj. Dean.	
				Released - Aldershot - 25-3-41 Remission 14 days.					

[P.T.O.

Wt. 29249/793. 2m.m. 11/40. S.P. Co., 51-7951

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7-2-41	Pte.		AA 22 Guilty - Tried by FGCM AA 15 25/2/41 held under close arrest from 1400 hrs. 7/2/41. Total forf. 61 days pay		43 days det. 43 days pay.	25/3/41	FGCM	Forf. 17 days pay; 1 days pay.
Field	1-8-41	Pte.		AA 15(1) 2359 hrs 31/7/41 till 0115 hrs. (1 hr 16 mins)	CSM Stuart Sgt. West, H.	3 days F.P. 3 days pay	1/8/41	Maj. Dean.	
Field	24-9-41	Pte.		AA 15(1) 2359 Hrs. 24/9/41 till 0700 Hrs 25/9/41 (8 hrs). AA 25(1) Making a false statement	Military Police Cpl. Richards Sgt. West.	28 days F.P. 28 days pay	25/10/41	Maj. Dean.	Forf. 10 days pay 1 days pay
				Above entries trasnferred from previous sheet destroyed on completion of 6 months service.					

CC 119 (case #3)

PTE DIXON E.E.

See A-111 for 1st case

See V-7 for 2nd case

CC-119 (case #3)

PTE DIXON E.E

See A-111 for 1st case

See V.7- for 2nd case

Wt. 29249/793. 2m.m. 11/40, S.P. Co., 61-1951

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7-2-41	Pte.		AA 22 Guilty - Tried by FGCM AA 15 25/2/41 held under close arrest from 1400 hrs. 7/2/41. Total forf. 61 days pay		43 days det. 43 days pay.	25/3/41	FGCM	Forf. 17 days pay; 1 days pay.
Field	1-6-41	P te.		AA 15(1) 2359 hrs 31/7/41 till 0115 hrs. (1 hr 16 mins)	CSM Stuart Sgt. West, H.	3 days F.P. 3 days pay	1/8/41	Maj. Dean.	
Field	24-9-41	Pte.		AA 15(1) 2359 Hrs. 24/9/41 till 0700 Hrs 25/9/41 (& hrs). AA 25(1) Making a false statement	Military Police Cpl. Richards Sgt. West.	28 days F.P. 28 days pay	25/10/41	Maj. Dean.	Forf. 10 days pay 1 days pay
				Above entries transferred from previous sheet destroyed on completion of 6 months service.					

Army Form B.122

Date of enlistment 5.9.39 Sheet No.

No. B-82583 Name DIXON, E.E. Sqn. Batty., or Company Corps R.C.A.S.C.

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Badges | Long Service and G.C. Pay | Signature O.C. Company etc.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Inkerman	1/5/40	Pte		AA 15 (1) 0100 hrs 1/5/40 till 2345 hrs 1/5/40	Pte.Bates. Sgt.Clark	14 days C.B.	2/5/40	Maj.Dean	
Godstone	15/8/40	Pte		AA 15(1) 15/8/40(2300 hrs) till 0930 hrs 16/8/40	Sgt.Lettington	10 days CB	18/8/40	Capt.Partington	Forf. 1 days pay.
Godstone	14/9/40	Pte.		AA 15(1) 2200 Hrs 14/9/40 till 0845 Hrs 17/9/40	Cpl Cook Sgt.Lettington	7 days FP 7 days pay	18/9/40	Maj Hallam	
Field	18/10/40	Pte.		AA 15(2) Failing to appear at a parade appointed by OC	L/C Torrie Capt.Partington	5 days FP 5 dayspay	21/10/40	Maj.Hallam	forf 1 days pay.
Field	9/1/40	Pte		AA40 Conduct did use W D Vehicle without permission for his own use.	L/C White	28 days Det. Pte Wilson 28 days pay	13/1/41	Maj. Dean	
Field	"	"		AWLAA15(1) 1700 hrs 9/1/41 to 0615 hrs 10/1/41	P te.Wilson		13/1/41	Maj. Dean.	
				Released - Aldershot - 25-3-41 Remission 14 days.					

P.T.O.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Army

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Act, and of cases in which trial has been dispensed with of accused, Number R.58593 Rank Pte.

Name DIXON, E.E. of 1 C.A.S.C.R.U. Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	Field	A.A.22 A.A.15(1)	43 days detn.	no remission.
F.G.C.M.	Field	A.A.15(1) A.A.22 A.A.15(1)	5 months detn.	" "

Ph. Cowan Maj. A.A.G.
No. 1 C.S.D.W.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of April, 1943

Officer i/c Records
1 C.A.S.C.R.U.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

M.F.D. 355
40/F & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B.82583	Pte.	Dixon, E.E.	1 C.A.S.C.R.U.

1. The following is a fair and true summary of the entries in the [redacted] or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For AA 15 (1) AWL	1 times	8 times
For AA 40 - conduct	0 times	3 times
For AA 19 -	0 times	1 times
For	times	times

Number of instances of gallantry or distinguished conduct nil

or,

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. [redacted]

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under [redacted] Section 47 of the Army Act and dispensations, with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

[redacted] of

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 10 days 14 hrs days in military custody, making a total of 10 days 14 hrs days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 23 years old.

6. The date of his [redacted] attestation specified in his [redacted] attestation paper 5 Sep 39

7. The service which the accused is allowed to reckon towards discharge is nil

8. The accused is entitled to reckon nil service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force military decoration, or air force military reward [redacted]. State any air force military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of

R. Coulter Maj.

I hereby certify that the foregoing summary of Evidence was taken down by me in writing this 10th day of April, 1943, at Queen's Quarters Barracks, Farnborough, Hants, in the presence and hearing of the accused and that R.P. (4) (c), (d), (e) and (f) have been complied with.

.....Lieut.
(J.E. Miller)
1 Can. A.S.C. Rft. Unit.

I am B.82583 Pte. Dixon, E.E. I wish to have an officer assigned to represent me at my forthcoming Court-Martial.

R.L. Cowan Major

.....E.E. Dixon.....
(B.82583 Pte. Dixon, E.E.)

SUMMARY OF EVIDENCE

in the case of

B.82583 Pte. DIXON, E.E., 1 Cdn. A.S.C. Rft. Unit., a soldier of the Canadian Army (Overseas).

The Commanding Officer, Lt-col. H.P. Bonnick, 1 Cdn. A.S.C. Rft. Unit., directs that the evidence be taken on oath.

1st WITNESS FOR THE PROSECUTION

H.65454 Cpl. Brown, A.E., having been duly sworn, states:

I am H.65454 Cpl. Brown, A.E., 1 Cdn. A.S.C. Rft. Unit. I was duty corporal on 19 Mar 43 and called the roll at 2200 hrs and found Pte. Dixon E.E. absent. I made my report to the Orderly Room where Pte. Dixon was marked A.W.L. on the Tattoo Report. We did not bother to look for Pte. Dixon E.E. at that time. I called the roll for several days after 19 Mar 43 and Pte. Dixon, E.E. was missing.

The accused declined to cross-examine this witness.

A.E. Brown
(H.65454 Cpl. Brown, A.E.)

2nd WITNESS FOR THE PROSECUTION

L.64503 L/Cpl. Lawford, F.J., having been duly sworn states:

I am L.64503 L/Cpl. Lawford, F.J., 1 Cdn. A.S.C. Rft. Unit. I was N.C.O. in charge of Unit Guard Room on the night of Apr 8 1943 at approximately 1930 hours, when the accused Pte. Dixon, E.E. whom I now recognize walked in stating that he had been A.W.L. for about 20 days. I took away his personal belongings and placed him under close arrest. I notified the R.S.M., Records Office, and his Coy. Pte. Knight was present in the Guard Room at the time.

The accused declined to cross-examine this witness.

F.J. Lawford
(L.64503 L/Cpl. Lawford, F.J.)

3rd WITNESS FOR THE PROSECUTION

A.104281 Pte. Knight, M.G., having been duly sworn, states:

I am A.104281 Pte. Knight, M.G., 1 Cdn. A.S.C. Rft. Unit. I was on duty in No.1 Guard Room on the night of Apr 8th at approximately 1930 hrs when the accused Pte. Dixon E.E. whom I now recognize voluntarily surrendered himself.

The accused declined to cross-examine this witness.

M.G. Knight
(A.104281 Pte. Knight, M.G.)

The accused was then warned in accordance with R.P.(4)(c). "Do you wish to make any statement or give evidence upon oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say will be taken down inwwriting and may be given in evidence".

"I do not wish to make any statement at this time"

E.E. Dixon
(B.82583 Pte. Dixon, E.E.)

R.A. Cowan Major

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT Blenheim Barracks ON THE 19th DAY OF Apr. 40.

TRIAL OF:- No. 3572583 Pte Dixon E.E. Unit 1 CASCRU

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Capt. J.C. Peck (Unit) 1CASCRU

Defending Officer:- (Name) " J.C. Hansen (Unit) " "

At 1310 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and Members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q-1 Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? A-1 - No Sir.

The President, Members and Judge-Advocate (if any) are duly sworn.

The following constitute the Court:-

President. Major R.A. Cowan ..... 1CASCRU ....(Unit)

Members. Capt. N.F. Stuart ..... 1CASCRU ....(Unit)

Lieut. V.I. Swayton ..... 1CASCRU ....(Unit)

The Officers under instruction are duly sworn.

Q-2 Do you object to ..... N.B. ..... acting as shorthand writer? A-2 - N A. ~~The shorthand writer is duly sworn.~~ D.C.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P. 35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened

Name Lieut. E.E. Peck .....(Unit) 1CASCRU ..... sworn, produces AFB 296 and MFM 6 and upon being questioned by Court states that the accused is the person named in these documents which have been compared by him with the Regt'l Records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the procedings.

Q.3 (To accused) - Do you wish to make any statenent in mitigation of punishment? A3 - Yes Sir.

Q.4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 - No Sir.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

By the accused:- The last time I was in detention I learned how to soldier and I really want to make a go of it now. I am going out with a young lady and I hope to marry her. I had a leave and went to London, it was my birthday and I had just received fifteen pounds from home. Shortly before leaving London I was celebrating my birthday and I drank too much, I woke up next morning and then realised I was A.W.L. that I was in trouble upon deserved me, so I really do want to soldier now, so I thought anyway.

Medical Officers' Certificate
A.F.Bs. (Army) Para 557

I certify that I have this morning examined No 883583 Pte Dixon R.L.
of 1.C.A.S.C. R.U. and in my opinion he is fit to undergo
trial by court martial.

Station. Blenheim Barracks

Date. 19th April 1943

P.C. Cowan Major

Sgd. A.H. Whitehead Capt
(Medical Officer)

CHARGE SHEET

The accused, B.82583 Pte. Earl Edward DIXON
1 Cdn A.S.C. Reinforcement Unit, a soldier of the
Cdn Army Overseas, is charged with when on active
service:-

Sec.15(1)
A.A.

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

at Farnborough, Hampshire, absented himself without
leave from 2200 hrs 19 Mar 43 until 1930 hrs 8 Apr
43 when he voluntarily surrendered himself to the
Unit Guard Room.

10 Apr 43.
Farnborough, Hants

(H.P. Bonnick) Lt-col.
Comd.,
1 Cdn A.S.C. Rft Unit.

To be tried by Field General Court Martial.

18 Apr 43

(P.R. Shields) Brig
Comd.,
"B" Gp Cdn Rft Units
Convening Officer.

Correspondence to be PINNED here...

F.C. B-88665 Pte. Dixon, E.E.
1 CA SCRU
B088) S-6-8/176

CC-119

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this sixteenth day of April, 1945.

Whereas it appears to me, the undersigned, an officer in Command of "p" Group Canadian Reinforcement Unit, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named. appointed or detailed hereunder.

* Omit if not applicable.

*[I am unable to appoint—

*(a) Three Officers to form the Court.]

*[a] A Field Officer as President.]

*(b) Three Officers having more than one year's service.]

for the following reasons, namely:—]

Proceedings Assembled

President.

Rank.	Name.	Regiment.
Major	R.S. Cowan	1 CSRU

Members.

Rank.	Name.	Regiment.
A Captain	from	1 CSRU
A Lieutenant	from	1 CASCRU

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (P.E.Christie) Brig

Commanding 2 Gp Can Rft Units.

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-892583 Pte. DIXON, Earl Edward 1 C.A.S.C.R.U.	First Charge R.A.Sec 15(1)	Guilty	Guilty ~~28 days~~ ~~F&A~~. ~~22 apr 43~~ ~~Imprisonment~~ ~~F&A~~. ~~Fine~~ ~~F&A~~. ~~4 months~~ ~~F&A~~. ~~detention~~ ~~F&A~~. ~~120 days~~ ~~F&A~~. ~~detention~~ ~~F&A~~. To undergo detention for a period of 120 days. 19 April 1943. R.C. Cowan Major. See attached Charge Sheet	Confirmed J.R. Shields Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) J.R. Shields (P.R.Shields) Brig
Commanding B Sp Coy Rft Units
(*Convening Officer* (*c*))

(Signed) R.C. Cowan, Major, R.C.A., No. 1 C.S.D.
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

I certify that the above Court assembled on the Nineteenth day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. **B.** Certificate of President as to proceedings.

I also certify that :—
1. The members of the Court
2. The witnesses
~~3. The interpreter~~ R.C.
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this Nineteenth day of April 1943.
R.C. Cowan Major
President of the Court Martial.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. **C.** Certificate in case of death sentence.

* See footnote (*b*) on page 762 M.M.L. 1929.

Signed this day of 19 R.C.
President of the Court Martial.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. **D.** Confirmation.

*~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 22 day of April 1943.
J.R. Shields Brig.
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) 24 April 43 (Signed) ~~Lt.-Col.~~ A/Capt. & Trans. Wing A.S.C. R.C.A.S.C. Officer i/c Records 1 Cdn. A.S.C. Reinf. Unit.

Promulgated and extracts taken in the case of B-892583 Pte. DIXON, E.E. (CASUALTY FORM "B" 262)

(Dated) 27 Apr 43 (Signed) Officer i/c Records 1 Cdn. A.S.C. Reinf. Unit.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

WW-44 (case #4)

PTE DIXON E E

See A-111 for 1st case
" V-7 " 2nd "
" CC-119 " 3rd "

CHARGE SHEET

C. Fraser, Major.
President.

The accused, B.82533 Pte. Earl Edward DIXON, on strength of 1 Cdn. A.S.C. Rft. Unit, a soldier of the Canadian Army Overseas, is charged with, When on Active Service:

1st. Charge
A.A.Sec.
15(1)

ABSENTING HIMSELF WITHOUT LEAVE

IN THAT HE ABSENTED HIMSELF WITHOUT LEAVE FROM 1 Cdn. A.S.C. Rft. Unit, Canadian Army Overseas, from 2300 hrs. 2 Aug. 43 until 1500 hrs. 18 Nov. 43 when he surrendered himself to the Civil Police at Richmond, (Total time absent 107 days and 16 hours)

W.C. Fletcher.

(W.C. Fletcher) Lt. Col.
Comd No.1. Trg Wing.
1 Cdn. A.S.C. Rft. Unit.

Farnborough, Hampshire.
23 November 1943.

To be tried by Field General Court Martial.

H.R. Tyner,
(H.R. Tyner) Colonel.
A/Comd "B" Gp.
Cdn. Rft. Units

24 Nov. 43

Medical Officer's Certif.
K.R. (Can) para 557

I certify that I have this morning examined No.B.82583 Pte. Dixon E.E. and in my opinion he is fit to undergo trial by Court martial.

Station: Field.

Date 25 Nov. 1943

A.D. MacDonald Capt.
(Medical Officer)
1 Cdn. A.S.C. Hvy. Unit.

C, Fraser, Major.
President.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3)
40/PAS/1697 (1868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
B-82583	Pte.		Earl, Edward,	DIXON	1 CASCRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 Nov 43 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior prohibited xthx~~ T.
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint as three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ T.
~~attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate (except the Offr mentioned hereunder).~~ T.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	C. Fraser	1 CERU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by	1 CSRU
Lieutenant	to be detailed by	1 CSRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in (Country.)	(Signed personally. RP 105 fn 2.)	(Rank.)
England	H.R. Tyner	Col.

Date 24 Nov 43 A/Commanding "B" Gp.CRU. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

F.G.C.M. trying B.82583 Pte. E.E. Dixon on one charge under A.A.15(1)

The accused questioned by the Court, admits that he is the person referred to in Exhibit "A" as B.82562 Pte. Earl Edward Dixon.

Address by the Defending Officer in mitigation of Punishment.

"The Defendant pleads guilty to the charge as read. As counsel for the Defence I wish to make a plea for mitigation of the sentnece in view of the following considerations: The Defendant voluntarily surrendered himself to the civilian police. He wants to be married. He enlisted in 1940 and after four years in the Army has been unable to better his position or get to a theatre of war, and entries on his M.F.M.6. have prevented him from going on draft overseas.
Finally the Defendant is absolutely allergic to the Army, in spite of his efforts to soldier and shows definite tendencies of mental instability making him unsuitable if not detrimental to the Canadian Army. I recommend that he be examined by a Neurological Specialist.

25 Nov. 43

C. Fraser Major.
President.

EXHIBIT "A" ARMY FORM B.115
Appendix "A"

RECORD OF THE DECLARATION OF A COURT OF INQUIRY ON THE ILLEGAL ABSENCE OF A SOLDIER. C. Fraser Major. President.

RECORD of a declaration of a Court of inquiry assembled at Farnborough, Hants Blenheim, Bks. on the 26th. day of August 1943 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Annumition, Equipments, Instruments, Regimental Necessaries, or clothing of No.B.82582 Pte. Dixon E.E. 1 Cdn. A.S.C. Rft. Unit.

DECLARATION.

The Court declare, that B-82582 Pte. Dixon E.E. illegally absented himself without leave, from 1 Cdn. A.S.C. Rft. Unit, Canadian Army Overseas, at 2300 hrs 2 Aug 43 and that he is still so absent and that on 26 Aug 43 he was deficient in kit to the amount of (£3-6-9½ this being 75% of vocabulary price.

(List on reverse side)

PRESIDENT - (D.G.Warner) Capt. RCASC
1 Cdn. A.S.C. Rft. Unit.

MEMBER - (J.R. MacLeod) Lt. RCASC
1 Cdn. A.S.C. RFT Unit.

MEMBER - (W.M.Therrien) Lt. RCASC
1 Cdn. A.S.C.RFT Unit.

Names of President and Members.

Signature of Commanding Officer W.C. Fletcher
(W.C. Fletcher) Lt. Col.
A/Comd. 1 Cdn. A.S.C. R/U

H.C. Moyer Capt, Asst. Adjt.
1 Cdn. A. S.C. Rft. Units

Signature of Officer having custody of Original Record

ARTICLE		VOCABULARY PRICE	75%
Badge, Cap.	1	-4½	- 3½
Blouse, B.D.	1	1 - 7 -8	1 - 0 -9
Boots, Pr.	2	2 - 3 - 0	1 -12 -0
Cap Field Service	1	3 - 6	2 -9
Comb Hair.	1	- 2	-1½
Drawers, Woollen Prs.	1	5 - 3	3 -10
Knife Clasp	1	5 - 2½	3 -11½
Knife, Table.	1	- 9½	- 7
Fork	1	- 5	- 4
Spoon	1	- 4½	- 3½
Mess Tins.	1	2 - 6½	1 -10½
		£4 - 9 - 5½	£3- 6 - 9½

EXHIBIT "B"
C. Fraser, Major.
President.

APPENDIX "B"
ARMY FORM C. 1617

I CERTIFY that the man whose personal description is given below surrendered himself to P.S., C.I.D. Halford at Albert Road, Richmond at 3 p.m. on the 18th. day of November 1943 as being No.B.82583, Private Earl E. Dixon. a deserter (or absentee without leave) from R.C.A.S.C. Farnborough, and it appears to me from his confession that he is a deserter or absentee without leave.

Age 25 Height 6 feet 1 inches

complexion Fair hair Fair.

Eyes Blue

Marks Tattoo - hands and arms

In uniform or plain clothes Uniform.

Probable Date and Place of attestation. September 1939 Canada.

Probable date of Desertion or beginning of absence, and from what place. August 1943 Farnborough.

J. Garwood

Signature of officer of Police in charge of Richmond Station.

18-11-43 Date of signature.

SUMMARY OF EVIDENCE

Exhibit "C"
C. Fraser, Major.
President.

IN THE CASE OF B.82583 Pte. Earl Edward Dixon, of No.2. Trg. Coy. 1 Cdn. A.S.C. Reft. Unit a soldier of the Cdn. Army Overseas.

By direction of the Commanding Officer, the Summary of evidence is taken on oath.

Attached hereto and marked Appendix "A"

Certified true copy of the RECORD OF THE DECLARATION OF A COURT OF INQUIRY showing that B.82582 Pte. Dixon, E.E. absented himself without leave from 1 Cdn. A.S.C. Rft. Unit, Canadian Army Overseas, at 2300 hrs. 2 Aug 43.

Attached hereto and marked Appendix "B"

Army Form O.1617, purporting to be signed by J. Garwood, of the Civil Police, Richmond, and showing the surrender of B-82583 Pte. Earl E. Dixon to Police Sergt. Halford (CID) at Albert Road, Richmond, at 1500 hrs. 18 Nov 43.

The accused was cautioned as follows:- "Do you wish to make a statement or to give evidence on oath? you are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

THE ACCUSED DECLINED TO MAKE A STATEMENT AT THIS TIME.

I hereby certify that the foregoing Summary of Evidence consisting of one page was taken down by me in writing on the 20th. day of November 1943 at 1 Cdn. A.S.C. Rft. Unit in the Presence and hearing of the accused and that R.P.4(c)(d)(e)(f) and (g) have been complied with.

R.D. Munnoch.
(R.D. Munnoch) Lt-)
Offr detailed to take
Summary of Evidence.

I, the accused, B-82583 Pte. Dixon, E.E. desire the convening authorities to appoint a competent officer to defend me at my forthcoming trial by Court martial.

E.E. Dixon
(B-82583 Pte. Dixon E.E.)

Farnborough, Hampshire.
20 November 1943.

No B-82583 Name DIXON E.E. Sqn, Battery, or Company Corps R.C.A.S.C. Date of enlistment 5.9.39 GC Badges Service or Proficiency Pay

MFM 6 (AFB 122) 45/745/136 (3428)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Nos not reckoning towards [illegible] from extra fine | Sheet No | Signature OC Company, etc | Character

EXHIBIT "E"
C.Fraser Maj.
President

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Inkerman	1/5/40	Pte.		AA 15(1) 0100 hrs 1/5/40 till 2345 hrs 1/5/40	Pte.Bates Sgt.Clark	14 days C.B.	2/5/40	Maj.Dean	
Godstone	15/3/40	Pte.		AA 15(1) 15/8/40(2300 hrs) till 0930 hrs 16/8/40	Sgt. Lettington	10 days C.B.	18/8/40	Capt.Partington	Forf.1 days pay
Godstone	14/9/40	Pte.		AA 15(1) 2200 hrs 14/9/40 till 0845 Hrs 17/9/40	Cpl.Cook Sgt.Lettington	7 days FP 7 days pay	18/9/40	Maj Hallam	
Field	18/10/40	Pte.		AA 15(2) Failing to appear at a parade appointed by OC	L/C Torrie Capt.Partington	5 days FP 5 days pay	21./10/40 13/1/41	Maj Hallam Maj Dean	Forf 1 days pay
Field	9/1/40	Pte.		AA40 Conduct did use W.D.Vehicle without permission for his own use	L/C White Pte.Wilson	28 dys. Det. 28 Dys pay.			
Field	"	"		AWL AA 15(1) 1700 hrs 9/1/41 to 0015 hrs 10/1/41	Pte. Wilson		13/1/41	Maj Dean.	
				Released - Aldershot - 25-3-41	Remission 14 days.				

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7-2-41	Pte		AA 22 Guilty - Tried by FGCM AA 15 25/2/41.held under close arrest from 1400 hrs. 7/2/41 Total forf. 61 days pay.		43 days Det. 43 days pay	25/3/41	FGCM	Forf.17 days pay 1 days pay.
Field	1-8-41	Pte.		AA 15(1) 2359 hrs 31.7.41 till 0115 hrs. (1 hr 16 mins)	CSM Stuart Sgt.West H.	3 dys. FP. 3 days Pay	1/8/41	Maj Dean.	
Field	24-9-41	Pte.		AA 15(1) 2359 hrs 24/9/41 till 0700 Hrs 25/9/41 (8 hrs) AA 25(1) Making a false statement	Military Police Cpl.Richards Sgt.West.	28 dys. FP. 28 dys pay	25/10/41	Maj Dean	Forf.10 dys. pay. 1 dys. pay.
				Above entries transferred from previous sheet destroyed on completion of 6 months service.					

No B-82583 Name DIXON E.E. Bqn, Battery, or Company Corps R.C.A.S.C. Date of enlistment 5-9-39 GC Badges Service or Proficiency Pay

MFM 6 (AFB 122) 40/PAS/136 (3428)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Prior not reckoning towards from from extra fine | Sheet No | Signature OC Company, etc | Character

Sheet 2 of Exhibit "A"
C. Fraser Maj. President.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10/12/41	Pte.		AA 40 Did leave WD Veh unattended. Did leave W.D.prop. in WD. Veh.	Provost Corps	5 days CB	16/1/42	Maj. Dean.	
Field	13/2/42	Pte.		AA 40 Did drive WD Veh. without work ticket	Provost Corps	14 dys CB	19/2/42	Maj. Dean.	
Field	25/2/42	Pte.		AA 19 Drunkenness AA 10 Breaking out of barracks AA 40 Conduct	Corps Provost	21 dys. pay 21 dys. F.P.	26/2/41	Maj Dean.	
Field	25/5/42	Pte.	hrs. 25.5.42	AA 15(1) from 2200 hrs till 2230	S/Sgt.Barrie Cpl.Benford	10 dys pay 1 day auto.	28/5/42	Maj Coward	
Field	12/8/42	Pte.		AA 10 Breaking out of Bks.	Cpl.Eastaugh				
				AA 15(1)AWL 18 dys 40 mins.	Lt.Hennessy	6 mths Det.	27/10/42	FGCM Forf	43 days
				AA 22 In confinement escaping		with 1 mth. remitted by GOC			33 days
				AA.15(1) AWL25 dys 9 hrs 10 mins	Cpl.Paul				151 days.
								Total 227 days pay.	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19-3-43	Pte.		AA Sec.15(1) A.W.L. from 2200 Hrs 19~~-3-~~43 to 1930 hrs 8~~-4-~~43 T.T.A.19 days 23 hrs 30 mins. CONFIRMED BY BRIG.P.R.SHIELDS	TRIED BY FGCM Convened 19-4-43 Awarded 120 days detention Promulgated 24-4-43 Commdr "B" Group.	Forf. 20 days pay 149(1)(a) 10 days pay 149(1)(c)11 120 days pay 149(1)(b)			Released from Detention Barracks 10 July 43 Remission earned 37 days.

CERTIFIED TRUE COPY of Original documents
A.D. Munnock Lt.
Officer having custody of original documents.

EXHIBIT "D"
C. Fraser Major
President.

STATEMENT OF CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

Number	Rank	Name.	Regiment.
B-83583	Pte.	Dixon, E.E.	1 CASCRU

1. The following is a fair and true summary of the entries in the Conduct Sheets of the accused, exclusive of convictions by a Court martial or a civil court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	N I L	times	AA Sec. 15(1)	Seven times
For		times	AA Sec. 40	Three times
For		times	AA Sec. 19	One times
For		times	AA Sec. 25(1)	One times
			AA Sec. 10	One times
			AA Sec. 15(2)	One times

Number of instances of gallantry or distinguished conduct

or

There are no entries in the c onduct sheets of the accused. N/A
NOTE: If the charge is drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted. N/A

or

Previous convictions of the accused by a Court martial or a civil Court, of summary awards under section 47 of the Army Act and dispensations with trial under A.A.73 are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. N/A

or

The accused at the present time is under sentence for N/A beginning on the N/A day of N/A.

4. The accused has been in confinement awaiting trial on the present charges for 1 day in civil custody and 6 days in military custody, making a total of 7 days in custody of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 25 years

6. The date of his attestation specified in his attestation paper is 5 Sep 39

7. The service which the accused is allowed to reckon towards discharge is NIL

8. The accused is entitled to reckon Nil service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no Air Force Military decoration, or Air force Military reward (or is in possession of or entitled to)

State any air force Military decoration or reward N/A

10. (If the accused is a warrant officer) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

11. (In the case of an officer) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
Unit
N/A dated N/A and in his regiment (or corps) the rank
of N/A dated N/A

12. The accused has served as a non-commissioned officer continuously without reduction, to the present date N/A Date of Promotion.

In the rank of Years
In the rank of Years
In the rank of Years

Not applicable

NOTE:- If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a Court martial or Civil Court, of Summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with of accused Number B/82583 Rank Pte. Name DIXON, E.E. of 1 CASC H/U Unit
Air Force
Regiment.

NOTE: A verbatim extract from the Regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried.	Date and Place of Trial.	Charge upon which convicted	Sentence of the Court.	Punishment Remitted.
F.G.C.M.	25 Mar 41	AA Sec 22 AA Sec 15	43 Days detention	
F.G.C.M.	27 Oct 42	AA Sec 15(1) AA Sec 22 AA Sec 15(1)	5 months detention	49 days remission
F.G.C.M.	20 Apr 43	AA Sec 15(1)	120 days Detention	37 days remission.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the Regimental Books in my custody.

F.G.German Major ADJ
1 CDN ASC REIN UNIT

Signed this 2nd Nov 43

(W.C. Fletcher) Lt. COL.
for Comd No.1. Trg. Wing,
1 Cdn. ASC Rft. Unit.

Offr having custody of original documents.

The above statement (with schedule of convictions and of cases in which trial has been dispensed with)is read, marked Signed by the President, and annexed to the proceedings.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.82583 Pte. Earl Edward Dixon 1 C.A.S.C.R.U.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.A.15(1)	Guilty	Guilty	
2nd				
3rd				
4th		CF		CF
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ---------- beginning on (date) ---------- (1) CF

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

The Court sentence the accused No.B.82583 Private Earl Edward Dixon, 1 C.A.S.C.R.U. to undergo detention for eighteen (18) months.

25 CF
~~24~~ Nov 1943

(Sgd) ---------- Judge Advocate, if any. Date awarded. (Sgd) C. Fraser Major. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ---------- (Sgd) ---------- Commanding ----------

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-573. Acquittals require no confirmation and cannot be revised: AA 54(1). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not ~~committed to prison or detention barracks until further ordered~~.(1) T.

(1. AA 57A. Delete if not used.)

(Sgd) H.R. Tyner Col.

Date 26 Nov 43

A/ Commanding "B" Gp. C.R.U.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
B.82583 Pte. Dixon E.E. D.O. 286 d/29/Nov 43	27 Nov 43	W.C. Fletcher Lt. Col. Comd. 1 Trng Wing. 1 Cdn. A.S.C. R.U. E. Fitzsimmons Lt. Officer i/c Records. 1 Cdn. A.S.C. Reinf. Unit.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

W.W.44.

CFA96 (In lieu of AFA8) 41/P & S/1608 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of H.R. Tyner, Colonel. A/Comd "B" Gp.CRU dated 24 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-82583	Pte.	Earl Edward	DIXON	1 CASCRU

Certified true copy of original proceedings herein.

27 Jul/44.

Proceedings Reviewed
W.C. Inch. Lieut.
13 Dec 43
Reviewing Officer (JAG) Branch A CMHQ

PROCEEDINGS OF TRIAL: R. E. Millgan Capt. J.A.G. Rep. A.G.

Held in the Fd in (country) England on (date(s)) 25 November 1943 (1) CF

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) CF
The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1043 hours trial commences. CF

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ CF

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: "Do you object to~~ ---------- ~~as interpreter?~~ ~~Ans~~ ----------

~~The interpreter is sworn.(1) "Do you object to~~ ---------- ~~as shorthand writer?~~ ~~Ans~~ ---------- CF
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(3). If objection, see procedure AA 53, RP 25, 71, 98, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	C. Fraser	R.C.E.
Member	Captain	N.H. Bayne	R.C.E.
Member	Lieutenant	H.E. Gilbert	R.C.C.S.
Judge-Advocate	----------	R.V. Munnoch	R.C.A.S.C. CF
Prosecutor	Lieutenant	R.D. Munnoch CF	R.C.A.S.C.
Defending Offr	Lieutenant	L.C. Gunky	R.C.A.S.C.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused B.82583 Pte. Earl Edward Dixon, before arraignment make(s) (no) (a) plea CF.
(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

on the

A9. The accused is (are) arraigned ~~separately~~ on the charge(s) in the charge sheet.(1) The accused does (does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. CF

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form. B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2) C.F.

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4) (5) CF

President to accused : Do you wish to make a statement ? Ans. No. CF

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~short~~ plea(s) of Guilty to Not Guilty on One charge(s). The accused is (~~are~~) so informed, ~~and he elects to~~ CF ~~change his plea(s) to Not Guilty on the charge(s). Part I of the Schedule is amended accordingly~~ CF ~~and he elects to adhere to his plea(s) of Guilty on the charge(s).~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1) CF

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1) C.F.

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114. *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither. CF.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. .....Do you intend to call witnesses on your behalf ?

Ans. .....Are they witnesses as to character only ? Ans. .....

(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* 895. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(2) (*d*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) CF

Ans. No Sir

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(I) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "D"(3) and Ex "E"(3) respectively.(4) CF CF

(1. *MFB* 255 *or AFB* 294. 2. *MFB* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes CF

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or with anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) CF

(1. *When several accused tried separately see RP* 58(*B*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 563-566, *Overseas RO* 309, 2325, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(3), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*B*), 68(*1*), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

7-V (case #2)

Pte. DIXON, E. E.

See 1119 for 1st case

POST OFFICE TELEGRAM

690

Capt R. Church.

62ND CMN GEN TKTS C&Y

RCASC

Woodlands

Kingswood

Charges to pay

s. d.

RECEIVED

"C" Overseas Post President

OFFICE

TELEGRAM

No. 690

OFFICE STAMP

TADWORTH * 27 DE 42 SURREY

Prefix. Time handed in. Office of Origin and Service Instructions. Words.

10 R m 9.52 Plymouth 26

From

To

Priority Capt R Church
62nd Card Gen Tpt Coy
RASC Woodlands Woodland Way TS

Unable to attend court-martial
re doctors order letter following
D. Gater

For free repetition of doubtful words telephone "TELEGRAMS ENQUIRY" or call with this form at office of delivery. Other enquiries should be accompanied by this form and if possible, the envelope.

Date of last entry in Company Conduct Sheet | Sqn., Battery or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay

COPY

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Character
Field	10.12.42	Pte		AA40.Did leave W.D.Veh.unattended.	Provost Corp	5 days C.B.	16.1.42	Maj.Dean	
Field	15.2.42	Pte		Did leave W. .property in a W.D Veh.					
Field	22.2.42	Pte		AA40.Did drive W.D.Veh.without first obtaining work ticket	Provost Corps	14 days C.B.	19.2.42	Maj Dean	
Field	25.2.42	Pte		AA19 Drunkenness AA10(4) Breaking out of Bks while under going C.B.	Provost Corps	21 days pay 21 days F.B.	26.2.42 26.2.42	Maj Dean Maj Dean	
				AA40 Improperly Dressed					

M F M 6
(A F B 122)

COPY

No B-82583 Name Dixon, E.E. | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10.12.42	Pte		AA40.Did leave W.D.Veh.unattended. Did leave W. .property in a W.D Veh.	Provost Corp	5 days C.B.	16.1.42	Maj.Dean	
Field	13.2.42	Pte		AA40.Did drive W.D.Veh.without first obtaining work ticket	Provost Corps	14 days C.B.	19.2.42	Maj Dean	
Field	25.2.42	Pte		AA19 Drunkenness AA10(4) Breaking out of Bks while undergoing C.B.	Provost Corps	21 days pay	26.2.42	Maj Dean	
Field	25.2.42	Pte		AA40 Improperly Dressed	Provost Corps	21 days C.B.	26.2.42	Maj Dean	

(P.T.O.)

Name	Date of offence	Rank	Corps or Regiment No.	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or if after Depot-ting with date	By whom awarded	Remarks
Field	25.5.42	Pte		AA15(1) 2200 hrs. till 2230 hrs. 25.5.42. (30 Mins) AA19(4) Breaking out of Camp	S/Sgt.Harris Cpl.Benford	10 days pay FRI 149(2) 1 day auto. forf.	28.5.42	Maj.Coward	

CERTIFIED A TRUE COPY

Officer i/c Custody of Records
62 Can Gen Tpt Coy RCASC

62 CDN. GEN. TPT. CO'Y.
R.C.A.S.C.

COPY

No. 82583 Name Dixon E.E. Sqn., Battery or Company: Corps

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Date of enlistment 5-9-39 | Sheet No. 2 | G.C. Badges | Signature O.C. Company | Character

M.F.M. 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of orders dispensing with trial	By whom awarded	Remarks
Inkerman	1-5-40	Pte		AA 15(1) 0100 hrs 1-5-40 till 2345 hrs 1-5-40	Pte.Bates Sgt.Clark	14days C.B.	2-5-40	Maj.Dean	
Godstone	15-3-40	Pte		AA 15(1) 2300Hrs 15-8-40 till 0930 hrs 16-8-40 (10 hrs)	Sgt. Lettington	10 days C.B.	18-8-40	Capt Partington	Forfeits 1 days pay
Godstone	14-9-40	Pte		AA 15(1) 2200hrs 14-9-40 till 17-9-40, 0845hrs	Cpl.Cook Sgt.Lettington	7 days Pay 7 days F.P.	18-9-40	Maj.Hallan	Forfeits 3 days pay
Field	18-10-40	Pte		AA15(2) Failed to appear at place of parade appointed byhis O.C.	L/Clp Torrie Capt Parrington	5 days F.P. 5 days pay	21-10-40	Maj.Hallan	Forfeits 1 days Pay

(P.T.O.)

Place	Date of offence	Rank	Corps or Regiment No.	Offence	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
ld	9-1-41	Pte		AA40:conduct did use W.D. vehicle 61-196045and petrol between 1730 hrs 9-1-41 and0015hrs10-1-41 without permission for private purpose	L/Cpl White Pte.Wilson	28 days Detn. 28days Pay	13-1-41	Maj.Dean	
Field	9-1-41	Pte		AA15(1)1700hrs 9-1-41 till 0015hrs 10-1-41(7hrs 15mins)	" "		13/1/41	Maj. Dean	Forfeit 1days pay
Field				(Released-Aldershot-25-3-41 Remission 14 days)	Total	43 days Detn			Forfeit 17 days
Field	7-2-41	Pte		AA 15(1) 1400hrs 7-2-41 to 1400 hrs 24-2-41 (17 days) Tried by F.G.C.M. 25-2-41 held under close arrest	forfeit 61 days pay	43 days pay	25-3-41	F.G.C.M.	pay 1 days pay

[illegible] forward from previous sheet, destroyed on completion of 6 months service

NB-82583 Name Dixon E.E. | Sqn., Battery or Company | Copy Corps | Date of enlistment | G.C. Badges | Driver Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company

M.F.M. 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order suspending same	By whom awarded	Remarks
Field	1-8-41	Pte		AA 15(1) 2359 hrs 31-7-41 till 0115 hrs 1-8-41 (1hr 16 mins)	CSM Stuart	3 days F.P. 3days Pay	1-8-41	Maj.Dean	
Field	24-9-41	Pte		AA15(1) 2359hrs 24-9-41 till 0700hrs 25-9-41 (7 hrs) AA25(1) in a statement made by himknowingit to be a false statement	Military Police Cpl.Richards Sgt West	28 days F.P. 28 dayspay Total Forf. 40 days Pay	25/8/41 25-8-41	Maj.Dean Maj.Dean	Forfeit 1 days pay Forf.10days pay Stoppage 22-9-42

Above entries transferred from previous sheet, destroyed on completion of 6 months service.

(P.T.O.)

TRIAL OF B-82583 Pte. DIXON, Earl Edward

Held at No. 62 Cdn. Gen. Tpt. Coy. RCASC

27 October 1942

President - Major Gagnon, No. 85 Cdn. Bridge Coy. RCASC
Members - Captain D. H. Eckold No. 82 Cdn A.A. Bde Coy. RCASC
- Lieut. J.E. Forbes No. 45 Cdn. Gen. Tpt. Coy. RCASC

1. The Order convening the Court, the charge sheet and the summary of evidence are laid before the Court.

2. The Court is satisfied that R.P. 15, 22, and 23 have been carried out.

Prosecutor - Capt. R. Church - No. 62 Cdn. Gen. Tpt. Coy. RCASC
Defending Officer - Capt. S. Mallon - No. 7 Field Reg't pln. RCASC

3. The accused is brought before the Court.

4. The medical certificate is laid before the Court signed by the president, marked "A", and attached to the proceedings.

5. At 0925 hours the trial commences.

6. The order convening the Court is read by the preseident. The names of the president and members of the Court are read over in the hearing of the accused and they severally answer their names.

Question: "Do you object to being tried by me as President or by any of the officers whose names you have heard read over?"

Answer: "I do not object, sir."

7. The President and the members are duly sworne

8. The charge sheet is signed by the President marked "B" and annexed to the proceedings.

9. The accused is arraigned upon the charge in the charge sheet.

10.

Question: "Are you guilty or not guilty of the first charge against you, which you have heard read?"

Answer: "Not Guilty."

Question: "Are you guilty or not guilty of the second charge against you, which you have heard read?"

Answer: "Not guilty."

Question: "Are you guilty or not guilty of the third charge against you, which you have heard read?"

Answer: "Not guilty."

Defence asks for adjournment due to the fact that of the unavailability of witness. Request over ruled for the present until the prosecution case has been heard without prejudice to the rights of the accused to renew the request again.

PROSECUTION

First Witness

B-82693 Cpl. Eastaugh, W.G. of the No. 62 Cdn. Gen. Tpt. Coy. RCASC having been duly sworn, is examined by the prosecutor.

PROSECUTION (Continued)

First Witness (Continued)

Question: "Do you recognize the accused?"

Answer: "Yes, sir."

Question: "What were your duties on the 12 Aug. 1942?"

Answer: "I was Orderly Corporal on the 12 Aug. 1942."

Question: "Will you tell the Court what occurred on 12 Aug. 1942?"

Answer: "At approximately 1530 hours I was detailed by Sergeant Cann to have a fatigue party wash walls in the ment mess hall. I went to find Private Dixon. I couldn't find him anywhere and I didn't see him all day. I reported him absent at Tattoo."

Question: "What time was Tattoo?"

Answer: "2300 hours, sir."

Question: "Did you search the billets?"

Answer: "Yes sir, I made my rounds."

Question: "Did Pte. Dixon report back?"

Answer: "No, sir."

The defending officer declines to cross examine.

In the opinion of the Court it is not necessary to comply with R.P. 83(b)

The witness withdraws.

PROSECUTION

Second Witness

Lieut. J. Hennessy - No. 62 Cdn. Gen. Tpt. Coy. RCASC being duly sworn is examined by the prosecutor.

Question: "What was your duty on the 30 Aug. 1942?"

Answer: "On the 30 Aug. 1942 I was Orderly Officer."

Question: "What did happen when you were Orderly Officer on 30 Aug. 1942 with regards to Pte. Dixon?"

Answer: "Pte. Dixon reported to the H.Q. Orderly Room after being absent without leave and I ordered the Orderly Sergeant to plac him under close arrest and to take him to "C" Platoon Guard room."

Cross examination by defence:

Question: "Were you present when Pte. Dixon reported to the H.Q. Orderly Room?"

Answer: "I was in my office and gave orders to the Orderly Sergeant to place Pte. Dixon under close arrest."

Question: "Did you see him personally?"

Answer: "No, sir."

The prosecutor declines to re-examine the witness.

R.P. 83(b) has been complied with.

The witness withdraws.

PROSECUTION (Continued)

Third Witness

B-82853 Pte. Cushman, T. - No. 62 Cdn. Gen. Tpt. Coy. RCASC being duly sworn is examined by the prosecutor.

Question: "Do you recognize the accused?"

Answer: "Yes, sir."

Question: "What were your duties on the 31 Aug. 1942?"

Answer: "I was guarding Private Dixon, E.E."

Question: "Will you tell us what occurred?"

Answer: "Pte. Dixon requested to go to the lavatory. I got the consent of the Orderly Coporal and we went to the lavatory. On the return to the guard room we had to pass through a hallway. There was no light. He just wheeled about and went out the doorway. Then I reported it to the copporal of the guard."

Question: "Were you the only one guarding the prisoner at the time?"

Answer: "Yes, I was the only one."

Cross-examination by the Defence

Question: "Did the accused strike you?"

Answer: "No, sir."

Question: "No violence whatsoever?"

Answer: "No, sir."

Question: "You had been guarding him for how long?"

Answer: "Approximately one hour and thirty-five minutes."

Question: "Was he quiet?"

Answer: "Yes, sir."

Question: "No signs of violence whatsoever?"

Answer: "No, sir."

Question: "He was a model prisoner?"

Answer: "Yes, sir."

The prosecutor declines to re-examine the witness.

R.P. 83(b) has been complied with.

The witness withdraws.

PROSECUTION

Fourth Witness

M-16435 Cpl. Paul, C.W. - No. 62 Cdn. Gen. Tpt. Coy. RCASC being duly sworn is examined by the prosecutor.

Question: "What were your duties on the 31 August, 1942?"

Answer: "I was guard commander."

Question: "Were there any prisoners?"

Answer: "Yes, Pte. Dixon, I can't remember anyone else."

PROSECUTION (Continued)

Fourth Witness (Continued)

Question: "Do you recognize the accused?"

Answer: "Yes, Pte. Dixon, E.E."

Question: "Can you tell what occurred on the 31 August, 1942 while you were guard Corporal?"

Answer: "I was Corporal guard in "C" platoon area on the 31 Aug. 1942 at approximately 2220 hours. I came into the guard room to check on my prisoners. I found him and the sentry absent from the guard room. On checking I found the prisoner with the sentry in the room above the guard room. The sentry was armed. The prisoner was washing at the time. Finding everything in order to my satisfaction I returned to the Orderly room. Some 5 minutes later I heard the sentry cry out and I immediately investigated and found the prisoner had escaped. I ordered the guard to turn out and at the same time phoned the Otderly Officer."

Cross-examination by Defence

Question: "You were Corporal of the guard during this period. Did he at any time give violence?"

Answer: "No, sir."

Question: "A model prisoner?"

Answer: "Yes sir."

Question: "No trouble at all? Has he since been violent?"

Answer: "No, sir."

Question: "He has been in the guard room on the last occassion for how long?"

Answer: "Something like the 25th September, 1942 he came to the guard room."

Question: "I have been advised he has been handcuffed?"

Answer: "Yes, sir."

Question: "Has he been paraded to the Orderly Room every day?"

Answer: "Yes sir."

Question: "From Guard Room to Orderly Room?"

Answer: "Yes, sir."

Question: "How far is that?"

Answer: "Quarter-of-a-mile sir."

Question: "Along a public highway?"

Answer: "Yes, sir, more of a private thoroughfare. It is used by civilians."

Question: Was he in uniform?

Answer: "Yes, sir."

PROSECUTION (Continued)

Fourth Witness (Continued)

Cross-examination by Defence (Continued)

Question: "And Handcuffed?"

Answer: "Yes, sir."

The prosecutor re-examines the witness.

Question: "Was the prisoner handcuffed in the guard room?"

Answer: "No, sir."

Question: "He was handcuffed only going to the Orderly Room?"

Answer: "Yes, sir."

Question: "Did he have exercise daily?"

Answer: "Yes sir."

Question: "What did this consist of?"

Answer: "A walk and exercise on the golf links."

Question: Was he handcuffed?"

Answer: "Yes, sir."

Question: "What instructions did you give the escort?"

Answer: "My instructions were that at any time he left the guard room he was to be handcuffed."

R.P. 83(b) has been complied with.

The witness withdraws.

Fifth Witness

B-82712 L/Cpl. Bassant - No. 62 Cdn. Gen. Tpt. Coy. RCASC being duly sworn is examined by the prosecutor.

Question: "Do you recognize the accused?"

Answer: "Yes, sir."

Question: "Who is he?"

Answer: "Pte. Dixon, E.E."

Question: "What were your duties on 25 Sept. 1942?"

Answer: "I was Orderly Corporal and Cpl. of the guard."

Question: "What occurred?"

Answer: "Pte. Dixon walked into the guard room and reported."

Question: "At what time?"

Answer: "0800 hours 25 Sep. 1942, sir."

Cross-examination by defence

Question: "The accused gave himself up?"

Answer: "Yes, sir."

Question: "Have you been on guard since the accused gave himself up?"

Answer: "Yes sir."

Question: "How often?"

Answer: "about three times sir."

Question: "What were your orders concerning handcuffing?"

Answer: "My orders were that handcuffs were to be placed on Dixon and kept on him."

Question: "He slept with handcuffs?"

Answer: "He did the first night I was on guard."

Question: "During the times you were Corporal of the guard was he ever violent?"

Answer: "No, sir."

Question: "Always quiet and well behaved?"

Answer: "Yes, sir."

Question: "Was it necessary for Dixon to have medical attention for his wrists?"

Answer: "Yes, they were bandaged."

Question:

The Prosecutor re-examines the witness:

Question: "Why was it necessary to place bandages on Dixon's wrists?"

Answer: "Pte. Dixon complained of chaffing, sir."

"Not necessary to comply with R.P. 83(b).

The witness withdraws.

Submission by defence

Continuing absence not proved by any of the witnesses of the prosecutor in the first and third charges. Nothing to say about second charge.

Return by Prosecutor

Pte. Dixon did go away and he did return. It is not necessary to vouch for every minute of the day.

Court adjourned at 1145 hours 27 October, 1942 to consider the submission.
Court opened at 1200 hours 27 October, 1942.
Court decided the accused A.W.L. unless return by accused to barracks can be proved by defence. The Court warned the accused that if he wishes he may give evidence as awitness and if so may be cross-examined.

Question: "Do you wish to give evidence as a witness?"

Answer: "No, sir."

Question: "Any other witness by defence?"

Answer: "No, sir."

Submission by Prosecution

First charge proved as per evidence.
Second charge proved as per evidence.
Third charge proved as per evidence.

Time as per charge, correction re. the number of days.

The prosecutor admits that Miss D. Gater is a respectable young woman who has been keeping company with the accused for some months and they are very fond of one another. That Miss Gater was taken seriously ill and her life was feared for around the 31 Aug. 1942. That news of this reached the accused on 31 August. 1942 and that he rushed to her bedside.

Return of Defence

Nothing to add to what I said before re. continuing absence was not proved.

COURT

"Wire received that a witness is unable to attend the Court-Martial." Exhibit C
The Defending officer abandons his motion for adjournment
Court adjourned at 1210 hours 27 Oct. 1942 to consider the submission by the prosecution.

Court opened at 1215 hours 27 October, 1942.

PRESIDENT

The Court is now ready to hear any evidence by the accused.

Prosecutor "I produce MFM 6 and MFB 296 and I certify that they relate to the accused."

SUMMARY BY DEFENCE

The accused is a young man who enlisted at the outbreak of war, and was at that time 21 years of age. He is now 24. He enlisted voluntarily and came overseas in 1940. He is a young man subject to discipline, away from home and parents. In the period just prior to going absent without leave he had been employed in workshops, interested and enjoying it. He had a motorcycle assigned to him, also a lorry. He was working largely on motorcycles but is not a mechanic. He is interested in the maintenance and repair of transport. He knew the other members of the Workshops section and was getting along well. Shortly before going absent he was transferred to "C" platoon or rather the R.D.I's. attached to "C" platoon, so that he no longer had a motorcycle or lorry. He came to a group of men who were not his particular friends. He did not know them. I am not trying to justify the action he took. He went absent without leave. He is the first to get punished, and is prepared to take punishment. Like all A.W.L. cases he left on the spur of the moment. Just puts off the evil day to come back. However, he did come back and was placed in the guard room, and while there he got word from his girl friend indirectly that she was seriously ill. I doubt that there are many of us that would [redacted] take the action Pte. Dixon took. He chose this way., so he eluded the guard and rushed to her bedside and remained there. That is a natural action, wrong action, granted, but the one a man would take when his loved one is at the point of death and he himself is under guard. First thing he would think of would be "I must get away and see her", and there is the case, purely and simply. He might have been back earlier but postponed the evil day. Finally did come back, gave up, and prepared to take punishment. He was treated not like a Canadian soldier who volunteered and has spent three years in this country, but he was manacled. We shudder to think of prisoners of war. We do it with great reluctance. There are prisoners whose duty it is to escape. This man has never been violent, yet he is handcuffed, sleeps in them, marches down a public highway every day. A Canadian soldier in uniform marching every day 1/4 mile each way to the Orderly Room. Gentlemen, you can't give him any greater punishment than that. - From 28 Sept. 1942 to the present time. He has had a few sores on his wrists. He doesn't worry about that or how the M.O. Bandaged it but to be lead up the street like a murderer as if he did some unforgiveable crime. I submit that he has suffered the punishment and more - the escaping circumstances show he escaped for a reason.

SUMMARY BY DEFENCE (Continued)

Not to make trouble but felt he must go. He is not a criminal but he enlisted to do a duty yet we find him in irons. All I ask you to do is to consider these facts that for over a month he was lead up and down the street in handcuffs. I personnally can't help feeling idignant about this even if he has committed an offence. The authorities say that the punishment should be only sufficient to meet the discipline. We Don't punish for revenge, we rather punish for exemplary purposes, to hold discipline. I feel that it is in the interest of discipline that a very very light punishment should be given.

President to Accused: "To my own satisfaction, what enticed you to go absentw ithout leave first?"

Answer: "I was happy in W/S and was put where I wasn't happy."

Question: The army has to look after many soldiers. They are all given a chance to apply for a talk with their C.O. "How long have you known the girl?"

Answer: "about a year."

Question: "Have you had many week-end leaves?"

Answer: "Couldn't say how many, sir."

Question: "When were you transferred from Workshops?"

Answer: "25 August, 1942, sir."

Court adjourned at 1245 hours 27 October, 1942

A short hand writer was not engaged on this trial

Alls. Gagnon
Lt major
President

27-10-42

MEDICAL CERTIFICATE

This is to certify that I have this day examined B-82583 Pte.Dixon,E.E., and in my opinion he is fit to undergo trial by Court Martial.

Field
27 Oct 42.

J A Robertson Capt.
R.C.A.M.C.

"A"

Lt. Colonel
Major
President

CHARGE SHEET

The accused, No. B-82583, Private Dixon, Earl Ernest, 62 Canadian General Transport Company, Royal Canadian Army Service Corps, a soldier of the Canadian Army Overseas, is charged with:

1st Charge
A.A. Sec. 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he, at Kingswood, Surrey, did absent himself without leave from 1500 hours on the 12 August, 1942, until 2340 hours, 30 August, 1942, - (total time absent, 18 days, 8 hours, 40 minutes.)

2nd Charge
A.A. Sec. 12

WHEN IN CONFINEMENT ESCAPING

in that he, at Kingswood, on 31 August, 1942, at 2220 hours, when in confinement, escaped.

3rd Charge
A.A. Sec. 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he, at Kingswood, on 31 August, 1942, absented himself without leave from 2220 hours on 31 August, 1942, till 0800 hours, 25 September, 1942. (time absent, 9 hours and 40 minutes.)

D Ross-Smith

(D. Ross-Smith), Major,
Officer Commanding,
62 Cdn Gen Tpt Coy.
R.C.A.S.C.

Field

To be tried by Field General Court Martial.

W. H. G. Donnelly Lieut Col.
A/ Commanding Corps Medium Artillery

In the Field
7th Oct 42.

D

Alex Fagnan major
President

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-82583	Pte	Dixon,E.E.	62 Cdn Gen Tpt Coy, RCASC

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For A.A.15(1)	Two	times	Seven	times.
For A.A.25(1)	One	times	One	times.
For A.A.40	Three	times	Four	times.
For A.A.19	One	times	One	times.
For A.A.10(4)	Two	times	Two	times.
" A.A.15(2)			One	

Number of instances of gallantry or distinguished conduct

or

There are no entries in the conduct sheets of the accused

2. The accused has not been previously convicted

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. *or* The accused at the present time is under sentence for ~~imprisonment~~ for x ~~imprisonment~~ on the x day of x

4. The accused has been in confinement, awaiting trial on the present charges, for 32 days in civil custody, and ~~x~~ days in military custody, making a total of 32 days, of which ~~x~~ days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 20 Mar 18

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 5 Sept 39

7. The service which the accused is about to take towards ~~x~~ is x

8. The accused is entitled to deferred pay or gratuity in respect of x service.

9. The accused is entitled to reckon x service for the purpose of ~~x~~

10. The accused is in possession of or entitled to an military decoration or military ~~x~~ is in possession of or entitled to ~~x~~ military decoration or medal.)

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer held the substantive rank of

12. (*If the accused is an officer.*) The accused holds in the army the rank of x and is in x regiment (or corps or department) (*Service*)

Alec Ferguson Major
President

(*30240) Wt.30240/1612 75,000 12/40 A & E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. R-82583 Rank Pte Name Dixon, R.W. of 62 Con Gen Tpt Coy Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	25 Feb 42	A.A.15(1) A.A.22	43 days Detention 43 days pay Total forf. 61 days pay	14 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27th day of 1942

Adjutant

62 CON. GEN. TPT. COY. R.C.A.S.C.

---

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years .....

In the rank of ..... years, ...

(Instructions—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs completed accordingly.*)

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this 7th day of October, 1942

Whereas it appears to me, the undersigned, an officer in Command of Corps Medium Artillery, First Canadian Army, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[~~I am unable to appoint :—~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~

~~[or the following persons, namely:—]~~

* Omit if not applicable.

P.R. Mayhew Lt-Col for Provost Corps

Acting as Major President

President.

Rank.	Name.	Regiment.
Major	A. Gagnon	85 Cdn Bridge Coy, RCASC.

Members.

Rank.	Name.	Regiment.
Captain	D.H. Eckold	82 Cdn AA Bde Coy, RCASC.
Lieutenant	J.F. Forbes	45 Cdn Gen Tpt Coy, RCASC.
(Waiting Member) Lieutenant	M.B. Cooke	41 Cdn Gen Tpt Coy, RCASC.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed W.A. Dunlop Lt-Col

a/ Commanding Corps Medium Artillery

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B82583 Pte. Dixon, Earl Ernest, 62 Canadian General Transport Company R.C.A.S.C.	1st Charge A.A. 15(1) See charge sheet attached	not Guilty	Guilty	I confirm find and sentence but remit or mitigate the
	2nd Charge A.A. 22 See charge sheet attached	not Guilty	Guilty	
	3rd Charge A.A. 15(1) See charge sheet attached	not Guilty	Guilty	
			To undergo 6 months Detention	
			Alex Lagnose Major	
			President	
			27-10-42	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet, if necessary*) :—

(Signed) A/Q Tommy Elliot (Signed) Alex Lagnose - major
O/C Commanding Corps Mechanical Artillery 85 Cdn Bridge Coy.
Concerning Officer (c) *President*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27th, day of October, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 27th day of October 1942

Alex Lagnose Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 792 M.M.L., 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 29th day of Oct. 1942

R. C. Slemon Brigadier
C.C.R.A. Cdn. Corps.
Confirming Officer.

Promulgated and extracts taken in the case of B82583 Pte Dixon, E.C.

(a) (Dated) 1st Nov 42 (Signed) [illegible]
Officer Commanding,
82 Cdn. Gen. Tpt. Coy. R.C.A.S.C.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

NNN:122
GNR DIXIN E-F

NNN-152

CFA96 (To Hen of AFA2)
40/P & R/1608 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Colonel B.R. Ker, ED A/Comd "C" Gp CRU dated 16 May 44

RECEIVED 7 JUN 1944 JAG BRANCH HQ

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-74927	Gnr		Edward Frank	DIXON	2 CARU

PROCEEDINGS REVIEWED 17 June 44

[signature] Lt Col

PROCEEDINGS OF TRIAL.

Held at the Fd in (country) England on (date(s)) 19th and 25th May/44

PRESIDING OFFICER, JAG's BRANCH C.M.H.Q.

RECORD FORM A--OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~as interpreter?~~ Ans

~~The Interpreter is sworn.~~(1) Do you object to as shorthand writer? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 16, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.L.	REIMAN	HQ CRU
Member	Capt	I.E.	FUGER	1 CAGRU
Member	Lt	R.B.	PARTRIDGE	1 CAGRU
~~Judge-Advocate~~				
Prosecutor	Lt	M.R.	ROWE	2 CARU
Defending Offr	Lt	W.	EPSTEIN	2 CARU

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans [illegible](2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D/ p 3.)

A8. The accused before arraignment make(s) (no) (a) plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

COURT ADJOURNED

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to (the) charges.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 2, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete words or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

FIRST CHARGE
Section 40
Army Act.

The accused, No.K-74927 Gnr. Edward Frank DIXON, Administrative Wing, No.2 Cdn Arty Rft Unit, a soldier of the Canadian Army Overseas, is charge with:-

WHILE ON ACTIVE SERVICE
Conduct to the prejudice of good order and military discipline

in that he
in the Field on 19 Apr 44 did improperly and without authority use Cdn military vehicle No.CZ4208856 thereby occasioning damage to the extent of £5.10.10 (Five Pounds Ten Shillings and Ten Pence) and cost of labour to extent of £3.15.0 (Three Pounds Fifteen Shillings)

SECOND CHARGE
Section 11
Army Act
(ALTERNATIVE)

WHILE ON ACTIVE SERVICE
Neglecting to obey Camp Standing Orders

in that he
in the Field on 19 Apr 44 did improperly and without authority use Cdn military vehicle No.CZ4208856 contrary to Camp Standing Orders No.2 C.A.R.U. No.28(M.T.Orders) directing all drivers to be in possession of an authorized work ticket.

(Mackenzie Waters) Col. RCA
Commanding Officer
No.2 Cdn Arty Rft Unit
Cdn Army (Overseas)

Dated at Huron Camp
Bramshott, Hants
11 May 44.

To be tried by Field General Court Martial,

Colonel,
A/Commander "C" Group, Cdn Reinforcement Units.
(Convening Officer)

Bordon, Hants.
16 May 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAM/1697 (2068)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
K-74927	Gnr		Edward Frank	DIXON	2 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [illegible] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 May 44 endorsed by me, (a) [illegible], "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [illegible]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lieut-Colonel	D.L. Redman VD		HQ CRU

MEMBERS.

Captain	detailed by CO	1 CACRU
Lieutenant (Rank.)	detailed by CO (Named or detailed. RP 106.)	1 CACRU (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

Date 16 May 44

(Signed personally. RP 105 fn 2.)

Colonel (Rank.)

Commanding "C" Group, Cdn Mft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(C)), any objections (*RP* 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.
A 12345 Cpl H. Jones, RWR, sworn, states:
I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 16 Jan 45 I ordered the accd to go on parade. He refused and did not go on parade.
Cross-exam: He did not say he was sick. (*or*, None.)
Re-exam: None.
Exam by Court: He said—"I've had enough parades".
RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 60(C), 87(C), 92(C) (*D*).)
(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)
(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)
(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 88(B)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(C).)
(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(C), 92(C) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)
(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(C), 92(C) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(E), *KR Can* 562(a).)
(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)
(ii) Convening Order with any declarations made by Convening Offr under RP 104, 108, 107, 114.
(iii) Medical Certificate(s). (*KR Can* 557.)
(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.
(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can* 560. *As to certified copies of regimental books see AA* 103 (1) (g) (h).)
(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not forms part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 53(3), *RP* 116(C), *MML p* 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

[redacted] CONCERN

This is to certify that I ahve, this morning, examined the u/m soldier and have found him ~~unfit~~ fit to stand trial by Court Martial

19 May 44

H. Macauley Capt
Medical Officer
No 2 Cdn Arty Reinf Unit

CASE OF

K.79427 Gnr A 9 DIXON E.F. 2 CARU

Before the accused was arraigned the Defending Officer said:

In connection with these charges there are several remarks which I think it is my duty as Defending Officer under RP 52 to bring to the attention of this Court. I intend to repeat these remarks at the end of the case for the Prosecution, but think it may be wise to raise them now so that they may be given full consideration. The first charge is under Sec 40 of the AA and the 2nd charge is under Sec 11 of the AA. The usual procedure is to lay the charge under the specific section of the Act. Here the procedure has been reversed and the charge has been laid under the general section and in the alternative it has been laid under Sec 11. As I understand it Sec 40 should be charged only in two cases, either when there is no specific section of the Act which covers the case or where it is laid as an alternative to some charge under another section of the Act. As to why this has not been done in this case I do not know. I think the Manual of Military Law states or sets this out in the footnotes to Sec 40. It will also be noticed that in the alternative charge under Sec 11 the accused has not been charged with the damage to the vehicle in the sum of £9/5/10. The only reason I can think of for this procedure is that it was felt that the accused, even if guilty of one of the offences, should not be saddled with the load of having to pay the sum of £9/5/10, as same may not have been due to any negligence on his part. In the next place it is my submission that the first charge is bad for duplicity, that is, that it charges two separate and distinct offences, or in the alternative, that it is so vague as to be meaningless and incapable of pleading to. It will be noted that the accused is charged with, firstly, improperly using the vehicle and secondly, using same without authority. It will be noted that the charge is "improperly and (not or) without authority", thus implying two different offences. The word "improperly" cannot be the same as the expression "without authority" else it would be redundant and mere surplusage, hence there must be some meaning given to the word "improperly". By improperly I can conceive that if he were driving negligently or speeding, or that something defective such as no oil, water or with poor brakes or with something else wrong such as a portion of the veh maintenance not complete then he can properly be charged with driving the vehicle improperly, but I can conceive of numerous cases where a person was driving a vehicle without authority but quite properly and also that a person could be driving a vehicle without authority but quite improperly, but when he is charged with both driving improperly and without authority the charge becomes so complex or vague that it is difficult or impossible for me to advise the accused how he should plead. If he were charged with either of the two, that is, either driving a vehicle improperly or driving the vehicle without authority, there would be no difficulty, but at present the accused does not know and cannot know how he is charged, since there are no particulars of exactly what he is charged with. Furthermore, the accused is charged with "thereby occasioning damage". Does this mean that his improper driving occasioned the damage or that his unauthorized driving occasioned the damage? I can see that if he were driving improperly the damage could be thereby occasioned, but I submit that the mere fact of his driving without authority cannot thereby occasion any damage. The word "thereby" must mean that the damage was a logical result of his driving, but surely there was no causuation whatsoever between a person driving a vehicle without authority and between damage resulting? With regard to the second charge in that he did improperly and without authority use this military vehicle contrary to Camp Standing Orders, I repeat in this connection everything I have said in connection and with respect to the first charge of improperly and without authority, but there there are particulars of the charge in that we find that his use was contrary to an order directing all drivers to be in possession of an authorized work ticket. Since the real offence charged, or a gist of it, is that ~~is that~~ he drove it without being in possession of a work ticket it must be that improper and unauthorized driving of this vehicle is due solely to the fact that he had no authorized work ticket. Accordingly, since the second charge is alternative to the first, the real offence must boil down to the fact that the accused drove this vehicle without an authorized work ticket. That being so, I refer back to charge number one and submit that if the accused drove this

vehicle without an authorized work ticket he cannot be charged with thereby occasioning it any damage because same does not logically follow as a result. The mere fact that a person drives a vehicle without a proper work ticket can have absolutely nothing whatsoever to do with that vehicle subsequently being involved in a collision with damage resulting as a consequence of the driving without a proper work ticket. If it should be held that the driving of a vehicle without proper authorization which becomes involved in an accident and that the damage is due to the lack of authorization then does it not follow that if he has a proper work ticket, the vehicle is damaged in a collision, he is not responsible no matter how negligen he may have been. If the damage is "thereby" occasioned by the lack of authority then if he has proper authority the damage cannot be "thereby" occasioned no matter how negligent or improper was the drivin In short, if the law is that an unauthorized use results in or causes the damage for which the accused is legally responsible, surely it must be that the authorized use cannot result in damage no matter how negligently the driver operates the vehicle? So long as he is authorized he is not legally responsible for any damage that occurs. This argument is based on the assumption that improperly and without authority are on the facts of this case the same since the alternative charge sets out that the gist of the offence was the lack of an authorized work ticket, otherwise the word improperly must be taken in its ordinary sense as meaning something improper about the driving itself in which case there are two offences charged. I realize that the form of the charge is in general use and has been set out in a circular sent to the various units. My submission is, however, with great respect, that the charge is bad. It is true that the amendment Note 4 to Sec 137 of the Army Act is as follows "In the case, however, of the continuing wrongful act of improperly using War Department property, e.g., a motor vehicle, any loss or damage happening to such property during the continuance of such the user may be held to be occasioned thereby". It will be noted that this note uses only the word "improperly" and does not use the word "without authority"-------in other words that the meaning of the word "improperly" must be the one I have referred to earlier when there was something defective in the vehicle or negligence in the driving.

MY

CASE OF

K.79427 Gnr A·9 DIXON E.F. 2 CARU

Before the accused was arraigned the Defending Officer said:

In connection with these charges there are several remarks which I think it is my duty as Defending Officer under RP 52 to bring to the attention of this Court. I intend to repeat these remarks at the end of the case for the Prosecution, but think it may be wise to raise them now so that they may be given full consideration. The first charge is under Sec 40 of the AA and the 2nd charge is under Sec 11 of the AA. The usual procedure is to lay the charge under the specific section of the Act. Here the procedure has been reversed and the charge has been laid under the general section and in the alternative it has been laid under Sec 11. As I understand it Sec 40 should be charged only in two cases, either when there is no specific section of the Act which covers the case or where it is laid as an alternative to some charge under another section of the Act. As to why this has not been done in this case I do not know. I think the Manual of Military Law states or sets this out in the footnotes to Sec 40. It will also be noticed that in the alternative charge under Sec 11 the accused has not been charged with the damage to the vehicle in the sum of £9/5/10. The only reason I can think of for this procedure is that it was felt that the accused, even if guilty of one of the offences, should not be saddled with the load of having to pay the sum of £9/5/10, as same may not have been due to any negligence on his part. In the next place it is my submission that the first charge is bad for duplicity, that is, that it charges two seperate and distinct offences, or in the alternative, that it is so vague as to be meaningless and incapable of pleading to. It will be noted that the accused is charged with, firstly, improperly using the vehicle and secondly, using same without authority. It will be noted that the charge is "improperly and (not or) without authority", thus implying two different offences. The word "improperly" cannot be the same as the expression "without authority" else it would be redundant and mere surplusage, hence there must be some meaning given to the word "improperly". By improperly I can conceive that if he were driving negligently or speeding, or that something defective such as no oil, water or with poor brakes or with something else wrong such as a portion of the veh maintenance not complete then he can properly be charged with driving the vehicle improperly, but I can conceive of numerous cases where a person was driving a vehicle without authority but quite properly and also that a person could be driving a vehicle with authority but quite improperly, but when he is charged with both driving improperly and without authority the charge becomes so complex or vague that it is difficult or impossible for me to advise the accused how he should plead. If he were charged with either of the two, that is, either driving a vehicle improperly or driving the vehicle without authority, there would be no difficulty, but at present the accused does not know and cannot know how he is charged, since there are no particulars of exactly what he is charged with. Furthermore, the accused is charged with "thereby occasioning damage". Does this mean that his improper driving occasioned the damage or that his unauthorized driving occasioned the damage? I can see that if he were driving improperly the damage could be thereby occasioned, but I submit that the mere fact of his driving without authority cannot thereby occasion any damage. The word "thereby" must mean that the damage was a logical result of his driving, but surely there was no causation whatsoever between a person driving a vehicle without authority and between damage resulting? With regard to the second charge in that he did improperly and without authority use this military vehicle contrary to Camp Standing Orders, I repeat in this connection everything I have said in connection and with respect to the first charge of improperly and without authority, but there there are particulars of the charge in that we find that his use was contrary to an order directing all drivers to be in possession of an authorized work ticket. Since the real offence charged, or a gist of it, is that ~~is that~~ he drove it without being in possession of a work ticket it must be that improper and unauthorized driving of this vehicle is due solely to the fact that he had no authorized work ticket. Accordingly, since the second charge is alternative to the first, the real offence must boil down to the fact that the accused drove this vehicle without an authorized work ticket. That being so, I refer back to charge number one and submit that if the accused drove this

CASE OF

K.79427 Gnr DIXON E.F. 2 CARU

Before the accused was arraigned the Defending Officer said in connection with these charges there are several remarks which I think it is my duty as Defending Officer under RP 22 to bring to the attention of this Court. I intend to repeat these remarks at the end of the case for the Prosecution but think it might be wise to raise them now so that they may be given fully consideration under the specific sections of the act.

CONFIDENTIAL

CGHQ 5-4-2/D
23 May 44

Lt-Col D.L. Redman, V.D.
HQ CRU

FGCM
K-79427 Gnr Dixon, E.F.
2 CARU

Ref 429/CM"D"/1(DJA) dated 19 May 44.

1. The objections of the defending offr have been noted and have been the subject of reference to the DJA. On the question of the alternative charge it is considered that in this instance the charge laid under AA Sec 40 is the more serious of the two charges but in order to obviate any doubt there may be on this point I direct that the second charge in the alternative be dropped.

2. It is further considered that the objection of the defending offr as to the wording of the first charge is not well founded and that the charge is correct as drafted.

3. In the circumstances the court will be reconvened at the earliest opportunity and the case proceeded with on the first charge only. If you will advise this HQ as to when you will be prepared so to proceed arrangements will be made for the reconvening of the court.

4. Proceedings are returned.

(B.R. KER) Colonel,
Convening Officer,
A/Commander "C" Group,
Cdn Reinforcement Units.

CWL/JBK
DRLS/POST

Copy to: 2 CARU
" " DJA HQ CRU

TO WHOM IT MA Y CONCERN

This is to certify that I have, this morning, examined the u/m soldier and have found him fit to stand trial by Court Martial.

K74927 GNR. EDWARD FRANK DIXON.

25 May 44.

Capt.
Medical Officer
No 2 Cdn Arty Reinf Unit.

CASE OF

K.74297 Gnr DIXON E.F. 2 CARU

AT 1400 HOURS 19 MAY 44 THE COURT HEARD THE SUBMISSION BY THE DEFENDING OFFICER THAT THE CHARGES WERE NOT IN ACCORDANCE WITH THE RULES OF PROCEDURE. NOTE A.D.A.T.T.

THE COURT WAS CLOSED AND BEING IN DOUBT, ADJOURNED TO CONSULT THE CONVENING AUTHORITY.

THE SAME COURT REASSEMBLED AT 1400 HOURS 25 MAY 44. LETTER FROM CONVENING OFFICER IS ATTACHED.

THE PROSECUTOR PRODUCED A MEDICAL CERTIFICATE.

THE PRESIDENT STATED THAT THE SECOND CHARGE HAD BEEN SPOTTED AND DELETED FROM THE CHARGE SHEET.

THE PRESIDENT STATED THAT WITH RESPECT TO THE OBJECTIONS OF THE DEFENDING OFFICER TO THE FIRST CHARGE UNDER SEC 40 THE COURT DISALLOWS THE SAME AND THE PRESIDENT STATED THAT THE TRIAL WOULD PROCEED. HE ALSO INFORMED THE DEFENDING OFFICER THAT IF HE WAS DISSATISFIED WITH THE DECISION OF THE COURT HIS REMEDY WOULD BE TO BRING A PETITION UNDER KR(CAN) 574 AFTER THE TRIAL HAD BEEN COMPLETED.

THE ACCUSED WAS THEN ARRAIGNED.

D-1 AFTER THE DEFENDING OFFICER HAD ANSWERED "NO, SIR" TO THE QUESTION IN D-1 HE SAID:

" It will be entirely unnecessary to raise any further objections or petitions but I think it only fair to state now that the close of the case for the Prosecution I intend again to repeat the arguments and objections raised at the first hearing with respect to the first charge. I feel, Sir, that not only is this an injustice to the accused but that it is a matter of considerable public importance to the administration of military law in the Army. The matter has unquestionably been raised before and has not only puzzled Prosecutors and Defending Officers but also various Courts that have tried similar charges."

D-3 -PROSECUTION-

FIRST WITNESS

C.10635 Gnr SMITH V, 2 CARU, having been duly sworn, states:

I recognise and know the accused, Gnr Dixon. On Wed night 19 Apr 44 I was out of Camp at Hindhead. On the way home on the Portsmouth road I saw an army vehicle coming. I got in, and recognized Gnr Dixon. He proceeded down the road towards camp. It was raining and suddenly we hit something which we found out later was a truck parked on the road. We were looking out the windshield all the time during the drive so we would not run up on the curb. There was no lights on the other vehicle.

Q. When were you picked up by Gnr Dixon?
A. At 2215 hours, Sir.

CROSS-EXAMINED

Q. You say you did not see any lights on the veh?
A. Definitely not, Sir. If there had been any lights on the vehicle ahead of us I would have seen them. After the collision we were stunned for a couple of seconds.

Q. Did any people come around?
A. Not for about a minute or 2.

Q. Could Cnr Dixon have driven off before the people came up?
A. Quite easily, Sir.

Q. What is your job?
A. DR, Sir.

Q. Have you ever seen any orders posted regarding M.T.?
A. Not until 3-4 days ago.

Q. Were there any instructions whatever about authorization of vehicles?
A. No, Sir.

RE-EXAMINED

Q. Your eyes were on the road all the time?
A. Yes, Sir.

Q. How long have you been a D.R.?
A. About 2 years.

Q. You are acquainted with a little book called M.T. Drivers' Regulations?
A. Yes, Sir.

QUESTIONS BY THE COURT

Q. Was there any soldier in charge of the parked car which was run into?
A. I don't know that, Sir. After we hit I got out of the truck and the other vehicle had gone up the road about 40 or 50 yards as a result of being hit. It was a 15 cwt military vehicle, and I don't know what unit it belonged to.

Q. Were the headlights on the accused's car on?
A. Yes, Sir.

Q. Were they in good order?
A. Yes, Sir.

Q. How fast were you travelling?
A. He was travelling about 20-25 miles an hour, Sir.

Q. Did he do anything in an attempt to avoid the accident?
A. As soon as we hit he pulled his steering wheel hard to the right and put on his brakes.

Q. Did he do anything before he hit?
A. No, Sir.

QUESTIONS BY THE COURT AT REQUEST OF DEFENDING OFFICER:

Q. What is the maximum allowed speed of the vehicle you were in?
A. 30 miles per hour, Sir.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

SECOND WITNESS

Lt F.W. TROVELL, 130 LAD, being duly sworn, states:

I am the OC 130 LAD. As OC I assess~~ex~~ the damage on military vehicles. On 25 Apr 44 I assessed damages on a Ford 15 cwt. The vehicle was in the workshop yard when I took command on 25 Apr 44. It was vehicle 856, that is, the last three numbers. The cost of materials was £5/10/10 and the labour £9/15/0

CROSS-EXAMINED

Q. If this vehicle had been driven at any great rate of speed and had collided with an army truck the damage would have been much greater?
A. That is right. The damage would lead one to believe that the speed was not very fast.

RE-EXAMINED

Q. A 15 cwt has a heavy bumper?
A. That is right.

Q. A 15 cwt could be driven at a fairly fast speed and there could hardly be any damage to it, and yet, on the other hand, there could be a great deal of damage to it, is that right?
A. That would depend on the point of contact.

QUESTIONS BY THE COURT

Q. What parts of the vehicle were damaged?
A. The front bumper, radiator grill, and part of the undercarriage was bent,

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THIRD WITNESS

A.31335 L/Bdr WATT, N, 100 Bty 4 LAA Regt RCA, having been duly sworn, states:

I recognize and know Gnr Dixon. The last time I saw him was on the night of 19 Apr 44. I was away from my unit at the time, at 2 CARU. From here I went back to my unit. I was parked on the left hand side of the road heading towards Headley. I was there about a minute when something ran into the back of my truck. It kind of dazed me, but after my truck had stopped I got out as soon as I could and there was one passenger in the back and I went around to see if he was hurt. He was dazed but otherwise seemed all right. I then went down the road to where the other vehicle had stopped. By that time a policeman was also over at this truck. We gave statements to the policeman.

Q. Before you left 2 CARU did you check your lights?
A. Yes, Sir, everything.

Q. When you were parked how were your lights?
A. They were on, Sir.

Q. The police took a statement?
A. From us all, Sir.

CROSS-EXAMINED

Q. Your vehicle was parked on a down hill slope of the road is that not true?
A. I can't say for sure, Sir.

Q. Can you say for sure whether you had both bulbs in both tail lights working?
A. When we left 2 CARU they were.

Q. You are quite sure that your left rear tail light had both a bulb and a reflector in it?
A. Yes, and I am certain of that when we left 2 CARU.

Q. For all you know when you were parked there both of them may have been off?
A. I never got out of the vehicle, although Davis looked at them, and found one of them on.

Q. You don't know whether the other was on or off?
A. It was on when we left CARU.

Q. Do you know if your light on your differential was on?
A. It was not on, Sir.

QUESTIONS BY THE COURT

Q. What was the damage to your vehicle?
A. It was not very much, Sir, the rack was shoved up onto the cab, the tail lights were broken.

Q. What was the weather like?
A. It was raining hard, Sir.

Q. Why did you park at that spot?
A. To pick up some sandwiches, Sir, to eat on the way home.

FOURTH WITNESS

B.47931 Gnr DAVIS, W, 11 Bty 4 LAA Regt RCA, having been duly sworn, states:

I was with Bdr Watts on the night of 19 Apr 44. We were down at CARU on duty. At at 2300 hours we finished, it was dark and raining. Previous to going back he asked me to check both his tail lights and I found them both in good working order and they were both on. Then we proceeded, and on the way home we stopped at a canteen in Grayshott. As I got out of the truck I noticed that the right hand side tail light was on xxxx. WHEN I came back out of the canteen I located the truck about 50 yds down the road where I found out it had been knocked by another truck.

CROSS-EXAMINED

Q. Your truck was parked on a down hill slope?
A. Slightly, Sir.

Q. Did you notice whether the reflector was out of the light?
A. I don't know, Sir, it was too dark.

Q. You are quite positive the right hand tail light was on?
A. Yes, Sir.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

FIFTH WITNESS

Police Constable G.H. VERRY, Grayshott Police, having been duly sworn, states:

I recognize the accused and have seen him before. The first time I saw him was about 1015 p.m. in Grayshott on Wed 19 Apr 44. He was the driver of an army 15 cwt truck. I was on duty in Grayshott in company with S.C. Warr. We were walking up to the canteen when I saw a stationary 15 cwt truck parked outside the canteen. The lights were burning on the front of this truck. The number of this truck was CZ 4213930 and it was a Chev. As I was examining this vehicle I noticed the lights of a vehicle coming from Hindhead travelling at a fairly fast speed, on its correct side, and keeping a straight course. I realized that unless it changed course it was going to collide with the parked vehicle. However, it did not turn its course and it collided with the parked vehicle. The force of the impact was such tha

the Chev was knocked about 60 yds down the rd before the driver was able to arrest its progress. In the meantime the Ford truck that hit it had got out of control, swerved across the road and came to rest with the front wheels on the foot path and the rear wheels at an angle on the road, the rear wheels being about 4 feet from the centre white line. I went across to this vehicle which I observed was badly damaged in front and saw the driver Gnr Dixon who was still in the driver's seat, obviously shaken up but otherwise unhurt. His passenger had left the vehicle and was alright. The number of this vehicle was CZ 4208856 and I then walked out to the road to the other vehicle and observed there were no rear lights burning on it then and the rear of the vehicle appeared to be slightly damaged. It was raining very hard at the time and pitch dark and visibility was nil. The road at this spot is 31 feet wide and slopes towards Hindhead in the same direction as the parked car was facing. The Chev drove away on its own power after the accident, but the Ford was towed away. Unfortunately I was unable to notice whether there were rear lights on or not as I never reached the rear of the vehicle at all.

CROSS-EXAMINED

Q. This slope, is a very definite slope is it not?
A. Oh yes, it is, oh yes.

Q. A slope on which you normally apply your brakes?
A. Oh yes, oh yes, yes, yes.

Q. You found this vehicle on the right hand side of the road?
A. Yes.

Q. Could it have been swerved over to that side to avoid the collision?
A. No, it hit the other vehicle square on.

Q. Was there anything unusual about the speed?
A. Under the circumstances I would say it was under the prevailing conditions, but I would say it was being driven as most army cars and trucks are driven through Grayshott at night, but in my opinion it was too fast considering the state of lights, the darkness and the road, yes it was travelling too fast.

Q. When you saw the Chev vehicle after the collision there were no tail lights on it?
A. No.

Q. Did you examine the rear lights at all?
A. I never made a careful examination, but the left rear holder had no bulb in it at all, it was dusty and I would say it never had a bulb in it at any time, but the right light, the whole lamp was there but there appeared to be a brass plate on it.

Q. Was there any socket in the bulb in the left rear lamp?
A. There was no evidence whatever of any bulb having been in it, nor no reflector, nor was there a brass plate on it. In my opinion there had been no bulb in the left rear at all.

QUESTIONS BY THE COURT

Q. What is the maximum speed at which vehicles should be driven through Grayshott during blackout?
A. No vehicle should exceed 20 miles per hour. I would say this vehicle was exceeding 20 m.p.h.

Q. You stated in your evidence that visibility was almost zero?
A. Yes, Sir, almost nil, and with those lights one could not see better than 50-75 yards. It was quite pitch dark and pouring rain.

QUESTIONS BY THE COURT AT REQUEST OF DEFENDING OFFICER:

Q. Don't military vehicles with the noise they make usually appear to be going faster than they really are?
A. In a way, Sir, but I was not paying particular attention to the engine, it was the speed.

Q. Would you have taken steps to stop that vehicle on your own accord if it had not been in a collision?
A. I definitely would have.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

SIXTH WITNESS

Special Constable W.A.C. Marr, Headly Road, Grayshott Hants, having been duly sworn, states:

I am a special constable in Grayshott. On Wednesday 19 Apr 44 I was in company with P.C. Varey. At 10.15 p.m. there was a stationary car outside the canteen with its head lights on. Then I noticed a truck coming down from Hindhead way on its correct side. It was very dark and raining out. There was a collision and it knocked the other car down the road about 50-60 yards. The car which came down the road was a Ford, and after the collision it went out of control.

Q. At what rate of speed was this vehicle travelling?
A. Fairly fast.

CROSS-EXAMINED

Q. The Chev truck was parked on a down hill slope?
A. Yes.

Q. You examined the left rear light of the Chev vehicle?
A. Yes, Sir. The near side one had no glass, or no bulb in it at all. The off side one though I don't know.

Q. Would it pass at such a speed that you would have stopped it in your normal course of duties?
A. I don't know, military vehicles go fairly fast through Grayshott and I don't know what means I would have of stopping them. I don't try to stop them. This one was coming fairly fast, as I could tell by the time and space it took.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

SEVENTH WITNESS

Lt H. FRIEDMAN, No 2 CARU, having been duly sworn, states:

I recognize and know the accused. I am A/Adjt in 2 CARU of Superior Camp. Gnr Dixon was driver as driver of the FAP, which is the First Aid Post. I cannot remember the number of the vehicle he drives. The procedure for issuing the driver of a FAP truck, he works directly under the supervision of the M.O. and the ticket is signed by the Adjutant or his Orderly Officer. That ticket was only to be used to 5.30, 1730 hrs.

THE PROSECUTOR AT THIS POINT STATED THAT THE WORK TICKET FOR THIS CAR ON 19 APR 44 WAS NOT NOW PROCURABLE. IT WAS SENT TO THE LAD. THE WORK TICKET ACCOMPANIED THE 412 TO THE LAD AND HE SAID HE HAD BEEN UNABLE TO FIND WHAT HAPPENED TO THE WORK TICKET AFTER THAT AND ASKED TO BRING IN SECONDARY EVIDENCE AS TO ITS CONTENTS.

THE DEFENDING OFFICER AT THIS POINT SAID THAT HE ALSO HAD INVESTIGATED THE MYSTERY OF THE WORK TICKET BECAUSE HE FELT THAT IT WAS MORE IN THE INTERESTS OF THE DEFENCE THAT IT BE PRODUCED THAN OF THE PROSECUTION AND WENT ON TO SAY THAT THE STORY HE OBTAINED WAS THAT SOMEWHERE BETWEEN SUPERIOR CAMP, THE M.T. IN ONTARIO CAMP, R.H.Q. in HURON CAMP, THE ADMIN WING IN HURON CAMP AND THE LAD IN HURON CAMP, THE TICKET HAD BEEN LOST.

AND WHAT IT HAD AT ONE TIME OR ANOTHER BEEN IN POSSESSION OF EACH OF THEM, BUT AS TO WHERE IT HAD BEEN LOST, NOBODY SEEMED TO KNOW.

(WITNESS CONTINUES)

I saw this ticket but I have no memory of what was on it for the 19 Apr 44. I do know however that own signature was the last signature that appeared on it that day.

Q. Before the driver of the FAP truck can make a trip after 1730 hours what is the drill?
A. The M.Os signature or the Orderly Officer's signature must be on it, but only for that trip. For each additional trip there must be another signature.

Q. Up to 1730 hours you authorized it then?
A. That is correct.

Q. After 1730 hours what?
A. I did not sign it for any trip after 1730 hours.

CROSS-EXAMINED

Q. You say that you signed this work ticket yourself for trips up to 1730 hours, yet there was nothing on the ticket itself to indicate up to what time you had signed for?
A. No, there was not.

Q. Then up to 1730 hours that is what you understood?
A. That is right.

Q. You didn't indicate that fact to the accused?
A. I can't remember. The vehicle is attached to the FAP.

Q. The officer in charge of the M.T. tells me that that vehicle is on charge to you?
A. The duty vehicle was operating from Command Post, but the FAP vehicle was opering from the FAP, borrowed over my signature.

Q. It might also be used for any other trips between the two camps over your signature?
A. That is right.

Q. This ticket from the appearance of it then was a blanket authorization for trips between Ludshott and Bramshott?
A. THAT IS CORRECT, over the M.O's signature.

Q. Apart from the M.O., the Orderly Officer, and the [redacted] Subaltern could also authorize trips?
A. That is right?

Q. There are two M.Os there?
A. As far as I know there was only one and his name was Capt Guedany.

Q. If the M.O. wanted this vehicle out at Superior Camp he would send for it without authorization?
A. To my knowledge such an occasion has never arisen.

Q. Are there orders posted authorizing the use of vehicles after 1730 hours?
A. I have not been in the M.T. Office at that Camp. The drill is that all drivers read M.T. Regs at least once a month.

Q. Is it not also laid down in orders and in the usual drill that no vehicle shall leave the Camp enclosure without the guards inspecting the work ticket to see that it is authorized?
A. That is correct.

Q. Most soldiers obey orders?
A. Within certain limitations, yes.

Q. If the guards saw your signature on it they would allow it to pass?
A. It is quite conceivable, he would see a signature there. On the face of it there would be an authorization for the vehicle to go out and the guard could pass this as being correct.

Q. How would Gnr Dixon know that each trip required a specific signature?
A. Through his work with the F.A.P. From past experience I understand that all of their drivers had been instructed as to procedure.

Q. How are drivers supposed to know these rules?
A. It is the particular work of the M.T. to provide these instructions, it is the drill.

Q. Did you make out the accident report?
A. The accident report was made out by Capt Howard. I investigated the case and interviewed people preliminarily.

Q. Did you undertake that as your own authority as Adjutant?
A. Precisely.

Q. Did you enquire from the Orderly Officer or the Duty Subaltern the previous evening as to where they had authorized any trips?
A. Yes.

Q. Did you enquuire from the M.O?
A. I am not quite certain.

Q. Did you enquire from the M.T.?
A. No, M.T. has nothing to do with vehicles attached to Superior Camp.

Q. Did you check with M.T.?
A. No, I did not.

RE-EXAMINED

Q. How long had the accused been the driver of the vehicle?
A. About 25 Mar 44. This drill of signing the work ticket authorizing trips up to 1730 hours was in force then. If he uses the vehicle in the evening a new authorization is to be made out.

QUESTIONS BY THE COURT

Q. Can you remember any discussion you had with Dixon before the 19 Apr respecting the difference in drill between 1730 hours and after 1730 hours?
A. No, Sir, I can't.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE PROSECUTION IS CLOSED.

THE PROSECUTOR STATED THAT CAPT HOWARD HAD LEFT AND WAS NOT AVAILABLE AS A WITNESS.

D-4 SUBMISSION BY THE DEFENDING OFFICER OF NO PRIMA FACIE CASE

I now sih to make a submission to the effect that the charge should be dismissed on the grounds that no prima facie case has been made out. After hearing all of the evidence I still do not know when a charge is laid whether the accused is being charged with driving this vehicle improperly, meaning negligently, on the night in question as a result of which the damage occurred, or whether he is charged merely with driving this vehicle without authority, as a result of which this damage occurred, or whether he has been charged with both driving the vehicle improperly, meaning negligently, and also without authority. If the latter be the case I respectfully submit that the charge is bad for duplicity and with great respect I wish to repeat here the objections taken under RP 32 before the commencement of the trial, which objections form part of these proceedings. I submit also that it should be borne in mind that the alternative charge under Section 11 which has been deleted, in effect charges the accused with driving without a work ticket and even though that charge has been deleted I submit that it should be taken into consideration in construing the meaning of the charge before the Court today. In other words that the accused has been charged with driving this vehicle improperly and without authority meaning only without a duly authorized work ticket and that he did thereby occasion damage to the vehicle. With great respect I submit that it is a logical impossibility for a person to damage a vehicle as a consequence of and as a direct result of driving same without authority, and hence that the charge before us is bad, not merely for duplicity but in the alternative that it is void for uncertainty. Now, dealing with the question of the nature of the accused's driving, it will be noted that the accused is charged not with neglect, but with conduct to the prejudice of good order and military discipline. Now, surely if the ingredient of the offence here were the accused negligently driving he would have been charged with considerable particularity with neglect to the prejudice of good order and military discipline in that he did drive this vehicle so negligently and so forth. There is in fact a circular by the legal military authorities instructing how a charge for negligent driving should be framed and the charge we have had to meet today is certainly not that one. It seems to me incredible to expect an accused person to meet a charge of negligent driving if such was intended without specifying same. Dealing with the facts of this case I feel constrained to admit that there is some evidence before this Court on which they can properly find some negligent driving or some improper driving but I suggest to the Court that there has been no evidence on which they can find that the accused was driving this vehicle without authority. He was in possession of a work ticket signed for the day in question by the A/Adjt of Superior Camp, which, on the face of it, was an absolute authority to travel on the 19th day of April, 1944, between Ludshott and Bramshott. There was no restriction as to time anywhere on this work ticket. It is true that the Adjutant did give evidence that the drill is, by that I suppose he means usual procedure, that such work tickets signed in blank are effective only until 1730 hours and that after 1730 hours a specific signature must be obtained for each trip, yet nowhere was the authority for such a statement produced to this Court, neither Standing Orders or any other order or instruction was produced to this Court as authority for such a statement. Furthermore, there is not the slightest evidence before this Court that Dvr Dixon was ever instructed in this regard. Gnr Smith gave evidence that there were no Standing Orders or Drivers Instructions posted in the M.T., and the Acting Adjutant could not say whether such were posted anywhere where they might be seen by Gnr Dixon. I would suggest to the Court that very often we find in Army procedure that a number of things are taken for granted or that instructions or routines or procedures or drills are taken as understood by everybody, when in fact they are not so understood. Now surely in the case of M.T. vehicles which have given the Army so much trouble and concern, would have some concrete specific terms or instructions so that the matter would not be in the vague, confused situation in which we find it today. I submit that there is considerable doubt in this case as to whether the work ticket which Gnr Dixon had would constitute an authorization or otherwise and I further submit that he should be given the benefit of that doubt. If then it can be said he was driving this vehicle without authority it is my submission that the charge has failed since he is charged with driving it improperly and without authority.

THE PROSECUTOR IN REPLY STATED THAT HE HAD NO INTENTION TO ATTEMPT TO REPLY TO THE LEGAL ARGUMENT OF THE DEFENDING OFFICER, BUT OUTSIDE OF THE LEGAL ARGUMENT HE WAS SATISFIED THAT THE EVIDENCE MADE A PRIMA FACE CASE FOR THE PROSECUTION.

THE COURT IS CLOSED TO CONSIDER THE SUBMISSION.

CHARACTER WITNESS

Lt H. FRIEDMAN, No 2 CARU, on his former oath, states:

Gnr Dixon in all his duties was efficient, prompt and honourable. He was dependable at all times and I considered him to be one of our most willing workers. I found him very conscientious, and I never had any trouble with him about taking vehicles out at night and from what I know of him he is a person I could rely on and trust in any job and I don't believe he would take advantage of his position to use a vehicle improperly. I understand Gnr Dixon is a full blooded Shuswap Indian, and I would have no hesitation in recommending him to come back to the same job.

THE DEFENDING OFFICER STATED HE HAD NOTHING TO ADD ON THE FINDING TO THAT WHICH HE HAD SAID ON THE SUBMISSION EXCEPT:

Even although the Court has ruled against me about the question of a prima face case I wish to submit that the onus is on the Prosecution throughout to prove each and every ingredient beyond a reasonable doubt and despite the fact that the Court withhold that a prima facie case has been made out I respectfully submit that the Prosecution has not discharged the onus upon it.

THE PROSECUTOR IN REPLY SAID HE HAD NOTHING TO ADD TO WHAT HE HAD SAID IN REPLY TO THE SUBMISSION BY THE DEFENDING OFFICER.

THE COURT IS CLOSED FOR A FINDING.

PLEA IN MITIGATION

This soldier as has been given in evidence before the Court is a full blooded Shuswap Indian, has been in the Army for well over 3 years, enlisting in Feb 41, came overseas in December of the same year. His record as disclosed by his MFM 6 is not bad, and on the whole his record is quite good. You have heard the evidence of an officer for hom he has worked. The accused has spent 21 days in close arrest and some 16 days in open arrest and this has been through no fault of his own. I would like to suggest to the Court that it is only fair that all these things be taken into consideration and in view of the fact that there is $9/15/10 involved.

THE COURT IS CLOSED TO CONSIDER THE SUBMISSION

THE COURT IS REOPENED AND THE PRESIDENT ANNOUNCED THAT THE SUBMISSION BY THE DEFENDING OFFICER HAD BEEN DISALLOWED.

No 2 Cdn Arty Rft Unit
Cdn Army (Overseas) 30 Apr 44.

Sir,

I have an officer appointed to defend me at my forthcoming trial by Field General Court Martial.

In the field,
30 Apr 44.

K-74927 Gnr, Dixon V.F.

No 2 Cdn Arty Rft Unit
Cdn Army (Overseas)

30 Apr 44.

Sir,

I wish to have an officer appointed to defend me at my forthcoming trial by Field General Court Martial.

In the field,
30 Apr 44.

E. F. Dixon

K-74927 Gnr. Dixon E.F.

No 2 Cdn Arty Rft Unit
n Cdn Army (Overseas)

30 Apr 44.

Received from Administration Wing one (1) copy of the Charge Sheet and one (1) copy of the Summary of Evidence on my forthcoming trial by Field General Court Martial.

E. F. Dixon

K-74927 Gnr. Dixon E.F.

SUMMARY OF EVIDENCE

IN THE CASE OF
K 74927 Gnr Dixon E.F.
No. 2 C.A.R.U.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS for the prosecution

C 10635 Gnr Smith V., 2 C.A.R.U., having been duly sworn states:

On 19 Apr 44 about 2210 hrs I was picked up on the Headley Rd near the Portsmouth intersection by K 74927 Gnr Dixon E.F. who was driving the F.A.P. vehicle CZ 4208856. I have known Gnr Dixon for some time. I stopped him for a lift back to Superior Camp. In Grayshott just outside the forces Canteen a vehicle suddenly loomed up in our headlights. The driver Gnr Dixon jammed on his brakes and pulled his driving wheel hard to the right. The vehicle was too close to miss and we hit the rear right half of the stationary vehicle. I definitely did not see any illuminated rear lights. It was raining heavily at the time. We were travelling about 20 to 25 m.p.h. After hitting the stationary vehicle we moved about 15 to 20 ft on to the other side of the road before stopping.

THE ACCUSED DECLINES TO CROSS/EXAMINE THIS WITNESS

Gnr Smith V.
C 10635 Gnr Smith V.

SECOND WITNESS for the prosecution

Lieut H. Friedman, 2 C.A.R.U., having been duly sworn states:

I am Lieut H. Friedman, Acting Adjutant Superior Camp, 2 C.A.R.U. On the date of the accident, 19 Apr 44, Gnr Dixon was in possession of a work ticket signed by me to cover his duties as driver for F.A.P. Vehicle CZ 4208856. This work ticket was in order for trips to Bramshott until 1730 hrs 19 Apr 44. After that hour the workticket requires an authorized signature for each trip. This work ticket bears no signature for a trip after 1730 hrs. This trip made after 1730 hrs was unauthorized as per Standing M.T. Orders dated 17 Nov 43 signed by Col. Mackenzie Waters, 2 C.A.R.U. para 3. (submitted extract) as Exhibit "A"

THE ACCUSED DECLINES TO CROSS/EXAMINE THIS WITNESS

Lieut H. Friedman

THIRD WITNESS for the prosecution

Special Constable W.A.C. Warr, Headley Rd. Grayshott having been duly sworn states:

About 10.15 PM Wednesday 19 Apr 44 I was on duty on Headley Rd with P.C. Verey. As we were approaching the Canteen we noticed an Army vehicle had drawn up on its correct side of the road. I noticed it had its front lights on but could not say if the rear lights were on. This was vehicle CZ 4212930 driven by A31335 L/Bdr Watt H. I noticed another vehicle was coming down the road and fairly fast. I could see that it would hit the stationary vehicle. Constable Verey

called to me to jump back. The collision happened at that instant knocking the stationary vehicle 50 or 60 yds down the road. The impact caused the moving vehicle to temporarily lose control and it stopped on the foot-path and road at an angle. Then I went to the original stationary vehicle CZ 4212930 and found the driver and passenger were all right. Then I examined the near side rear light of this vehicle and found that bulb and glass were missing. So that light could not have been on. I cannot say anything about the offside rear light ~~rear light~~ but it was off at that moment.

THE ACCUSED DECLINES TO CROSS/EXAMINE THIS WITNESS

W.A.C. Warr.

Special Constable W.A.C. Warr

FOURTH WITNESS for the prosecution

P.C. 344 G.H. Verey, Greyshott Police, Hampshire, having been duly sworn states:

At 10.15 PM on Wednesday 19 Apr 44 I was on duty in Greyshott Village with Special Constable Warr. As we approached the Greyshott Canteen I saw a stationary Army truck parked outside of this building. It was on its correct side facing Headley. There were front lights burning on it and I stopped to examine it. It was CZ 4212930 and the driver was A 31335 L/Bdr Watt H. 100th LAA Bty, 4 LAA Regt RCA. As I was so doing I observed the lights of an approaching vehicle coming down the road from Hindhead. It was being driven on its correct side of the road at a fairly fast speed. As this vehicle drew nearer the stationary vehicle I observed that it was keeping the same course and realized that unless the driver swerved to his off side there was bound to be a collision. I realized at once a collision was unavoidable, I shouted and jumped back. As I did so the oncoming vehicle crashed into the rear of the stationary vehicle. The force of the impact was such that it knocked the stationary vehicle straight down the road for a distance of 60 yds before the driver was able to arrest its progress.

Meanwhile the other vehicle had got out of control swerved across the road to the offside where it came to rest with the front wheels on the foot-path and the rear wheels at an angle on the tarmac road. The rear side wheel being 4 feet from the white line. This vehicle which had caused the damage was CZ 4206856 and the driver was K 74927 Gnr Dixon E.F. He was still in his seat obviously shaken up but otherwise unhurt. His passenger C 10635 Gnr Smith V. had left the front seat where he had been sitting and was unhurt. The front of this vehicle was extensively damaged. I then went down the road to the other vehicle, CZ 4212930 the driver L/Bdr Watt had left his seat and was examining the vehicle. He was obviously shaken up but otherwise unhurt. I saw his passenger Gnr MacLeod standing in the vicinity of the truck shaken up but otherwise unhurt Back of this truck was slightly damaged. There were no rear lights burning on it.

THE ACCUSED DECLINES TO CROSS/EXAMINE THIS WITNESS

G.H. Verey

P.C. 344 G.H. Verey

FIFTH WITNESS for the prosecution

A 31335 L/Bdr Watt, H., 100th L.A.A. Bty, 4th L.A.A. Regt R.C.A. Cdn Army Overseas, being duly sworn states:

I was parked out in front of the canteen in Grayshott on the Headley Road, on the left hand side as far as I could get. I had been stopped there not more than two minutes when I felt a terrific impact on the back of my vehicle which sent my vehcile down the road approximately sixty yards. There were two policemen standing about three feet from my truck before the impact. After my truck had stopped I got out as soon as I could and there was one passenger in the back and I went around to see if he was hurt. He was dazed but otherwise seemed alright. He had been asleep under the tarp in the rear of the vehicle. I then went down the road to where the other vehicle was stopped. I inquired if anybody was hurt there and by that time one policeman was also over at this truck. The policeman then took statements and particulars from us. I then proceeded back to my unit.

ON HIS EVIDENCE BEING READ TO HIM THE WITNESS DESIRES TO MAKE THE FOLLOWING ADDITION,

"Both my tail lights and both headlights were on"

CROSS/EXAMINED BY THE ACCUSED -

Q. "Did you get out of the truck when you were parked there?

A. "After or before the impact?"

Q. "Before"

A. "No"

Q. The bulbs in your tail light were in good working order when you parked there?

A. About ten minutes before the accident when I left No. 2 C.A.R.U. Gnr Day's looked at my tail lights as well as myself and we found them both on.

A-31335 L/Bdr H. Watt

SIXTH WITNESS for the prosecution

B-47931 Gnr Davis W., 100th L.A.A. Bty, 4th L.A.A. Regt R.C.A., Cdn Army Overseas, being duly sworn, states:

Just previous to leaving 2 C.A.R.U., L/Bdr Watt asked me to check the tail lights as it was dark when we left, being about 10. p.m. The lights were working all right so we proceeded back to our unit. On the way back we decided to stop to get some sandwiches in the Grayshott canteen. L/Bdr Watt parked the truck in front of the canteen while I went inside to get the sandwiches. When I returned outside I could not find the truck for a few minutes. Across the road was a vehicle that had the accident with our truck. From there I found that our truck was further down the road where it had been knocked in the collision.

CROSS-EXAMINED BY THE ACCUSED

Q. Did you notice if the tail lights were on when you went into the canteen?

A. The right-hand tail light was on.

B/47931 Gnr W Davis

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you may give will be taken down in writing and may be given in evidence".

AFTER THE ABOVE CAUTION THE ACCUSED ELECTED TO GIVE EVIDENCE AS FOLLOWS:

EVIDENCE OF THE ACCUSED

The accused, K 74927 Gnr Dixon E.F., Administrative Wing, No. 2 Cdn Arty Rft Unit, Cdn Army Overseas, being duly sworn states:

"At about 6 p.m. or just shortly before I went and got the truck and drove it down through camp. I went through the gate after showing my duty F.A.P. work ticket to one of the main gate guards. It seemed alright to him but I know it was not authorized after 5 o'clock except in case of emergency. I then proceeded on to Churt Crossing I spent some time down there. I went into the pub down there and had two beers. Afterwards I took the truck, drove off the road and spent a little while there before coming back.

On the way back, after leaving Portsmouth Highway, on the Headley Road, I saw a man waving his arms on the side of the road and heard him call for a lift. I stopped and picked up Gnr Smith whom I knew. After that we proceeded on down the road. We were going along normally about 20-25 m.p.h. on my side of the road. It was raining quite heavily at the time and I had not noticed this vehicle up ahead. Nor did I see any red lights in front of me. I saw an objecton the road just before it came into my headlights. Then immediately noticed it was a truck. I then applied my brakes and started to turn off to my right to avoid the collision if possible. But it was too late. After hitting the truck we carried on across the road and stopped. I was slightly dazed but quite alright. A policeman came up and took particulars.

E. F. Dixon

K 74927 Gnr E.F. Dixon

SEVENTH WITNESS for the prosecution

Lieut. F.W. Trowell. 120 L.A.D. R.C.O.C. having been duly sworn states:

I am Lieut F.W. Trowell, O.C. 120 L.A.D. R.C.O.C. I submitted a damage and injury report on Cdn Army Vehicle CZ-4208856, Ford 15 cwt containing costs of damages for the accident report. The particulars of damage are:

Cost of material	£5.	10.	10.
Cost of Labour	3.	15.	00
Total thus being	9.	5	10

This is a fair and equitable assessment of the d damage sustained to vehicle CZ 4208856.

THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS.

Lieut. F.W. Trowell.

THE ACCUSED DOES NOT CALL ANY WITNESSES FOR THE DEFENCE

"I certify that the foregoing Summary of Evidence, consisting of four pages, was taken down by me in the presence of the accused, and that Rules of Procedure 4 (c),(d),(e) and (f) have been complied with".

(J.A. HOWARD) Capt., R.C.A.
No.2. C.A.R.U. Cdn Army Overseas.

Superior Camp
Ludshott, Hants
11 May 44

Summary of Evidence in the case of
No. K 74927 Gnr. Dixon E.F. No. 2. CARU

The Commanding Officer directs that the evidence be taken on oath.

1st Witness for prosecution C 10635 Gnr. Smith V., 2 CARU, having been duly sworn, states:

On 19 Apr. 44 about 2210 hrs I was picked up on the Headley Rd near the Portsmouth intersection by K 74927 Gnr. Dixon E.F. who was driving the FAP vehicle C 74208856. I have known Gnr. Dixon for some time. I stopped him for a lift back to Superior Camp. In Grayshott just outside the forces canteen a vehicle suddenly loomed up in our headlights. The driver, Gnr Dixon, on his brakes and pulled his driving wheel hard to the right. The vehicle was too close to miss and we hit the rear right half of the stationary vehicle. I definitely did not see any illuminated rear lights. It was raining heavily at the time. We were travelling about 20 to 25 M.P.H. After hitting the stationary vehicle we moved about 15' to 20 ft on to the other side of the road before stopping.

Gnr V Smith

The accused declines to cross-examine this witness.

2nd Witness for prosecution

Lieut. H. Friedman, 2 CAR u, having been duly sworn states:

I am Lieut. H. Friedman, acting Adjutant Superior Camp, 2 CAR u. On the date of the accident, 19 Apr. 44, Cpl Dixon was in possession of a work ticket signed by me to cover his duties as driver for FAP Vehicle C Z 4208856. This work ticket was in order for trips to Braunstadt until 1730 hrs. 19 Apr. 44. After that hour the worktichet requires an authorized signature for each trip. ~~after 1730 hrs~~. This work ticket bears no signature for a trip after 1730 hrs. ~~duty trip~~ This trip made after 1730 hrs was unauthorized as per Standing M.T orders dated 17 Nov. 43 signed by Col. Mackenzie Waters, 2 CAR u. par. 3. (submitted extract) as exhibit A

The accused declines to cross-examine this witness

2nd Witness for prosecution

Special Constable W.A.C. Warr, Headley Rd. Grayshott, having been duly sworn states:-

About 10.45 P.M. Wednesday, 19th Sept. 44 I was on duty on Headley Rd. with P.C. Varey. As we were approaching the canteen we noticed an army vehicle had drawn up on its correct side of the road. I noticed it had its front lights on but could not say if the rear lights were on. This was vehicle CZ 4212930 driven by A-31335 L/Bdr Watt H. I noticed another vehicle was coming down the road and fairly fast. I could see that it would hit the stationary vehicle. Constable Varey called to me to jump back. The collision happened at that instant knocking the stationary vehicle 50 or 60 yds down the road. The impact caused the moving vehicle to temporarily lose control and it stopped on the foot-path and road at an angle. Then I went to the original stationary vehicle CZ 4212930 and found the driver & passenger were all right. Then I examined the near side rear light of this vehicle and found that bulb and glass were missing. So that light could not have been on. I cannot say anything about the offside rear light but it was off at that moment.

W A C Warr.

The accused declines to cross-examine this witness.

4th Witness for prosecution

P.C 344 G.H Vevy, Greyshott Police, Hampshire having been duly sworn states,

At 10.15 P.M. on Wednesday 19 Apr 44 I was on duty in Greyshott Village with Special Constable Warr. As we approached the Greyshott canteen I saw a stationary Army touch Parked outside of the building. It was on its correct side facing Headley. There were front lights burning on it and I stopped to examine it. It was C 14212930 and the driver was A-31335 L/Bdr Watt H. 100th LAA Bty, 4 LAA Regt RCA.

As I was so doing I observed the lights of an approaching vehicle coming down the road from Hindhead. It was being driven on its correct side of the road at a fairly fast speed. As this vehicle drew nearer the stationary vehicle I observed that it was keeping the same course and realized that unless the driver swerved to his off side there was bound to be a collision. I realized at once a collision was unavoidable, I shouted and jumped back. As I did so the oncoming vehicle crashed into the rear of the stationary vehicle. The force of the impact was such that it knocked the stationary vehicle straight down the road for a distance of 60 yds before the driver was able to arrest its progress.

Meanwhile the other vehicle had got out of control swerved across the road to the off side where it came to rest with the front wheels on the foot path and the rear wheels at an angle on the Tarmac road. The rear near side wheel being 4 feet from the white line. The vehicle which had caused the damage was C 14208856 and the driver was K-74927, Gnr. Dixon E.F. He was still in his seat obviously shaken up but

→ next sheet.

otherwise unhurt. His passenger C106 35 Gnr Smith V had left the front seat where he had been sitting and was unhurt. The front of this vehicle was extensively damaged. I then went down the road to the other vehicle, C 24212930. The driver, L/Bdr. Watt had left his seat and was examining the vehicle. He was obviously shaken up but otherwise unhurt. I saw his passenger Gnr. MacLeod standing in the vicinity of the truck shaken up but otherwise unhurt. Back of this truck was slightly damaged. There were no rear lights burning on it.

Cr Verdict Pg. 340.

The accused declines to cross-examine this witness.

5 #d Witness for prosecution

A 31335 Lt Bdr. Watt H., 100th LAA Bty, 4th LAA Regt RCA, having been duly sworn states :—

I was parked out in front of the Canteen in Greyhott on the Kadoka Rd, on the left hand side as far as I could get. I had been stopped there not more than two minutes when I felt a terrific impact on the back of my vehicle which sent my vehicle down the road approx - imately sixty yards. There were two policemen standing about three feet from my track before the impact. After my track had stopped I got out as soon as I could and the one passenger then was on passenger in the back and I went around to see if he was hurt. He was dazed but otherwise seemed all right. He had been asleep under the tarp in the rear of the vehicle. I then went down the road to where the other vehicle was stopped. Inquired if anybody was hurt there and by that time one policeman was also over at this track. The policemen then took statements + particulars from us. I then proceeded back to my unit.

On his evidence being read to him the witness desires to make the following addition.

"Both my tail lights and both headlights were on".

Cross-examined by the accused.

Q. Did you get out of the track when you were parked there?

A. After or before the impact

Q Before

A. No.

Q The bulbs in your tail lights were in good working order when you parked there.

A. About ten minutes before the accident when I left ~~Eagle~~ 2 CARS, Pvt Davis looked at my tail lights as well as myself and we found them both on.

S/ Pvt. Wyatt H.

AD13 3 5

6th Witness for Prosecution

B 47931 Gnr. Davies W., 100 & 1 AA Bty, 4th L AA Regt. R.C.A. having been duly sworn states:

just previous to leaving 2 CARU, L Bdr Watt asked me to check the tail lights as it was dark when we left being about 10 P.M. The lights were working all right so we proceeded back to our Unit. On the way back we decided to stop to get some sandwiches in the canteen at Greyabbey. L Bdr Watt parked the truck in front of the Canteen while I went inside to get the sandwiches. When I returned outside I couldn't find the truck for a few minutes. Across the road was a vehicle that had the accident with our truck. From there I found out that our truck was further down the road when it had been knocked in the collision.

Cross-examined by the accused.

Q. Did you know notice if the tail lights were on when you went into the Canteen.

A. The right hand tail light was on.

W Davies

1st Witness for prosecution

Lieut. F.W. Trowell, 120 L.A.D. R.C.O.C
having been duly sworn states:

I am Lieut F. W. Trowell, O.C. 120 L.A.D R.C.O.C. I submitted a damage and injury report on 6 cwt Army Vehicle C2420856, Ford 15 cwt containing costs of damages for the accident report. The particulars of damage are: cost of material £5-10-10
cost of labour £3-15-0
$9-5-10.
total thus being
This is a ~~true~~ fair and equitable assessment of the damage sustained to vehicle C2420856

The accused declines to cross-examine the witness.

F.W. Trowell Lieut.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused elected ~~to~~ Call Witness for Defence to give ~~his~~ evidence as follows:-

Gnr. Dixon E.F., NX 2CARE

The accused, K 74927, Gnr. Dixon E.F., having been duly sworn states:-

At about 8 PM or just shortly before, I went and got the truck and drove it down through camp. I went through the gate after showing my duty, FAB work ticket to one of the main gate guards. It seemed all right to him but I knew it was not authorized after 5 o'clock except in case of emergency. I then proceeded on to Hunt Crossing. I spent some time down there. Went into the pub down there and had two beers. Afterwards I took the truck, drove off the road spend a little while there before coming back. On the way back, after leaving Portsmouth Highway, in the Headley Rd. I saw a man waving his arms on the side of the road and heard him call for a lift. I stopped and picked up Gnr. Smith who I know. After that we proceeded on down the road, ~~we~~ were going along normally about 20 to 25 M.P.H. on my side of the road. It was raining quite

heavily at the time and I hadn't noticed this vehicle up ahead. Nor did I see any red lights in front of me. I saw an object on the road just before it came into my headlights. Then immediately noticed it was a touch. I then applied my brakes and started to turn off to my right to avoid the collision if possible. But it was too late. After hitting the touch we carried on across the road and stopped. I was slightly dazed but quite all right. A policeman came up and took particulars.

E. P. Dwyer

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of 10 pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

J. A. Howard Capt
2 CARU

2 CARU
23 Apr. 44.

Old sheet destroyed C.A.O.R.O. review 30 Sep 42 sgd (R.S. Cockburn) Major RCA.

No. K-74927 Name DIXON, E.F. Sqn, Battery, or Company Corps R.C.A. Date of enlistment 20 Feb 41 OC Badges Service or Proficiency Pay N/A

MFM 6 (AFB 122) 40/PAY/136 (5438)

Date of last entry in Company Conduct Sheet 13 Jun 41 No and date of last drunk Period not reckoning towards freedom from extra fine N/A Sheet No 1. Signature OC Company, etc sgd (R.S.Cockburn) Major Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Vernon B.C.	15 Aug 41	Gnr		A.A. Sec 15 (1) from 2200 hrs 15 Aug 41 to 1220 hrs 4 Sep 41. (Absent 19 days 14 hrs 20 mins)	L/Cpl Hagan Cpl Holmes	28 days det'n	5 Sep 41	Lt-Col A.H.Grant	Forfs 28 days pay under F.R. & I. 149 (2) Forfs 20 days pay under F.R. & I. 149(1)(a) Total forf. 48 days pay.
Field	13 Nov 42	Gnr		WOAS neglecting to obey "P" Wing Pt.I orders (A.A. Sec 15)	Lieut D.B. Bailey Bdr Mullin T.W.	4 days C.B.	15 Nov 42	Major C.H. Suddard R.C.A.	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3 Jul 43	Gnr		A.A. Sec 15 (1) WOAS AWL from 2300 hrs 3 Jul 43 until 1515 hrs 5 Jul 43. (Time absent 1 day 16 hrs 15 mins)	Bdr Houghton (Documentary)	auto forfs 2 days pay 7 days C.B. 4 days pay	6 Jul 43	Lt-Col dePencier	Forfs 2 days pay under P.R.R.I. 149 (1) (a). Forfs 4 days pay under P.R.R.I. 149 (2). Total forf 6 days pay
Field	19 Dec 43	Gnr		(1) WOAS Out of Bounds in that he, at 0045 hrs 19 Dec 43 was in London without a valid pass. A.A. Sec 15 (3)	L/Cpl J. Fox Documentary L/Cpl W.E. Piffer Documentary	7 days C.B.	20 Dec 43	(C.M. dePencier) Lt-Col RCA	

No. K-74927 Name DIXON, E.F. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 20 Feb 41 | CC Badges | Service or Proficiency Pay N/A | MFM 6 (AFH 122) 40M 36 (3438)

Date of last entry in Company Conduct Sheet 13 Jun | No and date of last drunk | Period not reckoning towards freedom from extra fine N/A | Sheet No 2. | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				(2)					
Field	19 Dec 43	Gnr		4 DAS Resisting an escort in that he, at 0045 hrs 19 Dec 43 did resist arrest by trying to run away. A.A. Sec 10 (3)	L/Cpl J.Fox (Documentary) L/Cpl W.E. Piffer (Documentary)	7 days C.B. 7 days pay Sentences to run concurrently	20 Dec 43	(C.E. dePencier) Lt-Col RCA	Forfs 7 days pay under FR & I. 149 (2) (b)

Certified a true copy as of 1 May 44.

(M.R. Modland) Capt.
Adjutant
Administration Wing
No 2 Cdn Arty Rft Unit
Cdn Army H (Overseas)
OFFICER HAVING CUSTODY OF ORIGINAL DOCUMENT.

(PTO)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
K-74927	Gnr.	DIXON, Edward Frank	No 2 Cdn Arty Bft Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

Since completion of 6 months service

For	A.A. Sec 15 (1)	2 times.
For	A.A. Sec 15 (3)	1 times.
For	A.A. Sec 11	1 times.
For	A.A. Sec 10 (3)	1 times.

Date of first entry in Field Conduct Sheet 15 Aug 41

Date of last entry in Field Conduct Sheet 10 Dec 43

N/A 2. ~~Previous convictions of the accused by a court-martial or a civil court are set out in the schedule hereto.~~

*Strike out if not applicable.

N/A *3. ~~The accused at the present time is under sentence for~~ NIL

~~beginning on the~~ day of

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 36 days in military custody, i.e., N/A ~~16~~ days in open arrest, 20 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 25 years 161 DAYS 44

N/A 6. The date of his ~~attestation~~ ~~enlisting up for military service~~ is 20 Feb 41

7. The service which the accused is allowed to reckon is 3 Years 95 DAYS 44

State the military decorations (if any) held by accused.

8. The accused is in possession of G.V.S.M. with Clasp

N/A 9. ~~(If the accused is a warrant officer or N.C.O.):~~ The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
N/A	~~in the substantive rank of~~	
EXB N/A	~~in the war substantive rank of~~	
RWJ N/A	~~in the acting rank of~~	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21116) W1.46670/668 100,000 4/42 A.& E.W.Ltd. Gp.698
(30459) W1.32626/1873 60,000 5/42 " " Forms/B.296(War)/2

A.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 25th day of May, 1944

A. A. Allely Capt

Officer i/c Records
No. 1 Cdn. Artillery Holding Unit.
R.C.A. Canadian Army.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K-74927 Gnr DIXON, EF 2 CARU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 40	not Guilty	Guilty	
~~2nd AA Sec 12~~			
~~3rd~~			
~~4th~~			
~~5th~~			
~~6th~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ~~beginning on date~~ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 21 days, of which days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To be put under stoppages of pay until he has made good £9-5-10 the loss occasioned by the commission of the offence

25 May 44 (Sgd) [illegible] President. (RP 45, 50)
Date awarded

(Sgd) Judge-Advocate, if any.
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 58(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be attested before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be set committed to prison or detention barracks until further ordered.~~ Brig
(1. AA 57A. Delete if not used.)

(Sgd) [illegible] Col.
Commanding "C" Group, Can Reinforcements
Confirming Officer.

Date 28 May 44 Commanding

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr
K 74927 Gnr Dixon EF	30 May 44	Maitland Capt a/g A/Adjt 2 Can Inf Bde

Promulgated in DO. 117 d/2 June 44 [illegible] Capt 2 CARU

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHA.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rule relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO-SIR (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.) NOTE-ATT

D2. The Prosecutor makes (no) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1) NOTE-ATT
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the .....
~~charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans TO GIVE NO SW Do you intend to call witnesses on your behalf?
Ans NO-SIR Are they witnesses as to character only? Ans YES
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is ~~(are)~~ recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)~~
~~(Or, The President announces that the accused is found Not Guilty on all charges and is to be released forth with, and that the proceedings are accordingly terminated.)~~ Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO-SIR
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex C respectively.(2)
(1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans YES MY AFF MAY NOTE-ATT (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. When several accused tried separately see RP 74(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 80, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

II·58

PTE DIXON G.R.

CTS/113

MEDICAL OFFICER'S CERTIFICATE

I hereby declare that I have to-day examined:

No. R.81654, Pte. Dixon, G.R.

R.C.A.S.C.

posted to Canadian Training School and certify that I found him Medically fit to undergo trial by Court-Martial.

19 June, 1943
Bordon, Hants.

Capt., R.C.A.M.C., Medical Officer,
Canadian Training School.

(To be signed in duplicate)

Major

CHARGE SHEET

The accused, B.81654 Pte Gerald Rosaire DIXON RCASC posted to No 7 (Educational) Wing, Canadian Training School a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE — When on Active Service, absenting himself without leave,

Sec 15(1) AA

in that he

at 2359 hrs 9th May 43 absented himself without leave from No 7(Educational) Wing, Canadian Training School until he surrendered himself at the Guard Room No 7(Educational) Wing Canadian Training School at 1405 hrs 9th June 1943. Total absence 30 days 14 hours 6 minutes.

Thedden Grange
14 June 1943

Major
(T.R. Gray) E.D.
Officer Commanding,
No 7(Educational)Wing, CTS

To be tried by Field General Court-Martial.

In the Field, 18 Jun 43.

(J.H. ROBERTS) Maj-Gen., Comd, Cdn Rft Units.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT Hagunad Barracks, Lydda, Haifa.
ON THE 19th DAY OF June 1943

The accused, 881654 Pte. Lyon, G.A. ...Unit...C.T.S. .....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Maj. Lt. Lattapus .....Unit H.Q.C.R.A. .....

Members. Capt. L.J. Rose .....Unit. 1 C.A.R.A. .....

Lt. J.L. Hunt .....Unit. 2 C.A.R.A. .....

~~The officers under instruction are duly sworn:-~~ N/A

.....Unit..... N/A

.....Unit..... N/A

Prosecutor Maj. H.B. Lapp .....Unit. H.C.T.S. .....

Defending Officer Lt. C.S.T. Tait .....Unit. H.C.T.S. .....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with. N/A
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B). N/A
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) Calls witnesses as to character.
~~(c) Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ~~ACCUSED OR~~ HIS DEFENDING OFFICER

The accused having been duly sworn, states (attached sheets).

Lt Gen Lt Col H.B. Campbell, M.C. R.A.M.C. being duly sworn states.
I was asked by the accused for permission to be called as a witness on his behalf in mitigation of punishment. I have been in medical charge of the accused since he was admitted to the Field Hospital on the 4th inst. He has been suffering from a mild form of psychoneurosis. He is perfectly responsible for his actions. He has the mental age of a boy of 14 years. I would describe him as highly strung and nervous. I would be sorry to see him sent to a C.T.S. as I consider that such a course would be detrimental to his mental health.

Attended to Court

STATEMENT BY B-81654 PTE DIXON G R RCASC/7 WING CTS

I enlisted on Sept 7, 1939 and proceeded overseas in April 1940 to MTVRD, going to 1 RCASCRU in December, 1940. In May, 1941, I was placed in charge of salvage at this unit and as time went on my responsibilities increased until in April of this year I had working under me twenty men, five lorries and was in charge of salvage of five barracks at Farnborough. In December, 1941, I was promoted acting Corporal with pay.

About this time I learned from my mother and the Children's Aid Society of Toronto that my wife was unfaithful and that my four children had been placed by the Society in foster homes. To this day I do not know my children's whereabouts, but the Society has said they are being looked after alright. When this state of affairs became known I tried to start divorce proceedings through the padres, but nothing seemed to be done for me and matters dragged on. About November, 1942, I finally went to Mr. Campbell with the result that forms were filled out and I think that divorce proceedings are now under way. The authorities have written to lawyers in Toronto to start work on it.

At about the same time I was supposed to go to 7 Wing CTS for a course and was paraded to the commanding officer, who said that my rank should be confirmed on account of the good job I had done and he instructed the adjutant to confirm my rank and take me on permanent establishment as soon as possible. However, when the time came for me to go on the course I was told that they wanted me at the unit and couldn't spare me away at that time and so I stayed.

In April of this year, however, another course came up and I was sent on it with the rank of Corporal and no one told me or suggested that I would have to take my stripes down. My brother was going to be married in May and I applied for leave at that time. On the day I left for leave I was told that I was going to be reverted to private and would have to take down my rank at once.

For the last two years I had worked hard and been doing my job the best way I knew and everyone at the unit was pleased with the salvage end of it. My domestic affairs had been a great worry to me - I couldn't seem to get anywhere with the divorce - my wife was unfaithful - I didn't know where my four children were, and when they told me that I had to revert on the day I went on leave, it just seemed that instead of going ahead or even staying where I was, I was just going backwards. When my leave was over I felt so miserable I just didn't go back but as time went on I eventually decided I was only going from bad to worse and so I reported back to 7 Wing.

G. R. Dixon

B-81654 Pte. Dixon, G. R.

19 Jun 43

STATEMENT OF CHARACTER BY LIEUT M. J. CAMPBELL , 1 RCASCRU, IN THE CASE OF B-81654 PTE DIXON, G.R.

Iwas officer in charge of messing at 1 RCASCRU where the accused was employed as corporal in charge of salvage. During the time under which Dixon worked under me I found him to be a most excellent N.C.O. and extremely conscientious in his job. At the end of the period during which he worked under me he was in charge of fourteen men and several lorries and was responsible for the collection, sortation and packing of the salvage of five barracks in Aldershot.Command. The report from the Command Salvage Officer was that our salvage was the best in the command and I attribute this to the excellent work that Cpl. Dixon was doing. In October of last year he was due to proceed on course to 7 Wing CTS but was withheld by the unit on account of the excellent work he was then doing and was considered indispensable at the time due to the complete clearing up of the camp.

About November of last year Cpl. Dixon came to me with a letter from the Children's Aid Society in Toronto regarding their investigation into the welfare of his family. This letter regarded the unfaithfulness of his wife and he immediately asked me to make arrangements for a divorce. I got in touch with the J.A.G. (Legal Aid) at C.M.H.Q. and had the proper forms filled out by Cpl. Dixon. These forms were forwarded to the J.A.G.s branch and they were going to make arrangements for divorce proceedings to be instituted. Cost of divorce was was going to be about $125.00 which Cpl. Dixon was willing to pay.

I am at the present time prepared to employ Dixon IC salvage.

His being sent to 7 Wing CTS was in no way an indication that the unit was trying to get rid of Dixon.

19 Jun43

M. J. Campbell Lieut.

ADDRESS ON BEHALF OF B-81654 PTE DIXON G R BY DEFENDING OFFR

The Court has heard the accused tell of the events leading up to and the reasons which caused him to commit the offence with which he has been charged. He has outlined the mental anxiety caused by his wife's unfaithfulness; the fact that his children are in the care of the Children's Aid Society in foster homes somewhere in Canada, their exact whereabouts being unknown to him; the difficulties he has had in institutings proceedings for a divorce. He has told the Court how during the past two years he has always endeavoured to carry out his duties as Salvage Corporal to the best of his ability, and how after an interview with his Commanding Officer he expected that his acting rank of Corporal would be confirmed. He has told the Court how this prolonged mental strain culminated on the day he proceeded on leave from 7 Wing CTS when he was suddenly told he was no longer a Corporal and would have to remove his stripes, and of the feeling of frustration and hopelessness which resulted and caused him to remain absent from his unit when his leave expired.

Lieut. Campbell has given the Court a very good idea of Dixon's worth in his job and has indicated that it was mainly through the accused's keenness and enthusiasm that his unit was commended by the salvage authorities in Aldershot Command.

* - - *

Dixon's MFM 6 discloses no crime whatsoever throughout his service.

On 17 Jun 43 Dixon was examined by Major C. H. Gundry at CHU Standing Medical Board. Major Gundry is area psychriatrist, and has rendered a somewhat lengthy report on this man. Much of the information contained in this report has already been given the Court by the accused. I would like, however, to bring the following extracts to the attention of the Court. Major Grundy notes that Dixon was an inmate of the Orillia School for Mental Defectives between the ages of nine and fifteen, and that from the latter age until he enlisted he was engaged in odd jobs interspersed with periods of unemployment and relief. He says "His judgment and understanding are indicative of mental deficiency. His emoltional development agrees too. It seems to have been very poor judgment to send him to the educational course." He gives details of a mental test to which Dixon was subjected and which resulted in a diagnosis of "Mental deficiency"being made. Major Grundy concludes with this recommendation: "This man's crime was directly related to his poor judgment. His ability to instruct counsel is certainly inadequate. In a strict legal sense he is fit to undergo trial and punishment. Punishment will certainly aggravate his present paranoidal tendencies. If he is not proficient and acceptable at his old job and deserving of his old rank it will be hard to fit him in elsewhere in this country, I feel."

Mr. Campbell has said that Dixon is at the moment thoroughly acceptable to him in his old job. Major Gundry points out that owing to Dixon's mental make-up punishment may result only in rendering him unsuitable for employment in his old job or any job. Dixon right now is an asset. Depending upon the severity of his punishment he may continue to be an asset - or he may become a downright liability. We need all the assets to which we can lay our hand.

I ask the Court, in considering punishment, to award the very lightest sentence possible, not only in Dixon's interest, but in the interest of the Army as a whole.

Exhibit "A"

If a calling-out of the whole Army Reserve is ordered, every soldier on pass must return immediately to his unit without further instructions.

CANADIAN EDUCATIONAL COMPANY.

Nil Desperandum Regiment

PASS

Army Form B1250
(In pads of 100)

B81654 (Rank) Cpl. (Name) Kirton J R

has permission to be absent from his quarters/duty, from

1630 hrs. 30th Apr 1943 2359 hrs 4th May 1943.

for the purpose of proceeding to: Salt Course Ben Nevis

(Station) Fort Augustus

C.C. CANADIAN EDUCATIONAL COMPANY.

(Date) 30 Apr 43.

Commanding

I.P.T.O.

† Delete whichever is inapplicable.

Destination and duration shown is to be extended 24 hours, unless notification to the contrary owing to local conditions is necessary to enable purchase of a rail ticket at reduced fare.

CROWN COPYRIGHT RESERVED



Exhibit "B"
A. Keough
Capt

Last Order
#3
21 May 43

VOLUME VII
CANADIAN TRAINING SCHOOL
PART II ORDERS
#7 (Educational) Wing by
A/Colonel T.E. Snow, Commandant

This Order
#4
28 May 43

SECTION I - (C M 16)

"A" OFFICERS

1. NEXT OF KIN
Capt. W.C. INNES Tor Scot R(MG)
Next of Kin is now Mrs Ella Katherine Innes (Wife)
374 Brunswick Ave., Toronto, Ontario, Canada.

"B" OTHER RANKS

2. STRENGTH INCREASE
F.956 Pte BROWN, S.R. RCAMC
F.957 Pte JENKS, J.A. RCAMC
TOS from #7 Gen Hosp RCAMC surplus to W E as Educational Assistants wef 25 May 43.
AUTH: (CMHQ REC/F 956 and REC/F 957 letter, d/19 May 43.)

3. HOSPITAL
L.1508 Sgt CRABB, H. Sask LI(MG)
Adm to #1 CMC wef 18 May 43.

4. APPOINTMENTS
F.956 Pte BROWN, S.R. RCAMC
F.957 Pte JENKS, J.A. RCAMC
To be A/Cpls wef 25 May 43.
AUTH: (2 ECH Circular letter #6, d/21 Apr 42.)

5. NEXT OF KIN
(a) A.39811 Pte(A/Sgt) BISHOP, A.L.E. CDC
Next of Kin is now A.11151 Sgm John Henry Edward Bishop (Brother)
2nd Div RCA HQ Canadian Army Overseas.

(b) B.68753 Sgmn(A/Sgt) COOMBES, R.F. RCCS
Next of Kin is now Mrs Jean Coombes (Wife)
411 Marguerette St., Toronto, Ontario, Canada.

(c) B.76292 Pte(A/Sgt) HICKS, C.H. Tor Scot R(MG)
Next of Kin is now Mrs Mildred Caroline Hicks (Wife)
1710 Jane St., Weston, Ontario, Canada.

(d) G.42568 Sgt POWERS, F.J. N Shore R
Next of Kin is now Joseph Bertram Powers (Father)
Wendover, Ontario, Canada.

6. INTERPOSTING
F.16403 Sgt HOWEY, E.... RCR/3 CIRU
Interposted from #3 Wing wef 24 May 43.

7. STRENGTH DECREASE
R.75477 Pte(A/Sgt) JENNS, R. RCAMC
SOS to Cdn Pre-OCTU School wef 24 May 43.
AUTH: (CRU A 1646, d/22 May 43.)

SECTION II - STUDENTS

"A" OFFICERS

"NIL"

"B" OTHER RANKS

8. HOSPITAL
G.49258 Gnr COMEAU, B.J. RCA
Adm to #1 CMC wef 19 May 43.

(Cont'd Page 2)

8. HOSPITAL - (Cont'd)

(b) G.49697 Gnr DURELL, A. RCA
Adm to #1 CMC wef 18 May 43.

(c) H.41934 Rfn GROUETTE, A. R Wpg Rif
Adm to #15 Gen Hosp wef 22 May 43.

(d) F.40542 Pte KEANS, D. West NSR
Adm to #7 Gen Hosp wef 24 May 43.

(e) E.12145 Pte VERRETTE, J.B. R de Chaud
Rem to #15 Gen Hosp wef 17 May 43.

9. PRIVILEGE LEAVE

(a) H.66928 Gnr WILLIAMS, F. RCA
Granted 7 days P L plus 48 hr pass (Total 9 days) with money allowance in lieu of rations under Art 789(3) and (4) FR&I (Overseas) from 3 May 43 to 12 May 43. RETURNED.

(b) E.40427 Tpr VEZINA, D. 1 Armd CR(RCD)/1 CACRU
G.23275 Pte KENNEY, W. N Shore R
Granted 7 days P L plus 48 hr pass (Total 9 days) with money allowance in lieu of rations under Art 789(3) and (4) FR&I (Overseas) from 12 May 43 to 21 May 43. RETURNED.

10. ABSENT WITHOUT LEAVE

B.81654 Pte DIXON, G.R. RCASC/1 ASCRU
Reported AWL from 2359 hrs 9 May 43. Still absent 2359 hrs 17 May 43. (8th day).

11. APPOINTMENTS

(a) G.5141 Gnr GARRISH, F.M. RCA
To be A/L/Bdr (unpd) from 1 May 43 to 11 May 43.
AUTH: (6/Educational Coy/1(AG 1b), d/19 Nov 42.)

(b) B.6392 Gnr BARNES, G.W. RCA
C.838 Gnr RUSSELL, L. RCA
To be A/L/Bdrs (unpd) from 1 May 43 to 21 May 43.
AUTH: (6/Educational Coy/1(AG 1b), d/9 Nov 42.)

(c) A.59950 Pte RAYSKI, H. C Pro C
To be A/L/Cpl (unpd) from 1 May 43 to 21 May 43.
AUTH: (6/Educational Coy/1(AG 1b), d/9 Nov 42.)

(d) B.29341 Spr GORMAN, A.J. RCE
B.26244 Spr JENKINS, J.H. RCE
G.23163 Pte PELLETIER, E. N Shore R
C.1542 Pte PELLETIER, L. CH of O(MG)
C.2684 Pte VERNIER, R. R Reg C
B.43500 Pte WRIGHT, C. RHLI
To be A/L/Cpls (unpd) wef 1 May 43.
AUTH: (6/Educational Coy/1(AG 1b), d/9 Nov 42.)

(e) E.21870 Gnr CYR, E. RCA
F.77418 Gnr McDONALD, G.R. RCA
To be A/L/Bdrs (unpd) wef 1 May 43.
AUTH: (6/Educational Coy/1(AG 1b), d/19 Nov 42.)

12. PAY AND ALLOWANCES

(a) F.77418 Spr(A/L/Cpl unpd) McDONALD, G.R. RCE
Granted a daily Regt'l rate of pay of $1.40 wef 1 Jan 43 having completed 4 mos prof service. AUTH: (GO 486/42.)

(b) F.77418 Spr(A/L/Cpl unpd) McDONALD, G.R. RCE
Granted a daily Regt'l rate of pay of $1.50 wef 24 Jan 43 having completed 6 mos prof service. AUTH: (GO 486/42.)

(Cont'd Page 3)

13. PUNISHMENTS

(a) D.105509 Spr McINTYRE, G.W. RCE
On 1 May 43 was fined £2-10-0 at Bond St Police Court for (1) Drunk and indecent (2) Assault. Fine paid.

(b) D.11076 Gnr TALBOT, W.J. RCA
On 15 May 43 tried by FGCM.
CHARGES: Sec 15(1) AA.
FINDINGS: Guilty.
SENTENCE: 110 days det and placed under stoppages of pay in the amount of £1-3-1.
CONFIRMATION: Findings and sentence confirmed by Comd CRU 19 May 43.
CLOSE ARREST: Placed under close arrest from 1415 hrs 16 Apr 43 to 1030 hrs 15 May 43. (29 days 45 mins)
FORFEITURES: Forf. 110 days pay under FR&I 149(1)(b).
Forf. 29 days pay under FR&I 149(1)(c)(i).
Forf. 54 days pay under FR&I 149 (1)(a).
AWL from 2359 hrs 21 Feb 43 until app at 1415 hrs 16 Apr 43.(53 days 14 hrs 16 mins).
TOTAL FORF: 193 days pay.
Placed under stoppages of pay in the amount of £1-3-1 under FR&I 172(8). Cost of app.

(c) D.123358 Gnr LOW, J.S. RCA
On 20 May 43 awarded 10 days forf of pay for an Offence under Sec 15(1) AA AWL from 2359 hrs 14 May 43 to 1845 hrs 19 May 43 (4 days 18 hrs 46 mins).
FORF: 10 days pay under FR&I 149(2).
FORF: 5 days pay under FR&I 149(1)(a).
TOTAL FORF: 15 days pay.

(d) B.55453 Pte DECHENO, E. R Reg C
On 20 May 43 awarded 1 days forf of pay for an Offence under Sec 15 (1) AA AWL from 2359 hrs 19 May 43 to 0800 hrs 20 May 43. (8 hrs 1 min)
FORF: 1 days pay under FR&I 149(2).
FORF: 1 days pay under FR&I 149(1)(a).
TOTAL FORF: 2 days pay.

(e) B.91123 Pte ELLIS, L. RCAMC
On 20 May 43, awarded 1 days forf of pay for an offence under Sec 15(1) AA AWL from 2359 hrs 19 May 43 to 0800 hrs 20 May 43 (8 hrs 1 min)
FORF: 1 days pay under FR&I 149(2).
FORF: 1 days pay under FR&I 149(1)(a).
TOTAL FORF: 2 days pay.

(f) C.30445 Pte [illegible] A. RCOC
On 21 May 43 awarded 2 days forf of pay for an Offence under Sec 15(1) AA AWL from 2359 hrs 19 May 43 to 1945 hrs 20 May 43 (19 hrs 46 mins)
FORF: 2 days pay under FR&I 149(2).
FORF: 1 days pay under FR&I 149(1)(a).
TOTAL FORF: 3 days pay.

(g) D.9216 Gnr [illegible]ELDROCK. N. RCA
On 25 May 43 awarded 7 days C B for an Offence under Sec 15(1) AA AWL from 2359 hrs 23 May 43 to 0820 hrs 24 May 43. (8 hrs 21 mins)
FORF: 1 days pay under FR&I 149(1)(a).
TOTAL FORF: 1 days pay.

(h) CANCELLATION - DO #2(Vol VII), para 6(a), 14 May 43 and DO #3(Vol VII), para 6(i), 21 May 43 insofar as it refers to the u/m are hereby cancelled.
D.105509 Spr McINTYRE, G.W. RCE

(Cont'd Page 4)

14. MARRIAGES

G.23275 Pte KENNEY, W. N Shore R
Having been granted permission was married to Miss Muriel Foley at St.Ninians and St.Triduana's Roman Catholic Church, Edinburgh, Scotland on 15 May 43.

15. NEXT OF KIN

G.23275 Pte KENNEY, W. N Shore R
Next of Kin is now Mrs Muriel Kenney (Wife)
9 Piersfield Grove, Piershill, Edinburgh 8 Scotland.

16. STRENGTH DECREASE

(a) D.110355 Gnr LANDRY, A. RCA
SOS to #1 NETD wef 24 May 43.
AUTH:(Cat "E".)

(b) G.56669 Gnr McGILLIGAN, T.J. RCA
SOS to #1 CARU wef 24 May 43.
AUTH:(CMHQ Adm Order #176, d/4 Jul 42.)

(c) A.42400 Tpr THOMPSON, C.W. 1 CT Del R(Elgin R)
SOS to #3 CACRU wef 24 May 43.
AUTH:(CMHQ Adm Order #176, d/4 Jul 42.)

(d) F.88696 Pte YOUNG, H.L. CB Highrs
SOS to #7 CIRU wef 24 May 43.
AUTH:(CMHQ Adm Order #176, d/4 Jul 42.)

(D.A. MACKAY) A/Capt., General List,
Adjutant, Canadian Training School.

Certified Last Page
CMK

Exhibit "C" Derango Coll

Last Order #4 28 May 43 | VOLUME VII CANADIAN TRAINING SCHOOL PART II ORDERS #7 (Educational) Wing by A/Colonel T.E. Snow, Commandant | This Order #5 4 Jun 43

SECTION I - (C M 16)

"A" OFFICERS

"NIL"

"B" OTHER RANKS

1. ATTACHMENTS
P.48554 CSM(WO II) MIVILLE, A. R 22e R/6 CIRU
Ceases to be att fap from #6 CIRU on adm to #8 Gen Hosp wef 30 May 43.

2. HOSPITAL
(a) P.48554 CSM(WO II) MIVILLE, A. R 22e R/6 CIRU
Adm to #8 Gen Hosp wef 30 May 43.

(b) L.1508 Sgt CRABB, B. Sask LI(Sup)
Dis from #1 CMC wef 27 May 43.

3. PRIVILEGE LEAVE
D.105045 Sgt HOWELL, W.J. MC Lorne Scots
Granted 7 days P L plus 48 hr pass(Total 9 days) with money allowance in lieu of rations under Art 789(3) and (4) FR&I (Overseas) from 21 May 43 to 30 May 43. RETURNED.

4. PUNISHMENTS
D.16851 Gnr(A/Sgt) BARTHE, D. RCA
On 1 Jun 43 was severely reprimanded for an offence under Sec 15(1) AA AWL from 0900 hrs 31 May 43 to 1600 hrs 31 May 43 (7 hrs)
FORF: 1 days pay under FR&I 149(1)(a).
TOTAL FORF: 1 days pay.

5. PERMISSION TO MARRY
P.959 Pte(A/Cpl) JENKS, J.A. RCAMC
Granted permission to marry Miss Alice Doreen Deakin on or after 21 Jul 43.

6. INTERPOSTING
P.16403 Sgt HOWEY, E.A. RCR/3 CIRU
Interposted to #3 Wing wef 29 May 43.

SECTION II - STUDENTS

"A" OFFICERS

"NIL"

"B" OTHER RANKS

7. STRENGTH INCREASE
AMENDMENT - DO #1 (Vol VII), para 6(a), d/7 May 43 insofar as it refers to the u/m is amended to read "Pioneer Gp "C".
P.77418 Spr McDONALD, G.R. RCE

8. HOSPITAL
(a) G.49258 Gnr COMEAU, B.J. RCA
Dis from #1 CMC wef 28 May 43.

(b) P.40542 Pte KEANS, D. West NSR
Adm to #2 CMC wef 24 May 43. Rem from #2 CMC to #7 Gen Hosp wef 26 May 43.

(c) CANCELLATION - DO #4(Vol VII), para 8(d), d/28 May 43 insofar as it refers to the u/m is hereby cancelled.
P.40542 Pte KEANS, D. West NSR

(Cont'd Page 2)

8. HOSPITAL - (Cont'd)

(a) H.20956 Pte KENDRICK, R.A. Camerons of C
Adm to #1 CMC wef 26 May 43. Dis from #1 CMC wef 3 Jun 43.

(e) E.4145 Pte MILLER, D. R 22e R
Adm to #2 CMC wef 18 May 43. Rem from #2 CMC to #7 Gen Hosp wef 19 May 43.

(f) E.12145 Pte VERRETTE, R.A.J. R de Chaud
Dis from #15 Gen Hosp wef 26 May 43.

9. ABSENT WITHOUT LEAVE

B.81654 Pte DIXON, G.R. RCASC/1 ASCRU
Reported AWL from 2359 hrs 9 May 43. Still absent 2359 hrs 31 May 43. (22nd day)

10. APPOINTMENTS

C.30968 Pte McLELLAN, F. RCASC
To be A/L/Cpl(unpd) wef 1 May 43.

11. TRADESMEN'S RATES OF PAY

(a) F.77413 Spr(A/L/Cpl unpd) McDONALD, G.R. RCE
Granted increased Tradesmen's daily rates of pay of $1.65 wef 1 Jan 43 on completing 4 mos prof service.
AUTH:(GO 486/42.)

(b) F.77418 Spr(A/L/Cpl unpd) McDONALD, G.R. RCE
Granted increased Tradesmen's daily rates of pay of $1.75 wef 24 Jan 43 on completing 6 mos prof service.
AUTH:(GO 486/42.)

12. PAY AND ALLOWANCES

(a) D.13542 Gnr KNOWLTON, G. RCA
Granted Regt'l rates of pay of $1.50 per diem wef 1 Jan 43 on completing 6 mos prof service. AUTH:(GO 486/42.)

(b) G.18934 Pte LeBLANC, C. Carlt & York R
Granted Regt'l rates of pay of $1.50 per diem wef 1 Jan 43 on completing 6 mos prof service. AUTH:(GO 486/42.)
(Extract from #7 CIRU DO #47, d/31 Mar 43.)

(c) E.10506 Pte RAIL, R. R de Chaud
Granted Regt'l rates of pay of $1.50 per diem wef 1 Jan 43 on completing 6 mos prof service. AUTH:(GO 486/42.)
(Extract from R de Chaud DO #22, d/26 May 43.)

(d) CANCELLATION - DO #4(Vol VII), para 12(a) and (b), d/28 May 43 insofar as it refers to the u/m is hereby cancelled.
F.77418 Spr(A/L/Cpl unpd) McDONALD, G.R. RCE

13. INTERPOSTING

F.55489 Pte GOUINHO, J. CB Highrs
Interposted from Adm Wing wef 1 Jun 43.
AUTH:(CMHQ 8/Educ Coy/1(a) 2c), d/22 May 43.)

14. STRENGTH DECREASE

(a) G.49256 Gnr COMEAU, B.J. RCA
SOS to #3 CARU wef 1 Jun 43.
AUTH:(CMHQ Adm O 176, d/4 Jul 42.)

(b) AMENDMENT - DO #3(Vol VII), para 11(s), d/21 May 43 insofar as it refers to the u/m is amended to read "Gnr Gp "C".
D.6170 Gnr GAILLAR, S.A. RCA

(c) AMENDMENT - DO #3(Vol VII), para 11 (ee), d/21 May 43 insofar as it refers to the u/m is amended to read "M.55924 Pte Thompson, A.L. (Dvr Mech Gp "C") RCASC".
M.55924 Pte THOMPSON, A.L. RCASC

Certified Last Page
CHK

(D.A. MACKAY) A/Capt., General List,
Adjutant, Canadian Training School.

SUMMARY OF EVIDENCE

in the case of

No. B81654 Pte. Dixon, G.R. RCASC/No. 7 (EDUCATIONAL) Wing C.T.S. C.A.O. charged with being absent without leave from 2359 hrs 9th May 43 until 9th Jun 1943. (Absent 30 days 14 hrs 6 mins.) Army Act Sec. 15 (1).

The evidence was not required to be taken on oath.

FIRST WITNESS for prosecution. K75606 A/Sgt. Hunt-Sowrey, W.W. RCA/NO. 7 (Educ) Wing C.T.S. states:

"I am employed as Provost Sjt. No. 7 (Educ) Wing, CTS. I was on duty on evening 9 May 43 when the accused B81654 Pte.(Then A/Cpl) Dixon, G.R. was due to return from privilege leave at 2359 hrs 9 May 43. He failed to return. I searched the camp area but did not see him. I reported him absent without leave. At 1405 hrs 9th June 43 the accused voluntarily reported to the Guard Room No. 7 (Educ) Wing C.T.S. and handed in his pass. He was clean and correctly dressed. I placed him under close arrest. He was not in camp between 2359 hrs 9 May 43 and 1405 hrs 9 June 43."

.....Sgd.
K75606 A/Sgt Hunt-Sowrey, W.W.
RCA/No. 7(Educ) Wing CTS

The accused did not wish to cross-examine the witness.

SECOND WITNESS for prosecution. G42568 Sgt. Powers, F.J. NSR/7 Wing CTS states:

"I am employed as Orderly Room Sgt. No. 7(Educ) Wing C.T.S. On 30 Apr 43 the accused B81654 Pte.(then A/Cpl) Dixon, G.R. was given a pass (attached hereto as exhibit "A") granting him 9 days privilege leave w.e.f. 1630 hrs 30 Apr 43, until 2359 hrs 9 May 43. On 10 May 43 at about 0830 hrs Pte. Dixon was reported to me by Sgt. Hunt-Sowrey as not having reported at the expiration of his pass. I therefore posted him as absent without leave on the daily parade state. Our Daily Order Pt II # 4 d/28 May 43, [redacted] para 10 (attached hereto as exhibit "B") showed Pte. Dixon as A.W.L. from 2359 hrs 9 May 43 and still absent as of 2359 hrs 17 May 43.(8th day) D.O. Pt. II # 5 d/4 June 43 para 9 (attached hereto as exhibit "C" showed Pte. Dixon still AWL. at 2359 hrs 31 May 43.(22nd day).
On 9 June 43 I was on duty at the Wing Orderly Room and at about 1440 hrs Sgt. Hunt-Sowrey, Provost Sjt. reported that B81654 Pte. Dixon, G.R. had reported himself at the Guard Room, sober, clean and properly dressed. I immediately phone this information to Records, C.T.S. and from then on I have posted Pte. Dixon on the parade state as being in Unit detention as he was placed under close arrest upon his return to camp.

.....Sgd.
G42568 Sgt. F.J. Powers
NSR/7(Educ) Wing CTS

The accused did not wish to cross-examine the witness.

The accused was cautioned as follows:

Q. Do you wish to make any statement or to give evidence? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused and that R.P. 4(c)(e)(f) have been complied with.

.....Captain
(D.V. Pugh) Seaforth/4 Wing CTS

Thedden Grange
15 June 1943

Arthur S Rodgers Major

OLD SHEET DESTROYED: 11-5-42 ON COMPLETION OF TWO YEARS SERVICE 7-9-41 (F.L. Westworp) Lt.

No. B.81654 Name Dixon, G.R. | Sqn., Battery, or Company | Corps RCASC | Date of enlistment 7-9-39 | G.C. Badges | Service or Proficiency Pay

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2637)

Date of last entry in Company Conduct Sheet | No. and date of last drunk Nil | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				Certified true copy, original being in my possession 17 June 1943					
				Wat Murray					
				(W.A. Murray) Lieut, VRC, Asst Adjutant, Canadian Training School.					
				Edmund Pettypiece Maj/a					

(P.T.O.)

OLD SHEET DESTROYED: 11-5-42 ON COMPLETION OF TWO YEARS SERVICE 7-9-41 (F.L. Westworp) Lt.

No. B.81654 Name Dixon, G.R. | Sqn., Battery, or Company | Corps RCASC | Date of enlistment 7-9-39 | O.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2637)

Date of last entry in Company Conduct Sheet | No. and date of last drunk Nil | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true copy, original being in my possession 17 June 1943					
				W.A. Murray					
				(W.A. Murray) Lieut, VRC, Asst Adjutant, Canadian Training School.					

(P.T.O.)

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B.81654	Private	Dixon, G.R.	RCAMC posted to 7(Educ)Wing, CTS

1. The following is a fair and true summary of the entries in the ~~Regimental and Squadron, Battery~~ Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Nil	times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct Nil

X

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court or summary awards under section 47 of the Army Act and dispensations with trial under A.C. 71 are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 10 days in military custody, making a total of 10 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 32 years

6. The date of his ~~enrolment~~ attestation specified in his attestation paper is 7 Sep 1939

~~7. The service which the accused is entitled to reckon towards discharge is~~

8. The accused is entitled to reckon 3½ years service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military ~~or naval~~ decoration or ~~decorations~~ ~~is entitled to~~ ~~naval or air force decoration or decorations~~.

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer held the~~ ~~(temporary) rank of~~

~~(b) (In the case of an officer.)~~ The accused holds in the Royal Canadian ~~Air Force~~ the rank of ~~Temporary~~ Pilot Officer unit

~~dated~~ , ~~and in his regiment (or corps) the rank of~~

~~dated~~ .

~~12. The accused has served as a non-commissioned officer continuously without reduction to the~~ present ~~date~~ ~~as~~:

~~Date of promotion~~

~~In the rank of~~ ~~years~~

~~In the rank of~~ ~~years~~

~~In the rank of~~ ~~years~~

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

~~Air Force~~

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number B.81654 Rank Private Unit

Name Dixon, G.R. of RCAJC posted 7(Educ)Wing CTS regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NIL		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

W.O.1 Murray
LIEUT. & ASST. ADJT.
CANADIAN TRAINING SCHOOL

Signed this ~~fourteenth~~ NINETEENTH day of June 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Arthur Pettypiece, Wg Cdr

FORM OF APPLICATION FOR A COURT-MARTIAL

No 7(Educ) Wing CTS Regiment

Station Thedden Grange, Alton, Hants Date 16 June 19 43

Application for a Field General **Court-Martial**

Sir,

I have the honour to submit one charge Sec 15(1) AA against No. B.81654 Pte Dixon, G.R. RCASC posted to No 7(Educ)Wing,CTS of the Wing under my command, and request you will obtain the sanction of Commander C.R.U. that a Field General Court-Martial may be assembled for his trial at Thedden Grange, Alton, Hants

The case was investigated by (a) Major T.R. Gray, E.D. OC No 7(Educ)Wing, C.T.S. Capt D.V. Pugh Seaforth of C posted to 4(Tac)Wing, CTS (date)

1 Pte. ~~A Court of Inquiry was held on it~~ (Station).

at

~~1 Pte. President~~ May Pt Mayfield Capt 1 CARU Lieut 2 CARU

~~1 Pte. Members~~

~~Pte~~ 1 Pte.

The accused is now at Thedden Grange His general character is (e) Good

I enclose the following documents (d):—

1. One Charge Sheet (~~duplicate~~) copy. 1 Pte
2. Summary of Evidence, original (f) and ~~copies~~ copies. 1 Pte
3. Original Exhibits (g).
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (g).
5. List of Exhibits (h).
6. ~~Correspondence~~ Nil. 1 Pte
7. Statement as to character (M.F.B. 355) and regimental and company, etc., conduct sheets (or Field Conduct sheets) of accused (g).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (R.P. 14 (B)) (h).

Your obedient servant,

II/ Commander CRU

Signature of Commanding Officer Lt Col (T.R. Gray) E.D. O.C. No 7 (Educ) Wing, CTS

1. May sanction for FGCM be granted please.

To: Commander, C.T.S.

(TE Snow) Col. Comd, CTS

MEDICAL OFFICER'S CERTIFICATE

I certify that No. B.81654 Pte DIXON, G.R. RCASC posted to 7(Educ)Wing, CTS is [fit], to undergo trial by Court-Martial.

Signature of the Medical Officer E A James Capt RAMC

† Insert "fit" or "unfit."

(a) Here insert name of:—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence (R.P. 19 (B) (iii)).
(b) To be filled in if there has been a Court of Enquiry respecting any matters connected with the charges; otherwise to be struck out (R.P. 19 (B) (iii)).
(c) To be filled in by the Commanding Officer.
(d) Any items not applicable to be struck out.
(e) One copy to be sent to the President; one copy to be filed with the application for trial.
(f) Original summary of evidence to be sent to the President.
(g) 3, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.
(h) 5 and 8 to be sent to the President.
(i) If the accused has elected to be tried under A.A. (8), the fact should be recorded at the top of this form.)

M.F.B. 353
A.F.B. 156
2000 3-41 (365)
M.Q. 1173-39-461

RECEIPT FOR SUMMARY OF EVIDENCE AND CHARGE SHEET

I, No. B.81654 Pte Dixon, G.R. , RCASC

~~XXXXXXXX~~,

~~XXXXXXXX~~ posted to Canadian Training School, hereby admit receipt of a copy of the Summary of Evidence in the forthcoming case against me, and state that my rights under Rules of Procedure 14(B) in the Manual of Military Law as to preparing my defence have been explained to me by

Capt. D.V. Pugh Seaforths of C.

I also admit receipt of a copy of the Charge Sheet in the said case and state that said Charge Sheet has been explained to me in accordance with Rules of Procedure 15(B) by the above mentioned Officer. This Summary of Evidence and Charge Sheet have been handed to me and explained this fifteenth day of June 1943

at 0900 hours.

Pte Dixon G.R.
(G.R. Dixon) Pte B.81654

(To be signed in duplicate)

To/
Commandant,
Canadian Training School.

With reference to my pending trial by Field General Court-Martial.

~~(a) I wish to have counsel to represent me for the purpose of conducting my defence.~~

(b) I wish ~~XXXXXXXXXX~~ that an officer be assigned to act as defending officer.

(If ~~XXXXXX~~ Lieut A.V. Campbell, RCASC/I ASTR U is available, I wish that he may be assigned for this purpose)

XXX

14 June 1943
~~XXXXXX~~ Alton

Pte Dixon G.R.
(G.R.Dixon) Pte, B.81654

(To be signed in duplicate) Delete where necessary

LIST OF EXHIBITS in the case of B81654 Pte. Dixon, G.R.

Exhibit "A": Pass, Army Form B295 signed by Lieut. L.M. Orge.

" "B": D.O. Pt. II Vol VII CTS d/28 May 43.

" "C": D.O. Pt. II Vol VII CTS d/4 June 43.

LIST OF WITNESSES

K75606 A/Sgt. Hunt-Sowrey, W.W. Provost Sjt. No. 7 (Educ) Wing, C.T.S. Thedden Grange, Alton,Hants,.

G42568 Sgt. Powers, F.J. Orderly Room Sgt. No. 7 (Educ) Wing, CTS Thedden Grange, Alton, Hants.

B.81654 Pte Gerald Rosaire DIXON, RCASC,
No 7 (Educational) Wing, C.T.S.

L.L. 58

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this EIGHTEENTH day of JUNE, 19 FORTY-THREE

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[redacted]

*Omit if not applicable.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	A.S. PETTAPIECE	H.Q. C.R.U.

Members.

Rank.	Name.	Regiment.
A CAPTAIN	FROM	1 C.A.R.U.
A LIEUT.	FROM	2 C.A.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (J.H. ROBERTS) Maj-Gen.,
Commanding Cdn Rft Units.
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B.81654 Pte Gerald Rosaire DIXON, RCASC, No 7 (Educational) Wg, C.T.S.	FIRST CHARGE Sec 15(1) A.A.	Guilty	Guilty Sentenced to undergo detention for a period of ninety (90) days. 19 Jun 43 Arthur S. Bettgate Major	Confirmed. ~~Approved~~. Subject to the remission of sentence of thirty (30) days detention Jul.

See Charge Sheet Attached.

(1) [Question to be asked of accused, if he pleads not guilty (R. of P. 29 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded opposite above if necessary):—]

(Signed) Jul Roberts (J.H. ROBERTS) Maj-Gen., Cdn Rft Units.
Commanding

(Signed) Arthur S. Bettgate Major
Convening Officer (e) / President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 19th day of June 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~)
*(4. ~~The officers under instruction~~)

*Omit if not applicable.

were duly sworn.

Signed this 19th day of June 1943.

Arthur S. Bettgate, Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 752 M.M.L. 1928.

*~~I certify that the terms of P.A.C.I. 570 of 1918 have been complied with.~~

*~~Signed this day of 19~~

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be ~~not committed~~ to prison or detention barrack until further orders.) Jul.

Signed this 21 day of June 1943.

Jul Roberts
Confirming Officer.

Promulgated and extracts taken in the case of B.81654 Pte DIXON, G.R.

(a) (Dated) 25 June 43 (Signed) J.K. Hall MAJOR
O.C. No. 7 (EDUCATIONAL) WING — C.T.S.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

33473] W.A.C.(T.S.)33,000 2-43 A.B.E.W.Ltd. Gp.649

LL-59 (AFRICA)
A/SGT. DIXON H.

FIELD CONDUCT SHEET.

Date of Enlistment 10-10-39 | Army Form B122 Sheet No. 2 a/c | Page 1

*No. C40761 Name Dixon, H. | Sq., Batty., or Company | Corps CAC

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk: N/A | G.C. Badges: N/A | Long Service and G.C. Pay: N/A | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded and Remarks
First Sheet destroyed on completion of 6 mos service 10-4-40 H.Ogilvie,Capt.								
Field	25-1-41	Tpr		Stoppages of pay under FR&I 158(2)			25-1-41	
Field	2-5-41	Tpr		AA Sec 40 Failed to park vehicle in proper place	Sgt Humphries	7 days C.B.	3-5-41	W.O. Wetmore, Major
Field	27-7-41	Tpr		AA Sec 15(1)AWL from muster parade 27-7-41	Sgt Davies	7 days C.B.	28-7-41	J.A.McGowon,Capt
Field	31-7-41	Tpr		AA Sec 11 Neglect to obey orders	L/Cpl Terry	7 days C.B.	31-7-31	A.J. Duck Capt.
Field	29-10-41	Tpr		(i)AA Sec 40Removing a window without permission. (ii)AA Sec 40 Unable to carry duties whilst on duty driving a recreational truck.	Sgt Couchman Cpl Thorburn Tpr Turebinsky	28 days F.P.	1-11-41	HW Foster Lt-Col Forf 28 dayspay
Field	22-4-42	Tpr		Under FR&I 149(a & b) (Larceny Act)	Documentary	3 mos hard labour (time served in H.M. Prison)	7-5-42	Stop of 127 days pay

*Serial Number in case of enemy prisoner of war.

Date of offence	Rank	Cases of Drunk entered	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded and Remarks
Field 23-6-42	Tpr		Released from Detention	Documentary		23-6-42	Remtd. 29 days
Field XX 15-3 43	Tpr		(i) AA Sec 40 Using W.D. Vehicle without authority	Cpl Clark	28 days F.P.	17-3-43	J.D. Adams Lt-Col
			(ii) AA Sec 40 Using W.D. petrol	Tpr Russell	28 days pay		Forf 1 days pay
			(iii) Failed to book out	Tpr Young	FR&I 149(1)(b)		FR&I 149(1)(a)
			(iv) AA Sec 15(1) AWL from 2230 hrs till 0615 hrs 16 May 43 (7 ½ hrs)	Sgt Greer			Total Forf 29 days pay

Certified true copy from the Regimental Books in my custody.

A.J. McTeer

(A.J. McTeer) Capt. & Adjt.
No. 3 Bn., 1 Cdn Base Aft Depot.

W1 14538 / 1000 1000M. 8/42 V.P.Co. 31-5024.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded and Remarks
Field	23-6-42	Tpr		Released from Detention	Documentary		23-6-42	Remtd.29 days
Field	15-3-43	Tpr		(i)AA Sec 40 Using W.D. Vehicle without authority (ii)AA Sec 40 Using W.D. petrol (iii) Failed to book out (iv)AA Sec15(1)AWL from 2230 hrs till 0615 hrs 16 May 43 (7½ hrs)	Cpl Clark Tpr Russell Tpr Young Sgt Greer	28 days F.P.1 28 days pay FR&I 149(1)(b)	7-3-43	J.D.Adams Lt-Col Forf 1 days pay FR&I 149(1)(a) Total Forf 29 days pay

Certified true copy from the Regimental Books in my custody.

A.J. Mc-Teer

(A.J. McTeer)Capt. & Adjt.
No.3 Bn., 1 Cdn Base Rft Depot.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the ~~rank of~~ a/u. Permanent Force unit dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

24 May 43 Date of promotion.

In the rank of Acting Sgt ~~xxxx~~ 3 mos.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

~~Air Force~~ a/c

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number C40761 Rank Tpr Unit

Name Dixon, H. of No.3 Bn.,1 Cdn Base Rft Depot

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Civil	7 May 42	Larceny	3 months hard labour	29 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30th day of August 1943 A. Mac Lean Capt Adjutant

1 Bd 1 Cdn Base Reinforcement Depot

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

N.F.B. 155
22M—5-41 (572-3)
H.Q. 1572-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C40761	Tpr	DIXON, H.	No.3 Bn., 1 C.R.R.D.

1. The following is a fair and true summary of the entries in the ~~Regimental and Squadron, Battery~~ Service and General Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AA Sec 40	2 times	AA Sec 40	5 times
For	AA Sec 15(1)	1 times	AA Sec 11	1 times
For		times	AA Sec 15(1)	2 times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ A.A. 73 and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time.~~

or,

~~The accused at the present time is under sentence for _____ beginning on the _____ day of _____~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in ~~Air Force~~ civil custody, and one days in military custody, making a total of one days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of~~ attestation paper is 25 yrs,5 mos,21 days.

6. The date of his ~~enlistment~~ attestation specified in his ~~record of~~ attestation paper is 10 Oct 39

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 11 mos 20 days

8. The accused is entitled to reckon 3 yrs 11 mos 20 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~no~~ military reward (~~except~~). State any air force decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~the substantive rank of~~ Air Force

1.

First Witness for Prosecution.

Lt. R.E. Smith, C.K.E. Phillipsville.

I recognize the accused. At approximately 1700 hours Sunday 3rd Aug 1943 I was in a shop in Phillipsville in the Bloemveld at the time when Sgt Dixon entered I was speaking to the shop assistant. Sgt. Dixon was accompanied by SSM Galloway and Sgt Brownsdale. Sgt. Dixon came up to me and attempted to make conversation with me and the shop assistant in English and French. I was not able to understand what he was attempting to say and told him that he was not capable of speaking either English or French whereupon without warning Sgt Dixon struck a pipe from my mouth which broke the bowl in the middle of the shop. I immediately ordered SSM Galloway to remove the sgt from the shop. what he did immediately.

I was wearing badges of rank at the time.

Sgt Dixon came in in a drunken condition. He was not walking as I should expect a N.C.O to walk. He was rolling from side to side.

J. D. T.
2 Sept 43

.2. Cross examination by defending officer.

There was no suggestion that Lt. Dixon deliberately tried to pick a quarrel with me. When I saw he was drunk I did not immediately go to his friends and tell them to take him out. It did not occur to me that it would aggravate a Canadian to tell him he could not speak english is French. The shop room was approximately 15 ft wide by 15 ft long with a recess at the back. A counter in two sides. left hand side entering and the back. Glass showcases all around. It was not cramped. A modern cigar shop. The window my pipe went through was 1ft 6in from me. The act of knocking the pipe out of my mouth definitely could not have been a gesture.

Sgd

By the Court:

The speech of the accused was almost inaudible at the time. I could not smell his breath. He was well dressed.

[signature] A.M.

Sgd
2 Sept 17.

2nd Recital written for the prosecution:

P677 S.S.M. Galloway A.B.

I am S.S.M. Galloway A. Coy 3 Bn I.C.B.R.D. I recognise the accused. I was with him on Sunday 29 Aug 43. We were on our way home at approximately 1300 hours from Philippeville. We had had something to eat and drunk we had purchased and drank white. Sgt. Dixon had also purchased and drank white. The first drink was a cocktail. We had about three of these. I do not know what type it was definitely was not a soft drink. We had been making the rounds about 1½ hrs. We had not visited and then only as a two. We went to a private home & function was [illegible] a bottle of Vin Rosie (Red Wine) was put on the table for the three of us. The three of us drank the wine there. After that I think we all were more or less normal because we started for home. We knew what we were doing and the

direction. We entered the shop to get a cold soft drink. Sgt Bourndale & myself were in the act of purchasing the drink when we heard the accused speaking to the Lieutenant. Lt Smith. I did not interfere because I thought Sgt Dixon might have spoken to Lt. I heard Lt. Smith remark that the accused could not speak either French or English. There was considerable conversation before that. Sgt. Dixon was speaking in French. I noticed the pipe was knocked from Lt. Smiths mouth. I could not say whether by open or closed hand. Sgt Bourndale and I grabbed Sgt Dixon. I ordered Sgt Bourndale to remove him from the shop which he did. Lt Smith ordered me to give him the Br. back home & regiment. I did that and then ~~joined~~ Sgt Bourndale & Sgt Dixon & proceeded back to camp. Lt Smith was wearing badges of rank at the time.

Cross examined by Defending Officer.

Sgt. Dixon was not in duty when we went to Philippeville

FOI
2 Sgts.

4/ I did nothing to prevent the F.D.T. incident. ~~I did not report the~~ We arrived at Philippeville abt 3 o'clock. We went to get something to eat. We went to one of two places. Each had one of two there. We had our meal & came home. I have known Sgt. Dixon since in May 1942. He has been in my company all that time. He is a steady soldier. He is not the type to get into fights under normal circumstances. Sgt. Dixon did not get a chance to apologize. He was removed right away. Sgt. Dixon's voice was quite clear to me as we were waiting along the street just previous to entering the shop.

Re examination:
Sgt. Dixon has not been in trouble since he has been a senior N.C.O.

By the Court:
He was waiting all night. He was a little tired of speech. We were together all the time in Philippeville

A. E. Galloway Pte.

F.C.
2 Sep 43.

5.

The defending officer states that the accused wishes to change his plea on the second charge from "Not Guilty" to "Guilty". The accused is re-arraigned on the second charge & he pleads "guilty" thereto. See 35-(B) of R.P. is complied with. The accused states he understands the effect of pleading "Guilty" and does not wish to change the plea.

The prosecuting officer states that Sgt. Bonnydale was a witness on the summary of evidence, but that he does not wish to call him.

B60548 Sgt Bonnydale C.J.
A.Cr 3 Bn, C.D.R.D. is duly sworn and cross-examined by the defending officer.

I am Sgt Bonnydale C.J.
A Cr 3 Bn, C.D.R.D.
I arrested the accused. I was in Philadelphia with him on Aug 29 1942. I was in a shop with him. A sgt drunk shop [illegible] 2 Sep 42

6. The shop room with the counter in was I would say 10 feet — depth by 8 feet wide. There were two assistants and some English soldiers there — four. There wasn't much room but it was not crowded exactly. The lt. was at the left just inside the door. We went to a counter at the rear by Mr. Galloway's. I heard a noise but was not facing toward it & didn't see any incident. After we left I asked Lt Dixon and D he said to apologize.

A Bonowitch

The case for the prosecution is closed.

—

First Witness for Defense
C 40761 Tpt (Actg.) Dixon H.
the accused.

On Sunday Aug 23, 1942
S/S M Galloway. Lt Bonowitch
and I left [illegible]
We got there & broke for a
place to have a meal.
We first went in & had a
few cocktails. I had a couple
there I believe myself

7. after that we looked for a place to eat. We found a place in a civilian town & we had something to eat & a bottle or two of wine. When we left there we walked around some & then went into another place & had a little more to eat & another bottle of wine. We left there and started off for home. We were going by a place & stopped in for a cold drink. In there I was talking to the officer & after that things were getting pretty foggy & I can't tell exactly what happened. We then came home after we walked out.

Cross examination by prosecuting Officer.

I don't remember meeting Lyttle. I was able to come home on my own.

By the Court.

I can't say what I was talking to D. Lund about.

H. Dixon

[illegible]

8.

Second Witness for accused.

C5020 Tpr. Pearson, J.F. A Coy
3 Bn 1 C B R.D. I have known the accused since early in 1940 We were in the H.P.E Regt at that time. He was a private. He became an N.C.O. while I was there. I knew him just slightly there. He was regarded as a first class soldier there. I knew him in the P.L.D.S. He was my Tp Sgt in the 1st Recce. Regt. I have come to think otherwise of him than as a first class soldier.

Cross examination by Prosecuting Officer
We have not been in contact all the time. From June & Oct or 1940 we were not in the same regt. During the time I have known him, when he was my Tp Sgt he was not in any trouble. To my knowledge he has never been in any trouble

J F Pearson

Third Witness for Defence
A 34771 Cpl Pavek R.T. A Coy
3 Bn 1 C B R D.
I have known the accused since about Sept 1940

R T Pavek
2 Sept 42

Q: I know him well. I have had no occasion to think of him other than as a first class soldier. He was brought in by the unit to straighten up a troop & he did it well. I consider him a first class soldier. He did his work well.

R.T. Brock.

Lowe's Witness for Defence.

K85266 Sgt Danstone J. A Coy
2 Bn 1 C.B.R.D.

I have known the accused for 2 years about. I haven't known him personally for 6 months I have known him intimately. I have always found Sgt Dixon a very good soldier efficient & prompt in carrying out an order. He is a very good leader I even consider a very good troop leader. In my opinion he is one of the best we have had.

Cross examination by prosecuting officer.

I knew him from C.A.C.R.U. I don't know the exact month I can't say if it was 1943. He has not been with the Regt since. I have known him intimately

James Danstone

F.C.
2 Regt R3

10.

Evt. Witness for Defence.

Lt Williams J. W. A Coy

3 Bn 1 C. D. R. D.

I have known the accused approximately four months. As a soldier I consider him to be very efficient & in my opinion I would classify him to be the most competent troop N.C.O. in A Coy Rebase. I recommended him for promotion for Sgt & since that time due to his dependability, good sense in man management I have never had cause to regret that recommendation.

Cross examination by Prosecuting officer.

I came in contact with the accused in Aug 1942. He came as a trooper.

Capt Blais Lt.

The case for the defence is closed.

Lt. Col.
Lt.

Address by Defending Officer

He submits:

(1) That under M.M.L. page 24 Para 42 Sec 19. drunkenness is an offence & the accused should be found guilty of that alone.

(2) That there is no evidence of intention to the act. See M.M.L Page 25 Para 48.

(3) That page 106 para 9. should be considered

(4) That there was no disorder on the part of the accused & he was not on duty.

Address by Prosecuting Officer.

He submits:

(1) That the accused is properly charged in the first charge.

(11) That was corroboration.

Sol. Adv.
2 Sep 43

SUMMARY OF EVIDENCE

In the case of C40761 Tpr (A/Sgt) Dixon, H. CAC 3 Bn 1CBRD

By direction of the commanding Officer, evidence will be taken upon oath.

First Witness — Lieut R.E. Smith, R.E., CRE, Philippeville, having been duly sworn states:

At approx 1700 hrs on Sunday 29 Aug 43, I was in a shop, in Philippeville making a purchase, when Sgt H. Dixon entered, accompanied by SSM Galloway and Sgt Burrowdale. Sgt Dixon was in a drunken condition and attempted to make conversation with me and the shop assistant, in French and English. I replied to him that I did not think he was capable of speaking either French or English, whereupon he raised his fist and struck the pipe from my mouth with a force which broke the adjoining window. I then ordered SSM Galloway to put the Sgt under arrest and he was forcibly removed from the shop.

.....R.E. Smith Lieut

The accused declines to cross examine the witness

Second Witness — P677 SSM Galloway, A.E. "A" Sub Unit 3 Bn 1 C.B.R.D. having been duly sworn states:

About 1700 hrs on Sunday 29 Aug 43, Sgt Dixon, Sgt Borrowdale and myself were in Philippeville, proceeding home. We went into a shop for a soft drink. Whilst there Sgt Dixon spoke to the English officer in French. I did not understand what was being said; I saw the officer's pipe knocked out of his mouth by Sgt Dixon. As soon as we saw that done, Sgt Borrowdale and myself took Sgt Dixon out. I was ordered by the officer to take Dixon's name and number and place him under open arrest.

A.E. Galloway.....

The accused declines to cross examine the witness.

Third Witness — B60549 Sgt Borrowdale, A.J. "A" Sub Unit 3 Bn., 1 C.B.R.D. having been duly sworn states:

On 29 Aug 43, Sunday at approx 1700 hrs, SSM Galloway Sgt Dixon and myself, went into a shop, in Philippeville, for a soft drink. Sgt Dixon saw an officer in there talking to a waitress and went over and was talking to them, in French. I did not understand what they were talking about. I was having my drink and I heard a noise. When I turned around, the officer who had been smoking a pipe, no longer had the pipe in his mouth. There was a glass broken. SSM Galloway went over to Sgt Dixon and I accompanied him and brought Sgt Dixon away from the officer. SSM Galloway told me to take Sgt Dixon outside. I did so. Later SSM Galloway, Sgt Dixon and myself proceeded on our way back to camp.

...A.J. Borrowdale....

The accused declines to cross examine the witness.

The officer taking the summary thereupon warned accused as follows.

"Do you wish to make any statement or give evidence under oath? You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declined to make a statement.

I certify that the forgoing Summary of Evidence was taken by me in the presence and hearing of the accused and that Rules of Procedure 4 (C)(D)(E) & (F) have been complied with.

.....J. Garfinkle Lieut.....
(J. Garfinkle) Lieut
"B" Sub Unit 3 Bn., 1 C.B.R.D.
Offr taking summary

In the field

30 Aug 43

PAGE 'C' CONTINUED

14. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (R.P.37(C) Ans No.
No cross-examination.
(Statement (if any) is recorded on seperate sheet, initialled by the President and attached hereto)

15. President to accused:
Q. Do you wish to give evidence yourself or call witnesses as to character? (R.P.37(C)) Ans No

16. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.M.C), signed in the manner required by A.A.163(1)(n) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "A", and "B", initialled by the President and attached to the proceedings. (R.P.46; Overseas R.O.313)

17. President to accused:
Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment? (R.P.46(D).
Ans No No Cross-examination.

(Record address (if any) on seperate sheet, initialled by the President and attached hereto)

18. The Court is now closed to consider the sentence. (Record on Page 2 of A.F.A.3)

(Punishments, A.A.44: R.F.(Can)563-566; one sentence only awarded, R.P.48. Sentence should be dated)

The sentence is not announced to the accused by the Court.

F. D. Lucas Lt. Col.
(Signature of President)

PAGE 'C'

(For use when there are pleas of 'Guilty' and 'Not Guilty'

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. R.P.35(B) is complied with, in respect to 'Guilty' pleas, by the President ascertaining that accused understands the nature of the charge(s) (fn 3) and his plea thereto, explaining the difference in procedure by the plea (R.P.37(B) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused;

Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby or that you have not had sufficient time for preparing your defence? (R.P.39(A). Ans No.

3. The Prosecutor's opening address (if any) (R.P.39(B) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See Record of Evidence on Page 'D')

4. The Prosecution is closed. (If submission that no prima facie case established, see R.P. 40 fn 1; R.P. 70 fn 1)

5. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination. (R.P.40, fn 2) or that he may, if he wishes make an unsworn statement upon which he can not be cross-examined. (R.P. 40(D)(ii)(a))

6. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans Yes.
Q. Do you intend to call any other witness in your defence? Ans No.
Q. Is he a witness as to character only? (R.P. 40(B) Ans Yes.

7. The evidence for the defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

8. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses, see Rs P.40, 41 and 42)

9. The Court is now closed to consider the finding. (Rs P 43 and 117) (Record Finding on Page 2 of A.F.A.3)

10. The Court being re-opened, the accused is again brought before it and the findings of 'Not Guilty' (if any) are pronounced. (R.P.117(B))

11. The charges, to which the accused pleaded 'Guilty' are read to the accused.

12. President to accused:
Q. Do you desire to make any statement of the circumstances in reference to the charge(s) to which you have pleaded 'Guilty'? (R.P.37(B) Ans No.

(Statement (if any) not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

~~13. Summary of Evidence is read aloud, in the presence of the accused, and initialled by the President and attached to the proceedings. (If not such Summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings) R.P.37(B).~~

Accused C40761 Tpr (A/Sgt) Herbert Dixon. P.A.D.C. 3 Bn. 1 C.B.R.D.
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in North Africa on 2 Sep. 43.
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	Lt. Col.	J. O. Tweedie	C.A.R. 1 Bn. 1 C.B.R.D.
MEMBERS:	Capt.	T. H. Knight.	PPCLI 2 Bn. 1 C.B.R.D.
	"	J. R. Greaves	C.A.C. 3 Bn. 1 C.B.R.D.
JUDGE ADVOCATE: (If any)			
OFFICERS UNDER INSTRUCTION:	Lt. P. J. Keiller		C.A.C. 1 C.B.R.D. Lt Cols D.E.
	" J. R. Hunter		" C.A.C. 3 A 1 C.B.R.D.
	" J. O. Segsworth		"
	" W. M. Winterton		"
PROSECUTING OFFICER:	Lt. A. J. Abram.	Lawyer? Ans	Yes.
DEFENDING OFFICER:	" N. Pooley	Lawyer? Ans	Yes.

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs P 17(E), 22(A)).

The President, in closed court (R.P.22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P.106)

The accused is (are) brought before the Court, and at 1415 hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Army) 557 (See ~~Army~~ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

~~President to accused:~~
Do you object to _____ as interpreter? Ans _____

The interpreter is duly sworn.

Do you object to _____ as shorthand writer? _____

The shorthand writer is duly sworn. (Forms of Oath on Page 'D'.

~~The Convening Order is read to the hearing of the accused.~~
~~The names of the President and Members of the Court are read to the accused (R.P.10)~~

~~President to accused:~~
~~So you object to be tried by the President or by any of the Officers whose names you have heard read over?~~ Ans No.

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.26-27 (Forms of Oath on Page 'D'))

The Charge Sheet(s) is (are) initialled by the President.

J. O. T.

The Prosecuting Officer informs the Court that the accused ~~has~~ (has not) elected trial by Court Martial (A.A.46(8))

(If special plea/s is/are made for separate trial on one or more charges (Rs P.62(2), 108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (A.A.130, R.P.57), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge Not guilty.
Second Charge Not guilty.
Third Charge _____
Fourth Charge _____
Fifth Charge _____
Sixth Charge _____
Seventh Charge _____
Eighth Charge _____

(For procedure on alternative charges, see R.P. 37, fn 2)

Further proceedings are recorded on Pages hereto attached.

I hereby certify that I have this morning examined C 40761
Spr (HSR) Dixon H. 3 Bn., 1 C.H.R.D. andthat in my opinion he is fit to
undergo trial by Court Martial.

In the Field,
This 2nd day of
Sept. 1943.

W. S. Woolner Capt
(R.C.A.M.C.)

F. D. 2 Legs

CHARGE SHEET

The accused C40761 Tpr (A/Sgt) HERBERT DIXON, on strength 3 Battalion 1 Cdnadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, is charged with:

First Charge
Sec 8(2)
Army Act

WHEN ON ACTIVE SERVICE OFFERING VIOLENCE TO A SUPERIOR OFFICER

in that he

in Philippeville at approximately 1700 hrs on the 27th day of August 1943, attempted to strike Lieut R.E. Smith, R.E., C.R.E. by siming a blow and knocking the pipe out of the mouth of the said Lieut R.E. Smith.

Second Charge
Sec 19
Army Act

WHEN ON ACTIVE SERVICE DRUNKENNESS

in that he

in Philippeville at approximately 1700 hrs on the 29th day of August 1943, was drunk.

Vincent McKenna
(VINCENT MCKENNA) Lt Col M.C., E.D.
Commanding 3 Bn., 1 Cdn Base Rft Depot

In the Field
30 Aug 43

To be tried by D.S.C.M.

31 Aug 43

G. Walter Barker Colonel
Commandant, 1 Cdn Base Reinforcement Depot

A.D.J.
2 Sept 43

C 40761 Tpr (A/Sgt) Dixon, H.
3 Bn, 1 Cdn Base Rft Depot

A-75

LL-59

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this First day of September, 19 43. (Order convening the Court.)

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Base Reinforcement Depot, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable. * [redacted]

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt. Col.	F.D. Tweedie	C & Y 1 Bn, 1 CBRD

Members.

Rank.	Name.	Regiment.
Captain	F. R. Greaves,	3 Bn., 1 C.B.R.D.
Capt	T.H.Knight	PPCLI, 2 Bn, 1CBRD

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signature of Convening Officer. Colonel
Commanding, 1 Cdn Base Reinforcement Depot

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C40761 Tpr (A/Sgt) Herbert Dixon 3 Bn, 1 CBRD	First Charge Sec. 8(2) Army Act	Not Guilty	Guilty	I confirm the findings and sentence of the Court.
	Second charge Sec. 19 Army Act	~~Not~~ Guilty	Guilty. 120 days detention	

Full detail of charges on charge sheet attached

C. Mallory Basher Colonel
Commanding 3 Cdn Base Reinforcement Depot

*Question to be asked of accused, if he pleads not guilty (R. of P. 29 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer to be recorded on separate sheet if necessary) :—

(Signed) C. Mallory Basher (Signed) F. D. Investie Lt Col
Commanding Convening Officer (*c*) Capt. 2nd Regt, 1 CARA President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Second day of September 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*Omit if not applicable. ~~*3. The Interpreter~~

*(4. The officers under instruction)

were duly sworn.

Signed this 2nd day of Sep 1943

F. D. Investie Lt. Col.
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*I direct that the soldier named in the margin be not required to perform or detention barrack until further order.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 3rd day of Sept 1943.

C. Mallory Basher Colonel
Commanding Officer
Commandant, 1 Cdn Base Reinforcement Depot

Promulgated and extracts taken in the case of C40761 Tpr (A/Sgt) Dixon H.

(*a*) (Dated) 3rd September 1943 (Signed) A. H. McLean Capt. Adjutant
3 Bn 1 Cdn Base Reinforcement Depot

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.



SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B158794 Pte Henry McNally Dixon, C1C

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) Struck (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of (1) year

(Sgd) ..... Judge-Advocate, if any. 15 May 46 Date awarded. (Sgd) A.C. Rose Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 739-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) Struck

(1. AA 57A. Delete if not used.)

(Sgd) W.S. Underhill BRIG

Date 17 May 46 Commanding COMD, 7 L of C SUB AREA Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. B158794 - Pte Dixon, H.M. Date. 18 May 46 Signature of Offr. 2 CDN DISCIPLINE UNIT E.C. Pickering MAJOR ADM. OFFR

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 199, 6 A-40

RECEIVED MAY 25 1946 JAG BRANCH CMHQ

FIELD GENERAL COURT-MARTIAL

CPA66 (In lieu of APA81 40/P & B/1098 (6144)) 4/38B

Convened by Order of Brig W.S. Underhill, CBE Comd 7 L of C Sub-Area dated 15 May 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
B158794	Pte	HENRY McNALLY	DIXON	CIC 2 Can Discipline Unit

PROCEEDINGS REVIEWED

PROCEEDINGS OF TRIAL.

25 May 46 C.H. Toronto

Held in the Fd in (country) ..... on (date(s)) 15 May 46

RECEIVED JAG BRANCH C.M.H.Q.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnm RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1420 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans ~~Struck~~

~~The Interpreter is sworn.~~(1) Do you object to ..... as shorthand writer? Ans ~~Struck~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A.C. Rose	CIC	2 Can Discipline Unit
Member	Captain	K.M. Rose	CIC	2 Can Discipline Unit
Member	Captain	R.J. Verfoot	CIC	2 Can Discipline Unit
Judge-Advocate				
Prosecutor	Captain	J.C.P. Hardy	CIC	2 Can Discipline Unit
Defending Offr	Captain	F.M. Pritchard	RCAPC	2 Can Discipline Unit

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 23.)

A8. The accused B158794 Pte Henry McNally Dixon before arraignment make(s) (no) ~~No~~ plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or as one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 13

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) and to call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No .(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change (his) (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 80(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Do you intend to call witnesses on your behalf ? Ans Are they witnesses as to character only ? Ans
(1. *RP* 115. 2. *RP* 40(*A*), *see* 90(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(*2*) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(*2*), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes who's
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces statements as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(1) (g) (b), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB* 255 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(1) and Conduct Sheet(2), and in mitigation of punishment ?(3) Ans Yes through my Defending Officer
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*6*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its purposes, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 130, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas KO* 309, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*1*) (*b*), 68(*1*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and dispersal of record after trial see inserts on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Had

I certify that I have this day examined B-158794 (No)

Pte. Dixon , H.M. (Name)

and in my opinion he is

fit to under go trial by Court-Martial.

Station 2 Cdn Discipline Unit

Date 15 May 1946

(Sgd) CAPT. R.A.M.C.

O/C CENTRAL M.I. Room, MALINES

FIELD GENERAL COURT-MARTIAL

Hall

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-158794	Pte.	Henry McNally	DIXON, (CIC)	2 Cdn Discipline Unit.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[s] named above as the accused, being subject to military law, has [have] committed the offence[s] set forth in the Charge Sheet[s] attached and on (*date*) 15 May 46 endorsed by me, [illegible] "To be tried by Field General Court-Martial ".

cover

2. And whereas I am of opinion that it is not practicable that such offence[s] should be tried by an ordinary General Court-Martial ; [illegible]

(*Delete part in brackets when not required for compliance with RP 105(C).*)

cover

3. I hereby convene a Field General Court-Martial to try the said person[s], and to consist of the Offrs appointed or detailed hereunder.

[illegible]

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

cover

[illegible]

(*RP 106(E). Delete, if none appointed.*)

cover

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	H.A.C. ROSE	CIC/2 Cdn Discipline Unit

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt.	K.M. ROSE	CIC/ 2 Cdn Discipline Unit
Capt.	R.J. KERFOOT	CIC/2 Cdn Discipline Unit

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

Date 15 May 1946

W.E. Underhill Brigadier

(Signed personally. RP 105 fn 2.) (Rank.)

(W.E. Underhill)O.B.E.,
Comdr. 7 L.of C. Sub-Area.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (Rank to Date of AFA) AG 7 & 8/1947 1400 1

(*See overleaf for oaths and notes for use on trial.*)

Hack

Plea in Mitigation

B 158794 Pte Dixon N.M.

Sir: Pte Dixon appears to have been plagued with domestic worries ever since he joined the army. His wife was very ill shortly after his enlistment and his AWL in Aug 44 was due to the fact that the doctor had ordered that someone be with her at all times. Dixon was unable to obtain help and ~~his absence was caused by this~~ stayed to look after her himself.

When he came Overseas his wife was still very ill and the letter he received from her were not cheerful. She felt he should be able to get home to her. Dixon fought in Italy & N.W.E. with the 48th Highlanders. At all times he ~~had the enemy~~ was worried about his wife's health and how his three children were getting along.

In May 45 he received a letter from her asking for a divorce. This came as a complete shock to him and he immediately wrote asking an explanation and telling her he would try to get home.

He made an attempt to get a compassionate return to Canada but was advised by his platoon officer that he would be returning with the unit in a matter of weeks so dropped the application. However instead of proceeding with the unit, Dixon was sent to 13 Bn for reporting as his ~~period of service was not long enough to entitle him to repat.~~

For several weeks he sat waiting for posting. He had no word from home, his letter to his wife remained unanswered and he had been advised to wait until he reached a new unit before applying for help with his problem. Apparently the constant worry had left this man's nerves in bad shape for he says that one day he

Back

CHARGE SHEET

The accused, B-158794 Pte. Henry McNally DIXON, Canadian Infantry Corps, 2 Canadian Discipline Unit, a soldier of the Canadian Army Overseas, is charged with:-

Sec 15(1) Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

In that he

In the Field, at 0800 hrs 18 August 1945 absented himself without leave until he was arrested at ROTTERDAM, Holland, at 1415 hrs 6 May 1946. (Absent 261 days 6 hrs 15 mins)

Colin Foster Lt Col.

(Colin FOSTER)Lt-Col.
Officer Commanding
2 Cdn Discipline Unit

IN THE FIELD
13 May 1946

TO BE TRIED BY FIELD GENERAL COURT/MARTIAL.

W E Underhill

(W.E. Underhill)O.B.E.
Brigadier
Commander
7 L.of C. Sub-Area

IN THE FIELD
15 May 1946

found himself on a street in Amsterdam. On checking up he discovered that he ~~must~~ had been absent for a week — a week about which he can remember nothing. From that his absence went on and on. He says that many times he tried to give himself up but just as he was[illegible] to do so he found himself in a cold sweat from fear of the consequences. He says now he wishes he could have forced himself to surrender long ago.

Dirken's wish is to serve his sentence and return to civil life and she just what is awaiting for him. He does not know what has happened to his wife and family as he has had no word from them for as yet he has not thought he himself has intimate to write.

I would ask the Court to be as lenient as possible with the accused, in order that he may serve his sentence and return to Canada ~~as soon as possible to try to~~ where he hopes to be able to re-establish himself and effect a reconciliation with his wife.

Sinclair Capt.

Exhibit A
Hall

SUMMARY OF EVIDENCE

In the case of B-158794 Pte. Henry McNally DIXON, Canadian Infantry Corps, 2 Canadian Discipline Unit a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

The following documents were laid before the Officer detailed to take the Summary of Evidence and marked as Exhibits "A" and "B" respectively, pertaining to the accused, and initialled by him for the purpose of identification.

"A" A certified true copy of X-4 list CIC Unall(13 Bn) Pt.II Order No. 217 dated 25 Sep 45, showing the accused absent from 0800 hrs 18 Aug 45.

"B" A certificate of arrest, of the accused, at 1415 hrs 6 May 1946.

The accused does not question the documents.

J.C.P. Hardy Capt

(J.C.P. Hardy)Capt.
Officer detailed to take
Summary of Evidence.

The accused was cautioned as follows:-

Do you wish to make a statement or give evidence on oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

Certified that all the provisions of R.P. 4 (c)(d)(e) and (f) have been complied with. Taken down by me in the presence and hearing of the accused this 31 day of May 1946, in the Field.

J.C.P. Hardy Capt

(J.C.P. Hardy) Capt.
Officer detailed to take
Summary of Evidence.

LIST OF WITNESSES

In the case of B-158794 Pte. Henry McNally DIXON.

(For the Prosecution)

NONE

(For the Defence)

NONE

LIST OF EXHIBITS

In the case of B-158794 Pte. Henry McNally DIXON.

(For the Prosecution)

"A" A certified true copy of X-4 list CIC Unall(13 Bn) Pt.II Order No. 217 dated 25 Sep 45, showing the accused absent from 0800 hrs 18 Aug 45.

"B" A certificate of arrest, of the accused at 1415 hrs 6 May 1946.

(For the Defence)

NONE

CERTIFICATE OF ACCUSED

I, B-158794 Pte. DIXON, H.M., hereby acknowledge that I have received, free of charge, one copy of the Summary of Evidence and one copy of the Charge Sheet therein.

I also request that an Officer be appointed to act as my Defending Officer at my forthcoming Court-Martial.

H. M. Dixon

(H.M. Dixon)

Exhibit "A"
J.P.M. Capt

PART II ORDER EXTRACT FORM

TO: D & P

99/20/ X/CIC/1

10 JAN 46 19

EXTRACT FROM: Unit X4 List CIC UNALL (13 Bn)

Part II Order No. 217 dated 25 SEP 45

Hack

ABSENT WITHOUT LEAVE

AWL from 0800 hrs 18 AUG 45 (X4 List 13 Bn)

B158794 Pte DIXON H A

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

Certified to be a true extract from the regimental books and documents in my custody.

Officer i/c Records
Can. Sec., 2 Ech, H.Q. 21 A Gp.

Originating Clerk's Initials .....

..... for
Officer in Charge
Canadian Section, G.H.Q., 2nd Echelon

ECH—6
40/P A/S/1276 (2671)

Exhibit "B"
P.M. Capt

CHARGE. CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT SECTION 163 (4) (a)

I certify that No ...B.1587.4..... Rank ...Pte..... Name ... DIXON. H.W.....

of ...48th HIGHLANDER REGT OF CANADA... (unit) was arrested at .....ROTTERDAM..... (place)

at ...1415..... (hrs) on ....6th May 46..... (date). He was dressed in uniform/~~xxxxxx~~

~~xxxxxxx~~.

Date ..6th. May. 46....

Signature of Provost Marshal, APM or other Officer into whose custody the above named person was handed on arrest.

(Rank) CAPT.

D.A.P.M. S.L. of C. [redacted] AREA.

NOTES

1. This certificate must be signed personally by the Officer concerned.

2. In no circumstances may it be signed by one officer "for" another, or by one who does not hold consideration rank.

3. In no circumstances should the place of apprehension be described as "in the N.I." The actual place of apprehension should be stated, or if difficult to express, describing the place, the map reference should be given.

Exhibit C
Mack

56-7 B-158794 Pte. DIXON, Henry McNally # 2 DD (AF) C.Int C. R WING # 2 Coy BTFD. "X" 3/17 MFM 6
No. Name Regt. (Bn, Battery, or Company) Corps Date of enlistment Badges Service or Proficiency Pay (AFB 122) 80/FAS/138 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No one | Signature OC Company, etc L.K. Beard Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden				NO ENTRIES ON COMPLETION OF SIX MONTHS SERVICE 2 AUG 44					
Camp Borden	15 Aug 44	Pte.		AWL from 150600 Aug 44 until apprehended at 281230 Q Aug 44 Total Ab: 13 days, 6 hrs, 30 mins Sec 15(1) A.A. Close Arrest	Documentary Evidence	Admonished Cost of Apprehension $6.87	1 Sep 44	Lt-Col K.R. Mitchell	Forfeits 14 days pay FR&I 149
Field	25 Feb 45	Pte.		AA Sec 15(1) AWL 8 hrs, 45 mins	Sgt. Hamilton	7 days CB	26 Feb 45	Capt.M.B. George	Forf 1 day pay FR&I 149 (1)(a)

CERTIFIED TRUE COPY OF THE ORIGINAL IN MY POSSESSION

B.C. Peckham

(B.C. Peckham) Major
Admin Officer
2 Cdn Discipline Unit

(PTO)

Exhibit B
Cooper

In Lieu of Army Form B.296(War).

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

NUMBER	RANK	NAME	REGIMENT (or as the case may be)
B-158794	Pte.	DIXON, H.M.	2 Cdn Discipline Unit

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a Court martial or a civil court:-

For AA Sec 15(1) ... Two ... Times

For ..... Times

For ..... Times

For ..... Times

Date of first entry in Field Conduct Sheet ... 1 Sep 44 ...

Date of last entry in Field Conduct Sheet ... 26 Feb 45 ...

NOTE: The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence as the case may be, should be stated separately. Any recognized special note of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

[redacted]

4. The accused has been awaiting trial on the present charge for ... days in civil custody; and for ... 9 ... days in military custody; and ... — ... days in open arrest, ... 1 ... days in close arrest; of which ... 0 ... days were spent in hospital.

5. The present age of the accused is ... 31 Yrs. ...

6. The date of his [redacted] is ... 2 Feb 44 ...

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of:- Fr.&Germ. star, Italy Star. CVSM & Clasp.

(State the military decorations (if any) held by the accused.)

[redacted]

INSTRUCTION.-- If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 15th day of May 1946

B. C. Peckham

(B.C. Peckham) Major
Admin Officer
2 Cdn Discipline Unit

SE-68

Rte. Dixon, N.D.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : C-79106 Pte Howard Orville DIXON, A & SH, 11 CBR Bn

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 24 (a)	guilty	guilty	
2nd	alternative AA 40	not guilty	not guilty	
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/K beginning on (date) N/K (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for six months.

(Sgd) — Judge-Advocate, if any. 16 Jan 45 Date awarded. (Sgd) [signature] President. (RP 43, 52)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date — (Sgd) — Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

The Deputy Judge Advocate General, Cdn Sec 1 Ech HQ 21 Army Gp, having advised that the petition of the accused dated 20 Jan 45 be allowed, I, being a superior military authority, hereby direct under the authority vested in me by KR(Can) 574 that the record of the conviction on the charge in these proceedings be and the same is hereby removed and the accused relieved from all consequences of his trial thereon.

(E.L.M. Burns) Maj-Gen
GO I/C
Cdn Sec 1 Ech - HQ 21 Army Gp

In the Field
20 Mar 45

(Sgd) [signature]

Date 20 JAN 45 Commanding 2 CBRGp Confirming Officer.

PT IV. PROMULGATION AND EXTRACTS TAKEN.

Serial #	Date	Signature of Offr.
C79106 Pte Dixon H O	2 Apr 45	[signature] Lt Col

Commandant (APM)
1 Cdn Detn GFP Unit
Cdn Pro Corps

RECORDED AT GHQ IN AB 160 p 5E-68.

CPA506 (to field of AFA83) 40/P & B/1099 (E 44) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig G S N Gostling Comd 2 CBRG dated 15 JAN 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-79106	Pte		Howard Orville	DIXON	A & SH 11 CBR Bn

PROCEEDINGS REVIEWED 26 APR 45 [illegible] Capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 16th JAN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet[1] attached thereto.[2] The Court is satisfied that it is properly convened and constituted,[3] accused is ~~are~~ amenable to military law, and each charge discloses an offence.[4]

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.[1] ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by CO.[2]~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to [illegible] as interpreter ? Ans [illegible].

The Interpreter is sworn.[1] Do you object to as shorthand writer ? Ans

~~The shorthand writer is sworn.[1]~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.[1] President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans [illegible].[2]

(1. RP 102. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.[1] The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	E.P. LEE	Gen List	att Cdn Sec GHQ 1 Ech, 21 A Gp
Member	Capt	F.A. BAILLARGEON	Gen List	att Cdn Sec GHQ 1 Ech, 21 A Gp
Member	Capt	E.B. VAN DINE	RCASC	att Cdn Sec GHQ 1 Ech, 21 A Gp
Judge-Advocate				
Prosecutor	Lieut.	A.T. MANN	C.J.C	Ap: 1 CBRGp.
Defending Offr	Capt	D.F. Scully	C.J.C(RC)	Ap: 1 CBRGp.

Questions by President : Is the Prosecutor a lawyer ? Ans [illegible] Is the Defending Offr a lawyer ? Ans [illegible]

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DJ p 3.)

A8. The accused C-79106 Pte Howard Orville DIXON before arraignment make(s) (no) ~~(no)~~ plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the arguments made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned (separately) on all charges in the charge sheet.[1] The accused does ~~does~~ not object to any charge.[2] There is no amendment to be made to the Charge Sheet.[3] The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See parts 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A84 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2 A 2

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRG Vol 9 P 1

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(*1. RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 37(*D*) *para* 2, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP* 25(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here[1] Loose Pieces of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans Nil Nec .....(1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ~~first and second~~ charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ~~first and second~~ charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(*D*) (*5*), *RP* 43, 120(*A*). 2. *AA* 54(*7*), *RP* 43, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 44 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), ~~and certified true copy (copies) of Conduct Sheet(s)~~(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(*1. MFB* 355 *or MFB* 294. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2).
(*1. RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(*6*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 363-366, *Overseas RO* 309, 2323, *MML p* 66, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(*5*), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*8*), 68(*1*), *KR Con* 364. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 367. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, C-79106 Pte Howard Orville DIXON, (A & SH), 51 Coy, 11 CBR Bn, a soldier of the Cdn Army Overseas, is charged with:

FIRST CHARGE
AA SEC 24(1)

WHEN ON ACTIVE SERVICE - BEING CONCERNED IN THE MAKING AWAY WITH, BY SELLING, PUBLIC PROPERTY ISSUED TO HIM FOR HIS USE

in that he

In the field, in BELGIUM, on 18 Dec 44, after being issued with four Army blankets by 12 (Br) Convalescent Depot on 17 Dec 44, was concerned in the selling of said blankets to Marcel VANHEE of BARON VAN CALOENLAAN 6, DE HAAN.

SECOND CHARGE
AA SEC 40
ALTERNATIVE

WHEN ON ACTIVE SERVICE - CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the field, in BELGIUM, on 18 Dec 44, was concerned in the improper disposal of eight Army blankets, public property.

In the Field
13 JAN 45

(G H Logie) Lt-Col
COMD, 11 CBR Bn

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
15 JAN 45

(G S N Gostling) Brigadier
COMD
2 CDN BASE RFT GP

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appnt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-79106	Pte		Howard Orville	DIXON	A & SH 11 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 JAN 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Major	E.F. LEE	Gen List	att Cdn Sec GHQ 1 Ech, 21 A Gp

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)		(Unit.)
Capt	F.A. BAILLARGEON	Gen List	att Cdn Sec GHQ 1 Ech, 21 A Gp
Capt	E.B. VAN DINE	RCASC	att Cdn Sec GHQ 1 Ech, 21 A Gp

~~RESERVE MEMBER~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Dat 15 JAN 45

(Signed personally. RP 105 fn 2.)

(G S N Gostling)

Brigadier (Rank.)

Commanding 2 CDN BASE RPT GP Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 96 (In lieu of AFA 2) Mo. F & S/1697 (8143)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined C79106 (No.)

Pte (Rank) DIXON, H.O. (Name) and in my opinion he is

~~fit~~ ~~unfit~~ to undergo trial by Court-Martial.

Station Field

Date 16 JAN 45

Medical Officer

11 CBRB Bn.
(Unit)

C 79106 Pte. DIXON, H. O.
A + SH – Att. 11 Pon 2 CBRG.

D-3
1st Witness for the Prosecution.

727632 BSM T. Riley, Att Ba. Corps Depot, RCAMC having been duly sworn states:

I recognize the accused. On the a.m. of 18 Dec 44 my storeman reported to me that Pte Dixon had "drawn" 1½ more blankets from stores and reported the same thing on the a.m. of the 15 Dec 44. Had drawn 2 more blankets on the a.m. of 15 Dec 44. As several blankets are missing from the stores I am in charge of, I called the assistance of CSM Portman I. who had been previously billeted in de Haan and asked him if he could assist in locating the lost blankets. He left my office and returned about 11 a.m. in company with a civilian tailor. This civilian in company with CSM Portman were placed in a room overlooking the parade ground. The civilian tailor identified the accused as one of the soldiers who had visited his shop the previous night. The accused in company with 2 other soldiers was sent for to parade in my office where CSM Portman asked them if they knew a civilian tailor in the town. They said they did not. The tailor was brought into the office and again identified the accused. CSM Portman asked me to place the accused under close arrest. I know the accused was issued with 4 blankets. The accused turned in 4 blankets when he left. But he had been issued with 5 because he had lost 4. I was present when the tailor identified the accused.

Cross examination:

The accused drew 2 blankets on the 15th and 2 on the 18th Dec 44.

I have a book to prove the issue of blankets to the accused but I haven't the book with me. The accused did not sign for those blankets. I was present on the identification parade in my office.

Re examination:

I am satisfied that the accused was issued with 8 Blankets.

RP 83 (13) complied with.

2nd Witness for the Prosecution

1870112 CSM Portman, I. MM. #1 Commando having been duly sworn states:

I recognize the accused. I made an investigation and went to a tailor's in De Haan. He is Marcel Vanbee. I took the tailor to the Astoria Bldg. I placed him in a room overlooking a parade ground. When a parade formed up I asked him to identify any of 3 men who had been to his shop to sell blankets. He picked out the accused from the parade. I took the accused to the Coy Office and brought the tailor in. The accused said he had no knowledge of the tailor or blankets. The tailor identified the accused. I placed the accused under close arrest. In the afternoon of the same day, 15 Dec 44, I went to the tailor shop again. I was with a Belgian policeman and B/SM Riley and Cpl May of the CMP. I asked the tailor if he had any army blankets in his possession. He said "yes" and produced 14. ~~Eight of them~~ ~~he stated he had bought on the previous evening.~~ ~~Five on Fri or Sat, 15 on Dec; 1 he had bought from a soldier earlier in the week.~~

The 14 blankets in the tailor shop were similar to Army blankets we have in stores. The accused is one of the men pointed out on the identification parade. The accused was placed under close arrest.

Cross-examination:

I had never held an identification parade before. There was Sgt in the room at the time the tailor pointed out the accused. I did point to the accused before the tailor identified him.

RP 83(B) complied with

2nd Witness for the Prosecution

B.37072 Sgt. J. A. Holliday, RCASC att: Calgary Highrs having been duly sworn states:

I recognize the accused, During the a.m. of 19 Dec 44 CSM Portman called me into a room. There was a civilian there. He was pointing at men coming on parade. The CSM and tailor were speaking in French. I identified the accused when they pointed to him. I went and told the Cpl. to bring him into the Office. I am sure that person is one of the men he, the tailor, was pointing at

Cross-examination:

The CSM and civilian were in the room. They were speaking in French. I could not understand it. When I entered the room the civilian was pointing to the accused out of the window.

RP 83(B) complied with

4th Witness for the Prosecution

Mme Marcel Vanbeer, Baron van Calcenlaan 6, Bethaan, Belgium, having been duly sworn states:

I recognize the accuse. I bought blankets from the accused. I bought 8 blankets on

Monday from the accused and 2 others. This Soldiers brought the blankets. He was accompanied by 2 others (Soldiers).

Cross-examination:

Yes it was often dark when the accused and 2 others visited me. Between 7 and 8 p.m. There was a light in the room where I received the soldiers (Three). I didn't know if he was British or Canadian. I don't think I've given evidence under oath before this man before this time. I gave evidence on 27th December in a Military Camp.

By the Court.

I recognize the accused. He is one who sold blankets to me.

Cross-examination Continues:

I had to return the blankets. I bought 14. I gave them back. I was going to use them for my children. I never bought any before. I never saw the accused previous to the 16th. I saw the accused with blankets in his hands that night. RP 83(B) complied with.

D-4

Motion by the Defence:

This tailor has been buying many blankets. I am attacking the credibility of the Belgian tailor as a witness. Therefore I ask for a dismissal on both charges.

Reply by the Prosecution:

I don't see that the disposal of the blankets by the tailor has any thing to do with the case. The Tailor identified the accused and said

to bought blankets from him. The defence is questioning the evidence of the tailor on the ground that the tailor has at several times bought blankets from soldiers. This fact does not impede him in any way from being able to recognize the accused as one of the soldiers concerned with the selling of blankets on night 18 Dec 44.

D-6
1st Witness for the Defence

C 79106 Pte Dipon H.O., A&SH attd. 11 Fd. ~~D 57194 Pte P.P. Beauchamp~~ 5 Bde
2 C I B R Gp, the accused,
having been duly sworn states:

On 18 Dec 44 in the evening after 5 p.m. I went to my room. At 1711 hrs. I left the room to get my mail. I returned to the room and read my mail. I left the room at 6:20 p.m. I went to the Canteen at 6:35. At 10 minutes to 7 I went to the Tram car station. From there to the Grosvenor Hotel with a Belgian girl. I stayed there until the Hotel closed and took the girl home. I left her at 11 P.M. I then returned to billets. I know it was 5 minutes to 7 when I met the girl as I lighted my cigarette and looked at my watch. I never saw Harold Vanhee before the identification parade. I did not know he bought blankets. I never in my army career sold anything, i.e. equipment. I drew 4 blankets when I came to the Conv. Depot on 25 Nov. 44. I did not draw blankets on 17 or 18 Dec 44. I had one blanket stolen from me during my stay at 11 Conv. Depot. I never drew a blanket to replace the one stolen. I reported the loss to the O.C. daily Cpl. I turned in 3 blankets when I left the Conv. Depot.

Cross-examination:

I do not know the tailor's shop where Pte. Vanbee works. I was to meet my girl friend at 7 P.m. I walked from the canteen to the Tram station. I walked alone. The Hotel was a fairly good hotel. Drinks are not out of the ordinary expensive at this hotel. I had about 300 Francs at the time.

RP 83 (B) complied with.

2nd Witness for the Defence

D, 57794 Pte P. P. Beauchamp, RMR attd. 10 Bde 2 CBRGp having been duly sworn states:

I recognize the accused as Pte Dixon. I saw him at Toc H, the canteen at 12 Corps Depot on night of 18 Dec 44 at 1838 hrs. I looked at the clock as I had a date with my girl friend I asked him if he had seen my girl friend. Pte Dixon left at 1850 hrs. He looked at his watch and said he had to leave to meet his girl friend at the station. I didn't see the accused again that evening. The adjt of 12 Corps Depot employed me as interpreter in a summary of evidence in DeHaan at Hotel Groenevoor. I interpreted the evidence of the Belgian tailor from Dutch to English. I gave a true transcript of the evidence, word for word what the Belgian said. The Belgian tailor ~~stood~~ recognized the accused. The accused was present at the Summary of evidence. The Belgian tailor said he could not remember the face. It was dark on the night of 18 Dec 44. At the summary of evidence he (the tailor) said that a soldier took him to the Victoria Hotel on Dec 18 in the a.m. ~~He stated~~ The tailor told that three soldiers went to his house the night before. He pointed out the soldiers (the accused)

to the tailor. The tailor said yes those three. At the summary of Evidence I translated before the accused the evidence of the tailor in French to English.

Cross examination

I've known Pte Dixon about a month.

RP 83(B) complied with.

3rd Witness for the Defence

Mlle. Felicie Lingier, De Haan, Belgium, having been duly sworn states.

I recognize the accused as Pte. Dixon. I saw him on 18 Dec 44. I met him at 5 minutes to 7. I looked at my watch. He left me about 11 o'clock. He was with me all the time.

Cross examination:

I have not known him a long time. I've only been out with the accused once. That was 18 Dec. I did not see the accused Xmas day.

RP 83(B) complied with

4th Witness for the Defence

211 Dvr K.F. Budd, Red Cross. having been duly sworn states:

I recognize the accused. I saw him on 18 Dec 44 at Grosvenor Club from 7:45 to 8:30 P.m. He was with a civilian girl. He was in the club at 8:10 when I left. He was in the club all the time. He was at the same table. I saw him all the time between 7:45 and 8:10. P.m.

RP 83(B) complied with.

Closing address by the Defending Officer:
Written out by Defending Officer is attached hereto.

Reply by the Prosecution:
Written out by the Prosecutor is attached hereto.

E-3 Address in Mitigation:
Written out by the Defence is attached hereto.

R. L. Kuo
myself
President.

Closing address by the Defending Officer

Mr. President & Members of the Court:

The Accused is charged with being concerned in the selling of army blankets. The Belg tailor states that he positively identifies the accused. Pte Beauchamp gave evidence to the effect that the Belg tailor said he could not identify the face of the accused. How then Mr President can the Belg tailor identify the accused if he cannot identify his face. There is conflicting evidence here and I ask the court to carefully consider the credibility of the the tailor as a witness. The defence have proved conclusively that the accused could not have possibly been to the Belg tailors house that night. This is borne out in the statements of both Felice Turgeon and Corporal Budd. All the evidence of Catholic Budd the accused states on oath that he never saw this tailor before and further more that he never sold military equipment during his whole Army Career.

the Baly girl, Felicie Lingier, has only been out with the accused once. There is absolutely no reason why she should perjure herself by giving a false statement. On the other hand the Baly tailor's chief interest was to find the three men that were at his house on the evening of the 18th. It is quite possible for the tailor ~~man~~ to be ~~mistaken in his~~ unintentionally mistaken in the identity of the accused. He ~~only~~ admits he saw the accused only once and then only for a few minutes.

There is absolutely no concrete evidence that the accused drew two blankets on the 17th & two on the 18th. The evidence in this respect is only hearsay. The accused himself emphatically states that he only drew the four ~~blankets~~ blankets that were issued to him on the 21st inst.

Again Mr. President should not the word of a good Ldn soldier and his reliable witnesses be taken over ~~to~~ that of a mere Belgian tailor who is willing to buy blankets from soldiers ~~and~~ ~~I~~ thereby leaving himself open to charge in the Belg Civil courts.

I submit Mr. President, this man is innocent. He is a victim of mistaken identity. In view of these facts and the unjustifiable doubt that arises out of these facts, I therefore ask for an equitable discharge with charges.

W. H. Seely Capt.

Closing Address for Prosecution

Sir:

In summing up the case I wish to ask the court to consider only a few of the most important facts that have already been proved.

The accused is charged with being concerned in the making away by selling public property issued to him for his use.

The first witness has stated on oath that he is certain the accused was issued with the blanket. Sgt Riley has nothing to gain by stating this fact & in my opinion does not require to produce a book with signatures for evidence.

As regards the identification parade I granted that the method

used was irregular - however, the fact still remains that S/s Vaukee did identify the accused as one of the soldiers who came to his shop on the evening of the 18th Dec. S/s identified the accused by printing him out on the parade & later S/s Holiday brought this soldier who had been printed out to the office where S/s Vaukee again identified him. S/s Vaukee has nothing to gain by identifying him & it makes no difference to any taylor from what soldier he buys the blankets. I feel convinced that the only reason S/s Vaukee pointed at the accused was because he recognized him as one of the three soldiers who had brought the blankets to the shop.

As regards the point as to whether Pte Dixon actually held the blankets in his hand — & I feel it makes no

walk from the barracks. There is a break in the time between leaving the canteen & meeting the girl friend. The witnesses are friends of the accused — the exact timing to the minute of all the occurrences is noteworthy. The accused was not under closed arrest on Christmas day & could have seen the witnesses if he chose.

I realize that the accused is entitled to the benefit of any reasonable doubt, & in closing, I only wish to add that if the court feels that such a doubt does exist as regards the first charge I still feel quite confident that there can be no doubt whatever as to regards the alternative.

I thank you sirs.

respectfully submitted
W. T. Adams Lt.

difference whatsoever. The important thing is that Pte Dixon was there & therefore was concerned in the making away with of these blankets

As regards the interpretation during the summary. I feel that since evidence was taken on oath & since Capt Clegg, the adjt. has certified that rules of procedure have been complied with - there should be no doubt re- the facts stated. I might add that just because evidence of a witness speaking in a foreign language is not taken down verbatim - it does not mean that rules are not adhered to.

As regards the alibi for the whole evening - I only wish to point out that ~~the~~ it is not necessary to carry the blankets out the front door - they might be dropped out of a window. The tailor shop is only a few minutes

M.F.D. 355
22M—5-41 (372-3)
H.Q. 1772-99-620
A.F.D. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C79106	Pte	DIXON, H.O.	(A & SH) 11 CBR BN

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act / Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For NO MFM 6 AVAILABLE	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct NIL

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act / Air Force Act and dispensations with trial under A.A. 73 / A.F.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time

or,

[illegible]

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 18 days in military custody, making a total of 18 days in custody, of which NIL days were spent in hospital. 11 days spent awaiting

5. The present age of the accused according to his record of service is / attestation paper is 30 years

6. The date of his [illegible] specified in his record of service is / attestation paper 3 April 42

7. The service which the accused is allowed to reckon towards discharge is 2 years 9 months

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to [illegible] decoration, or [illegible] reward (or is in possession of or entitled to). State any air force decoration or reward. / military / military / military CVSM & Clasp

10. [illegible]

11. [redacted] Transferred to the Royal Canadian Air Force, the Post of [redacted] unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. [redacted]

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit of ..... Regiment

Name .....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of June 45 J. H. Paterson Lieut for adjt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

by B.S.M. Killey, Cpls MAY 2nd Provost Coy and Two GENDARMES.
The TAILOR was asked if he had in his possession any
Army Blankets, he produced 1st Blankets, 8 of which had
been bought by him from Soldiers on the evening of the
18 DECEMBER and 5 bought on the previous Friday or Saturday, 1
Blanket had been bought today in the previous week.
The Blankets were taken into
possession by Cpl MAY and taken to H.Qrs 2nd Provost Coy
at Eindhoven 6.1.45.

The accused declines to Cross examine this witness.

FOURTH Witness for the Prosecution

B/37072 Sgt J.A. HOLLIDAY CALGARY
HIGHLANDERS having been duly Sworn States:-
On the morning of the 19 DECEMBER,
C.S.M. Patterson MM & a Civilian TAILOR called me into a
Room at the ARNHEM HOTEL and the TAILOR was pointing his
finger in the direction of a Soldier appearing on a parade
before C.S.M. Patterson asked me to identify this Soldier by
Name & I did so, and I now recognise the accused as
the Soldier named.

J.A. Holliday Sgt

The accused declines to Cross examine this witness.

The accused having been duly Cautioned
in accordance with R.P. 11(a) declines to make a Statement.

FIRST Witness for the DEFENCE.

FELICIE LIEVEGEE, BARON VAN CALOENHAAN DE HAAN NOLET, GENERAL Duties at 115(Bn) GENERAL HOSPITAL having been duly Sworn States:-
On the evening of the 18 DECEMBER
I met the accused whom I recognise at 1855 hrs

Summary of Evidence
in the Case of No 5/79106 Pte Howard Diana, ARGYLL & SUTHERLAND
CANADIAN FORCES.

ON Direction of the Commanding Officer the evidence
is taken on oath.

First Witness for the Prosecution

Marcel Vanhee, BARON VAN CALOENHAAN NOLET DE HAAN
TAILOR of DE HAAN having been duly Sworn States:-
ON THE evening of the 18 DECEMBER,
Three Soldiers came to my house and asked me to buy
Eight Blankets. I bought the Eight Blankets and 200 Francs (FRCS)
was paid to the Soldiers. I recognise the accused as one
of the Soldiers offering Blankets for Sale on the evening of
the 18 DECEMBER. The Soldiers immediately left my house on
receipt payment. I do not know the exact time these Soldiers
visited the house.
on the morning of the 19 DEC one a Soldier
came to my house, & asked me to accompany him to the
HOTEL ARNHEM, and I was placed in a Room overlooking the
Parade Ground. The Parade was forming up below and
the Soldier who had brought me from my house, pointed
to the parade & pointing with his finger said to me
"IS it that man, that man & that man, making THREE
Separate directions pointing". I agreed with the Soldier that
the men pointed out to me were the THREE men who had
visited my shop on the evening of the 18 DEC and that
the accused whom I now recognise was one of them.

Marcel Vanhee

Cross Examined by the accused.

Question I Why did you not identify the men Concerned.

Answer I I was not asked. The Soldier himself
pointed to 3 Men.

Marcel Vanhee

Second Witness For the Prosecution

727632 B.S.M. T. Riley R.A (Fd)

P/Attached 12(Fd) Coy Corps Det:- Having been duly Sworn States:-

On the morning of the 18 Dec 44 my Storeman Gnr Patmore A.G. reported to me that that accused whom I recognise had lost Two Blankets. On the morning of the 19 Dec 44 it was reported to me that the accused had lost a further Two blankets.

On the morning of the 15th Dec 44 I called C.S.M. Patterson MM of my Company into the Office and asked if he could assist in any way to effect a recovery of the blankets. C.S.M. Patterson told me he could assist as he had previously been Stationed in the Town.

Later in the morning C.S.M. Patterson returned accompanied by a Civilian Native by name Van Hee Mabeth of Batavia van Ceylon Laan No 6 of De Haan. The Native was placed in a Room walk-in the Police Station and identified the accused as one of Three Soldiers who had visited his Shop on the previous evening.

The accused was placed in Close Arrest.

J. Riley B.S.M.

Cross Examined by the Accused

Question 1. What time did I obtain blankets on the morning 18 Dec 44

Answer 1. Actual Time I do not know.

J. Riley B.S.M.

Third Witness for the Prosecution

187012 C.S.M. I Patman MM.

No 4 Commando having been Duly Sworn States:-

On the 15 Dec 44 at approximately 0900 Hrs B.S.M. Riley Warrant Officer 1/C 'A' Coy called me into his Office and informed me that Three Men had reported the loss of blankets on the previous evening 14 Dec 44. He asked me if I could help in tracing the missing blankets as I had some knowledge of the District, having been Stationed here previously. I agreed to do my best and I went to Two Natives I knew of in De HAAN and questioned them. The 1st one denied all knowledge of blankets, the 2nd one by name Mabeth Van Hee, Batavia van CEYLON LAAN No 6, De HAAN informed me that Three Soldiers whom he thought were CANADIANS had been to his Shop the previous evening with blankets for Sale. I asked him if he could recognise the Same Soldiers & he said he could. I took him to the ASTORIA HOTEL & placed him in a Room overlooking the Parade Ground. As Number of Canadian Soldiers were forming up on the Parade Ground prior to being transported to No 2 (Can) Command and Depot.

When the accused whom I recognise appeared on the Parade, Mabeth Van Hee identified him as one of the Three Soldiers who came to his House the evening previously. I ordered Sgt. Holliday who was present to send for the accused & have him brought to the Office. I asked the accused if he knew a Native in De HAAN, the accused answered No. I also asked him if he had any knowledge of the blankets he again said No.

On Calling the Native into the Office he again was identified by him. I placed the accused under Close Arrest.

On the afternoon of the same day I went to a Shop identified by Mabeth Van Hee accompanied

at the Tram Station, De HAAN. I went with the accused to the HOTEL GROSVENOR direct from the TRAM STATION. I was in the company of the accused for the period at the HOTEL GROSVENOR until 2300 Hrs that evening.

Hélène Lingier

DEFENCE
SECOND Witness for the ~~Prosecution~~

217 DVR. KATHLEEN Florence BLOOD, B.R.C.S.

having been duly Sworn States:-

I went into the HOTEL GROSVENOR on the evening of the 18th DECEMBER at approximately 1945 Hrs and I Saw at the table occupied by the accused whom I recognise the accused was accompanied by a Belgian Girl. I left the HOTEL GROSVENOR at 2030 Hrs, the accused and the Belgian Girl remained in the HOTEL.

Kathleen Blood.

DEFENCE
THIRD Witness for the ~~Prosecution~~

603787 Cfl. C. FISCHER 2 Div Echelon Belgian having been duly Sworn States:-

ON the evening of the 18 DECEMBER the accused whom I recognise, ~~the~~ was Seen by ME Reporting to the checking table on the 1st Floor of the ASTORIA HOTEL at 1830 Hours. He left immediately after checking out, was properly dressed and in possession of any Baggage. I was on Duty at the time as ORDERLY CORPORAL.

C. Fischer Cpl.

D

DEFENCE

FOURTH Witness for the ~~Prosecution~~.

D/57794 Pte. P.P. Beauchamp. Royal Montreal Regt., 1st (Can) Army HQs. having been duly Sworn States :—

On the evening of the 18 Dec/44 I was in the T.C.H and at 1835 Hrs. when I came down from the Shelter Room I saw the accused whom I recognize entering the T.C.H and I asked him if he had seen my girl friend. I was with him until about 1850 Hrs when he left to keep an appointment with his girl friend.

Certified that Rule of Procedure 4 (c) (d) (e) (f) and (g) have been duly complied with.

Taken down by me in the presence and hearing of the accused this 26 Day of December 1944 at De HAAN.

T.F. Keane Capt. & Adjt.
12 (Ca) Canadian Det.

REQUEST FOR DEFENDING OFFICER

I wish to have an Officer appointed at the discretion of the Commending Officer defend me at my trial.

W.A. Dixon
(C79106 Pte DIXON, H.C.

LIST OF WITNESSES

PROSECUTION:

Mr. Marcel Vanhee

727632 RSM T. Riley

1870112 CSM I. Portman, MM

B37078 SGT J.A.Holliday

DEFENCE:

Felicie Lingrier

217 Dvr K.F. Budd

6031787 Cpl C. Pitcher

D57794 Pte P.P. Beauchamp

Mitigation of Punishment

Mr. President & Members of the Court.

The prisoner has been in the Army for about three years. During that time he has had no crimes of any ~~time~~ kind. He has been in action for over a month and during ~~that time he~~ has given good ~~service~~. He has been recommended ~~for~~ for promotion. In view of his good record as a soldier ~~and~~ I ask the court to be lenient.

W. H. Seely Capt.

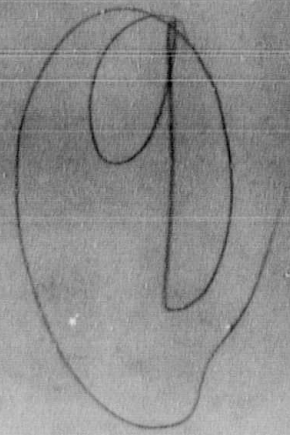
Age 31 - married - 1 child - shoe maker for the Perth Shoe Company

W. H. Seely Capt.

RR-116

PTE DIXON J.A.

41



Correspondence to be PINNED here.

F.G.C.M.

B-86665 Pte Dixon J.A.
1 CASCRU
BGHQ 5-6-27340

RR116

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-Second day of September, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "B" Group Canadian Reinforcement Units, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* [redacted]

*Omit if not applicable.

President.

Rank.	Name.	Regiment.
Major	L.H. Smith	1 CASCRU

Members.

Rank.	Name.	Regiment.
Captain	to be detailed by	1 CSRU
Lieutenant	to be detailed by	1 CSRU

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (P.R. Shields) Brig
Commanding "B" Gp Cdn Rft Units.
Convening Officer.

"B" GROUP HQ 6 SEP 1943 CDN REINFORCEMENT UNITS

30 SEP 1943

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-86665 Pte DIXON, John, Alexander. 1 CASCRU	First Charge A.A. Sec 15(1)	Guilty	Guilty Sentence of 6 months detention with a recommendation for a discharge in Canada	Confirmed 28 Sep 43 Brig
	See Attached Charge Sheet		24/Sep/43	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) ..... (Signed) .....
(P.R. Shields) Brig
Commanding "B" Gp Cdn Rft Units,
Convening Officer (e) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 24 day of Sep 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
*Omit if not applicable. ~~2. The witnesses~~
*~~(3. The Interpreter)~~
*(4. The officers under instruction)
were duly sworn.

Signed this 24 day of Sep 1943

Lt-Lieut Navy
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 28 day of Sep 1943.

P.R. Shields Brig.
Confirming Officer.

Promulgated and extracts taken in the case of B86665 Pte Dixon JA.

(a) (Dated) 30 Sep 43 (Signed) Lt-Lieut Navy OC Cadet Wing.

Promulgated and extracts taken in the case of

(Dated) 2 Oct 43 (Signed) A.H. Falconer Capt. 1
Officer i/c Records
1 Can. A.S.C. Reinf. Unit.

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused B-86665 Pte John Alexander DIXON, RCASC, 1 Cdn A.S.C. Rft Unit, a soldier of the Canadian Army, Overseas, is charged with:-

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

1st Charge
A.A.
Sec. 15 (1)

in that he at Farnborough, Hampshire, absented himself without leave from 1200 hours 31 May 43 until 1320 hours 16 Sep 43, when he voluntary surrended himself to the Orderly Room Sergeant, Administrative Wing, 1 Cdn A.S.C. Rft Unit, Farnborough, Hampshire.

Total Time Absent:- 108 days, 1 hour and 20 minutes.

Farnborough, Hampshire,
17 Sep 43

(J.M. McGown) Lt-Colonel,
Commanding,
No. 2 Training Wing,
1 Cdn A.S.C. Rft Unit.

To be tried by Field General Court Martial.

22 Sep 43

(P.R. Shields) Brig
Comd "B" Gp
Cdn Rft Units.

Sentence to go on President
2 Nov 43

Medical Officers' Certif.
K.R. (Can) para 557

I certify that I have this morning examined No: R.8.6665
Pte Dixon J.P. and in my opinion he is fit to
(rank) (name)

undergo trial by Court Martial.

Station: Blenheim Barracks

Date: 24 Sept 43

(Medical Officer)
1 Cdn A.S.C. Rft Unit

Medical Officers' Certificate
K.R. (Cmn.) Para 557

I certify that I have this morning examined No. B 26643 Pte Austin J A.
of. # 1 C.A.S.C. R.H. and in my opinion he is fit to undergo
trial by court martial.

Station. Bleadon Bks.
Date. 23 Sept 43.

Sgd. A. W. Macdonald Capt
(Medical Officer)

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT 1 Casckru, Jambunga, South
ON THE 24 DAY OF Sep 1943

B84465 Pte Dixon J.A 1 CASCKRU

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Re.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-

Maj. A.H. Smith 1 CASCKRU
Capt. T. Hunter 1 CSRU
Lt. T.I. Conn 1 CERU

The officers under instruction are duly sworn:-

Lt. W.A. Jacobs 1 CERU
Lt. G.G. MacKay 1 CSRU
Lt. B.J. Legge 1 CASCKRU
Lt. G.M. Andrusiak 1 CASCKRU

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFP 355, AFS 296 and MFW 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
~~(b) Calls witnesses as to character.~~
~~(c) Makes a statement in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER.

A.H. Smith Maj

Plea of Mitigation.

B-#6665 Pte John Alexander Dixon.

The accused B #6665 Pte John Alexander Dixon was always considered to be reliable and a hard worker. For 23 years he worked at his one trade as a steel worker and supported his wife and family of five on his monthly earnings of $300 a month.

On 13 May 1940 he enlisted for Active Service with one purpose in mind - to fight for king and country. He was 40 years of age at the time of his enlistment but nevertheless he felt that he would be of some use to his country. He arrived overseas in September of 1940 with the 2nd Div. Supply Coy from Hamilton in the capacity of a fitter in the workshop. He was two years with the field unit but finally because of his age he was sent to the Reinforcement Unit. Here he was rebranded to a C, category, his trades pay was cut off and he was told that he would not be sent back to the field. When paraded before the Personnel Selection Officer he was promised batman's employment but within the week he found himself in the capacity of a sweeping man in the Officers Mess. The man who had worked at such honorable trades as a steel worker and workshop fitter felt himself degraded. He was paraded again before the Personnel Selection Officer

and asked to be put to some steel-mill in England where he could serve his country to a better advantage. He was told that it could not be done.

To add to his grievances and wounded pride he found out through a friend who had just arrived in England that his wife was seen frequenting various pubs in the company of other men. He had received no mail, parcels or cigarettes from her for a year although he himself wrote frequently enough. With one son serving in the East and his eldest daughter working in a munitions plant he realized that his three youngest children aged 6, 7, and 10 respectively certainly could not be getting the motherly attention that they required. Burdened with family troubles, ill-health and lost in despair this man felt that his sufferings were more than he could bear. Something snapped in his mind and acting on impulse he went A.W.L. Gradually he came to his senses. He had a lot of time to think over the wrong he had committed and finally voluntarily gave himself up.

Pte Dixon feels that he could be more useful to his country at his old civilian trade as a steel worker than he would be in any capacity in the army. I suggest that because of his age, his category and his lengthy army service that he be granted a discharge on completion of his sentence so that he can return to Canada to settle his family matters and take up

again the trade that he loves. Would the Court be merciful and deal as leniently as possible with this unfortunate man.

G. M. Archibald Lieut
Defence.

The Accused added that the recruiting officer refused to allow him to leave his good civilian job until he had had a week to think it over, contacted his employers to have them cancel and the written consent of his wife.

1st Lieut
Pres
2nd Deputy

Exhibit "A" at Trial

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Farnborough, Hant on the 25th day of June 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-86665 Pte. Dixon, J.A. No. 1 Cdn. A.S.C. Rft. Unit.

DECLARATION.

The Court declare that B-86665 Pte. Dixon, J.A. No 1 Cdn. A.S.C. Rft. Unit, a soldier of the Cdn. Army Overseas, illegally absented himself without leave from Blenheim Barracks, Farnborough, Hants. at 1200 hours, 31st day of May 1943, and that he is still so absent, and that on the 25th day of June, 1943, he was deficient, and that he is still deficient of the following articles of a total value of £ 10-1-6½, 75% value being £ 7-11-1½. (listed on the reverse)

Names of President and Members

Capt. K.G. Kendall, RCASC,
1 Cdn. ASC Rft. Unit.

Lieut. J.R. McLean, RCASC
1 Cdn. ASC Rft. Unit.

Lieut. J.D. Milligan, RCASC
1 Cdn. ASC Rft. Unit.

Signature of Commanding Officer

CERTIFIED TRUE COPY

Signature of Officer [illegible] Copy of the Original Record.

(122543) Wt.34519/1622 75,000 10/39 A & E.W.Ltd. Gp.498 Forms/B115/56
(134443) Wt.42725/589 250,000 3/40

Deficiency of Articles of B-86665, Pte. Dixon, J.A.

Articles	Value	75% Value
Blouse Serge (1)	£ 1- 7- 8	£ 1- 0- 9
Trousers Serge (1)	1- 7-11	1- 0-10
Boots Ankle Prs (1)	1- 1- 6	16- 0
Clothes Brush (1)	1- 1	0¾
Brushes Tooth (1)	4½	3⅜
Caps Comforter (1)	1- 1⅜	10⅜
Caps Field Service (1)	3- 8	2- 9
Greatcoats (1)	3-17- 0½	2-18- 3⅜
Fork Table (1)	5	4
Gloves Woolen (1)	2- 7½	2- 0
Spoon Table (1)	4½	3⅜
Bags Ration (1)	1⅜	1
Helmet Steel (1)	10- 0⅜	7- 7
Outfit A/D (1)	2⅜	2
Eyeshields A/G (6) prs	2- 3	1- 6
Ointment A/G (2) tins	1- 7	1- 2
Capes A/G (1)	1- 3- 6½	17- 3
Total Amount	£ 10- 1- 6½	£ 7-11- 1½

Kit inspection carried out 20 Sep 43 and the above deficiency was accounted for.

SUMMARY OF EVIDENCE

In the case of

B-86665 Pte John Alexander DIXON, RCASC, 1 Cdn A.S.C. Rft Unit, Blenheim Barracks, Farnborough, Hampshire.

The Commanding Officer, Colonel J.M. Pocock 1 Cdn A.S.C. Rft Unit, directs that the evidence be taken under oath.

1st Witness for the Prosecution

Lieut. C.M. Davies, RCASC, having been duly sworn, states:

I am Lieut. C.M. Davies, RCASC, on strength of 1 Cdn A.S.C. Rft Unit, have knowledge and am custodian of certain documents pertaining to this case and relative to the accused.

I produce herewith:

Exhibit "A"

Army Form B115 Declaration of a Court of Inquiry on the illegal absence and kit deficiency of B-86665 Pte Dixon, J.A., held on 25 Jun 43.

C M Davies

(C.M. Davies) Lieut.,
1 Cdn A.S.C. Rft Unit.

2nd Witness for the Prosecution

B-82788 A/Sgt. Coombes, H. RCASC, on strength of 1 Cdn A.S.C. Rft Unit having been duly sworn, states:

I am B-82788 A/Sgt. Coombes, H. RCASC, on strength of 1 Cdn A.S.C. Rft Unit, (Orderly Room Sgt of Administrative Wing) at approximately 1320 hours 16 Sep 43 B-86665 Pte Dixon, J.A. surrended to me at Administrative Wing Orderly Room from being A.W.L. He said to me " I am Dixon, I have been A.W.L. for three and a half months and want a discharge." I then told him he would be placed under escort and taken to the Guard Room. I then detailed two escorts and had him removed to the Guard Room.

The accused declined to cross examine the witness.

H. Coombes.

(B-82788 A/Sgt. Coombes, H)
1 Cdn A.S.C. Rft Unit.

The accused was then warned in accordance with R.P. 4 (e).

" Do you wish to make a statement on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you may say or any evidence you give will be taken down in writing and may be given in evidence."

SHEET NO. "2"

SUMMARY OF EVIDENCE in the case of B-86665 Pte Dixon, J.A. (Cont:-)

Statement by B-86665 Pte Dixon, J.A.

B-86665 Pte John Alexander DIXON, RCASC, having been duly sworn states:

I am B-86665 Pte Dixon, J.A. RCASC, on strength of 1 Cdn A.S.C. Rft Unit, I joined the Canadian Army on 13 May 40 and enlisted strictly for workshops duties as a blacksmith. I was excused all rifle drill and route marches owing to the fact that I have only one bone in my left wrist and flat feet, I was in the field for approximately two years, and was then struck off strength my field unit and taken on strength 1 Cdn A.S.C. Rft Unit where I was reboarded to category "C-1" for the above deformities. The trade pay that I was drawing as a blacksmith was cut off after drawing it for over two years. The reason for going A.W.L. was worrying over my family as I have a wife and five children and my home has been broken up since I came over here which makes me very unsettled. I also have a son in a Highland Regiment somewhere in the East. I also feel that after earning $300.00 a month in civilian life as a steel worker, that I could serve my King and Country to a better advantage in one month than I could in one year in the army at what I am doing now, as I have been a steel worker all my life.

J. a. Dixon
(B-86665 Pte Dixon, J.A.)
1 Cdn A.S.C. Rft Unit.

I hereby certify that the foregoing summary of evidence was taken down by me in writing on the 17th day of September 1943 at 1 Cdn A.S.C. Rft Unit, in the presence and hearing of the accused and that R.P. (c) (d) (e) (f) and (g) have been complied with.

Jas A. Good Lieut
(Lieut. J.A. Good)
1 Cdn A.S.C. Rft Unit.

I B-86665 Pte Dixon, J.A. RCASC, 1 Cdn A.S.C. Rft Unit, desire the assignment of an officer to represent me at my forthcoming trial by Court Martial.

J a Dixon
(B-86665 Pte Dixon, J.A.)
1 Cdn A.S.C. Rft Unit

LIST OF WITNESSES

For the Prosecution - Lieut. C.M. Davies, RCASC
1 Cdn A.S.C. Rft Unit
B-82788 A/Sgt Coombes, H. RCASC,
1 Cdn A.S.C. Rft Unit.

For the Defence - Nil

LIST OF EXHIBITS

Exhibit "A" - Army Form B115

Farnborough, Hampshire
17 Sep 43

No. B-86665 Name DIXON, J.A. Sqn., Battery, or Company — Corps RCASC — Date of enlistment 13-5-40 — G.C. Badge — N/A — Service or Proficiency Pay N/A — M.F.M. 6

Date of last entry in Company Conduct Sheet N/A — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No. I — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
SHEET DESTROYED 26-1-41 DATE OF LAST ENTRY 26-7-40 DATE OF LAST DRUNK NIL									
Isenhurst Park	19-7-41	Pte		A.A.Sec.15(1) from 2245 hrs 19-7-41 to 1500hrs 23-7-41	Sgt Gray MSM Mallett	21 days pay	31-7-41	Major Montague	21days pay FRI-149(2) 4 days pay FRI-149 (1)a
Field	1-11-41	Pte		A.A.Sec.15(1) AWL from 2300hrs 1-11-41 to 1200 hrs 2-11-41	Cpl Vivash	14 days C.B. 7 days pay	4-11-41	Major, DeGeer	7 days pay FRI-149(2) Forf-1dayspay FRI-149(1)a
Field	29-3-42	(a)	Pte	A.A.Sec 15(1) AWL from 2300hrs 29-3-42 to 1200hrs 21-4-42	Cpl Wigley Cpl Ross	120 days Detention	11-6-42	F.O.C.M.	14 days pay FRI-149(1)a 120 days pay FRI-149(1)b F.T.O.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Cont:-		Pte	(b)	A.A.Sec.15(1K) A.W.L. from 1230 hrs 21-4-42 to 2250hrs 1-5-42	L/Cpl Taylor				41 Days pay FRI-149(1)(c) (ii) Total Forf -195 days pay.
Field	8-2-43	Pte		A.A.Sec.15(1) AWL from (8days 1 hr and 30 mins)	Cpl Shearfe	27 days F.F.	16-2-43	Major Dufresne	27 days pay FRI-149(1)(b) 9 days pay FRI-149(1)(a)
Field	1-5-43	Pte		A.A.Sec.15(1) AWL from 0830 hrs 1-5-43 to 0830 hrs 3-5-43	Cpl Palmer	7 days pay	3-5-43	Major Dufresne	2 days pay FRI-149(1)(a) 7 days pay FRI-149(2)

CERTIFIED TRUE COPY AS COMPILED FROM DOCUMENTS IN MY POSSESSION C.M. Davis Lt MAJOR O.C.

for COMMANDING,
ADMINISTRATIVE WING,
C.N.A.C. REIN. UNIT.

M.F.B. 355
(2M—9-41 (372-8))
H.Q. 1772-39-620
A.F.B. 266

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-86665	Pte	Dixon, J.A.	1 Cdn A.S.C. Rft Unit

1. The following is a fair and true summary of the entries in the ~~Service and Regimental Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment ~~or appointment~~	
For	A.A.Sec.15(1)	2 times	A.A.Sec.15(1)	5 times
For		times		times
For		times		times
For		times		times

~~Dismissal, imprisonment, detention, forfeiture, good conduct~~

or,

~~There are no entries to the contrary effect in the period.~~

~~Note.—If the charge is one of desertion or absence without leave, the entries for similar offences must be stated separately.~~

~~The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under ~~A.F.A.~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~The account of the present time is under sentence of ... expiring on the ... day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and ~~Nil~~ 8 days in ~~Air Force~~ military custody, making a total of 8 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is ~~apparently~~ 43 years old

6. The date of his ~~enrolment~~ attestation specified in his record of service is ~~apparently~~ 13 May 40

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military military possession of or entitled to). State any air force decoration or reward. NIL military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated , and in his regiment (or corps), the rank of dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

ACCUSED

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number B-86665 Rank Pte Unit

Name Dixon, J.A. of 1 Cdn A.S.C. Rft Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	29-9-42 Field	A.A.Sec.15(1) 2 Charges	120days detention	40 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 29th day of September 1942

Officer i/c Records
1 Cdn. A.S.C. Rgmt. Unit

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the prisoner, and forwarded with the proceedings.

Lieut-Colonel
Pres

HC-121

PTE DIXON JA

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B86665 Pte John Alexander DIXON (RCASC) 1 NETD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15(1)AA	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ____ beginning on (date) ____ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2, information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of One (1) year.

(Sgd) ____ Judge-Advocate, if any. 2 Nov/44 Date awarded. ____ President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ____ (Sgd) ____ Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is

Confirmed.

I ~~direct that the accused be not committed to prison or detention barracks, and that he be released~~ (1)

(1. AA 57A. Delete if not used.)

Date 3 Nov 44. (Sgd) J.H. Roberts Maj-Gen Commanding 3 Cdn Rft Units Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Date.	Signature of Offr.
4 Nov 44.	[illegible] Lt-Col. A.A.G.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 HC-121

RECEIVED 13 NOV 1944 AG BRANCH CMHQ

CPA96 (To [illegible] of AFA3) 40-P & S 15608 (2664)

FIELD GENERAL COURT-MARTIAL

Convened by Maj-Gen JH Roberts, DSO MC Comd Cdn Rft Units dated 1 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B86665	Pte	John Alexander	DIXON	(RCASC)1NETD

PROCEEDINGS REVIEWED 13 Nov 44

Geo R. C. Snah Capt

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 2 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs~~ under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)

The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ____ as interpreter? Ans ____

~~The Interpreter is sworn.~~(1) ~~Do you object to~~ ____ as shorthand writer? Ans ____

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans N.O. SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(3). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	D.L. REDMAN VDMC	M.R. CRK
Member	CAPT	G COLLINS	1 CNETD
Member	LT	D.H.W. HENRY	1 CNETD
~~Judge-Advocate~~			
Prosecutor	LT	J.F. SUTHERLAND	1 CNETD
Defending Offr	LT	R.B. MEANWELL	1 CNETD

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ____ before arraignment make(s) (no) (a) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposit., the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B86665 Pte John Alexander DIXON (RCASC) 1 NETD

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 15(1)AA	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of One (1) year.

(Sgd) Judge-Advocate, if any. 2 Nov/44 Date awarded. (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 33(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 561-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

I ~~direct that the accused be not committed to prison or detention barracks, but that~~ he be released. (1)

(1. AA 57A. Delete if not used.)

Date 3 Nov 44. (Sgd) (J.H. Roberts) Maj-Gen Commanding Gdn Rft Units Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
3.B6665 Pte Dixon, John Alexander.	4 Nov 44.	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4C-121

RECEIVED 13 NOV 1944 AG BRANCH MSA

FIELD GENERAL COURT-MARTIAL (CFA96 (To face of AF A21) 40 P.R.S. Issue (2004))

Convened by Maj-Gen JH Roberts, DSO MC Comd Gdn Rft Units dated 1 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B86665	Pte		John Alexander	DIXON (RCASC)	1NETD

PROCEEDINGS REVIEWED 13 NOV 44

Jere R.C. Lush Capt

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 2 NOV 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs~~ under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~an interpreter~~? Ans ~~The Interpreter is sworn.~~(1) Do you object to ~~a shorthand writer~~? Ans ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans N.O. SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 31, 68, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	D.L. REDMAN	VDETC, A.A. C.R.A.
Member	CAPT	G. COLLINS	1 CNETD
Member	LT	D.H.W. HENRY	1 CNETD
~~Judge-Advocate~~			
Prosecutor	LT	J.F. SUTHERLAND	1 CNETD
Defending Offr	LT	R.B. MEANWELL	1 CNETD

Questions by President: Is the Prosecutor a lawyer? Ans N.O. Is the Defending Offr a lawyer? Ans N.O.(2)

(1. RP 26, 27, 109, 111. Lists of offrs under instrs will be returned separately with proceedings for information of Cumm Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (~~me~~) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of insert p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. N o . S i r (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para L3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. .....

Do you intend to call witnesses on your behalf ?

Ans. .....

Are they witnesses as to character only ? Ans. .....

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(B).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 42, 137(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(7) (c), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. N O S I R

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(*1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 (para 1.).*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. B Y D E F O F F R N O T E A T (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any~~.(2)

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 558, 336, 563-566. Overseas RO 309, 2103. MML p 66, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 58(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B 86665 Pte John Alexander DIXON, (RCASC) on transit strength of No . 1 Cdn. N.E.T.D. (Lorne Scots) a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE — WHILST ON ACTIVE SERVICE ABSENCE WITHOUT LEAVE

IN THAT HE

At No 1 Cdn. N.E.T.D. did absent himself without leave from 2359 hours 28 Feb 44, until surrendering himself to the Officer in charge of Police at Peckham Station at 1915 hours 26 Oct 44. Time absent - 240 days, 19 hrs., 16 minutes.

Tweedsmuir Camp,
Thursley, Surrey,
31 Oct 44.

(J. R. BARBER) Major,
A/Commanding Officer,
No 1 Cdn N.E.T.D.,
(Lorne Scots).

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(J.H.Roberts)Maj-Gen
Comd
Cdn Rft Units

In the Field,
1 Nov 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B86665	Pte		John Alexander	DIXON (RCASC)	1 NETD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has (~~have~~) committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on 1 Nov 44 (*date*) endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ (*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ (*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-col	D.L. REDMAN	VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Capt	from	1 NETD (2 Incr)
A Lieut	from	1 NETD (2 Incr)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
A Capt	from	1 NETD (2 Incr)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (*Country.*)

Date 1 Nov 44

(Signed personally. RP 105 fn 2.)
(J.H.Roberts)Maj-Gen
Commanding Cdn Rft Units

MAJ-GEN (*Rank.*)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

Medical Officer's Cerificate
KR (Can) Para 557.

I certify that I have this morning examined No. B86665 Rank Pte.
Name DIXON J.A. of I.C.N.E.T.D. (unit) and in my
opinion he is ~~unfit~~ fit to undergo trial by Court Martial.

Station I.C.N.E.T.D.
Date 2 Nov 44 (sgd) W.R. Lennie Capt.
Medical Officer
No. 1 Cdn. N.E.T.D.
(Lorne Scots)

PLEA OF MITIGATION

In the case of B 86661 Pte Dixon J A – this man will be 45 years of age in January 1945. He has had a considerable amount of domestic trouble and at the present moment does not know whether or not his wife is alive or has left his four children. His age is 1 to 17 yrs. His record shows no criminal cases, or drunkenness, commencing straight A.W.L., and these crimes appear to date from the time he found out that things were not well at home. He has been a steady worker all his life and learned his trade as a plate worker at home working in this trade. I would ask the Court to consider these things when passing sentence.

SUMMARY OF EVIDENCE

In the case of B 86665 Pte. John Alexander DIXON, (RCASC) on transit strength of No 1 Cdn. N.D.T.D.(Lorne Scots) a soldier of the Canadian Army Overseas.

FIRST WITNESS for the prosecution.

Capt. J.M. Read, Gen. List attached No 1 Cdn. N.D.T.D.

I produce a certified copy of a declaration of a Court of Inquiry held on 26 Apr 44 relating to the accused and attached as Appendix "A".

I produce a certificate A.F.C. 1617 purporting to be signed by the Officer of Police in charge of PECKHAM Station, relating to the accused and attached as Appendix "B".

.....Capt.
(J.M. Read)

The accused was cautioned as follows: "Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you may give will be taken down in writing and may be given in evidence.

The accused declined to make a statement and reserved his defense.

I certify that the foregoing Summary of Evidence was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c),(d), (e), (f) and (g) have been complied with.

.....Capt.
J.M. Read,
Officer detailed to take down Summary of Evidence.

Tweedsmuir Camp,
Thursley, Surrey,
31 Oct 44.

EXA

Appendix "A"

RECORD of the Declaration of a Court of Inquiry assembled at Tweedsmuir Camp, Thursley, Surrey on the 26th day of April 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B 86665 Pte DIXON, J.A.

DECLARATION

The Court declare that No. B 86665 Pte Dixon, J.A. formerly of No. 1 C.A.S.C.R.U., now on the transit strength of No 1 Cdn N.E.T.D.(Lorne Scots) illegally absented himself without leave at Tweedsmuir Camp, Thursley, Surrey, England at 2359 hours on the 28th day of February 44, that he is still so absent, and that on the 26 Apr 44 he was deficient, and that he is still deficient of the following articles :—

Kit Deficiencies of B 86665 Pte Dixon, J.A. No.1.Cdn.NETD. 25 Apr 1944.

Article	No.	Vocab price	Less 25% depreciation

Signature of Commanding Officer Louis Keene, Colonel. (Louis Keene) Colonel.

Certified true copy [signature] Signature of Officer having custody of original record

3/608 PHB 375-AFB 133 80(P&S)392 (6640)

Appendix "B"

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART 1.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depots are shown in the Monthly Army List.

† NOTE.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police; *e.g.*, such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. 480/1940).

(22743) W1.33503/131 25,000 10/42 A. & E.W. Ltd. Gp.698
(23650) W1.46530/1269 40,000 3/43 " " Forms/O.1617/13

I CERTIFY that the man whose personal description is given below surrendered himself to* DS Waters CID.
at Queens Road, Peckham at (hour) 7.15 pm. GS
the 26th day of October 1944 as being No. B-36665
(Rank and Name) Tfr John A. Dixon.
a deserter (or absentee without leave) from Canadian Army.
and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 44 Height 6 Feet 0. Inches
Complexion Fresh Hair Dark.
Eyes Blue.
Marks —
In uniform or plain clothes Plain clothes.

Probable Date and Place of Attestation	13. 5. 40 Hamilton, Ont.
Probable Date of Desertion or beginning of absence, and from what place	26. 2. 44 Whitley.

Howard HS
Signature of Officer of Police in charge of Peckham Station.
26. 10. 44 Date of Signature.

Army Form O.1617.
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ..... Police in the case of No. .....
who surrendered to the Police at ..... on .....
Payable to .....

CERTIFIED that this statement of expenses is correct.

..... Superintendent or Officer in charge of Police Station at .....
..... Date of Signature.

Description of Court by which Trial was held, and Officer convening the Court	Date and place of Trial, or summary award, or Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22nd day of November, 1945

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

B 86665 Pte DIXON, JA of the RCASC, Transit strength of No 1 Cdn. N.E.T.D.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets, are to be produced to Court with this statement but are not to be entered to the proceedings.

Gen. Regs. 664, K.R. 1940.

*The numbers (words should accord with the number of entries in the Conduct sheets, preference being given to the most serious offence in each entry, and to any subsequent specific acts of misconduct or disregulated conduct.

	*Within last 12 months.	*Since Enlistment.
For A.A. Sec. 15(1)	1 times	5 times.
For	times	times.
For	times	times.
For	times	times.

[redacted]

or

[redacted]

or

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

W1. 42044/564 30,000 8/40 W. S. Ltd. 33—4804

Ex B

3 The accused is not under sentence at the present time.

or,

4 The accused has been in confinement, awaiting trial on the present charges

for NIL days in Civil Custody,

and 7 days in Military Custody.

Total 7 days.

Of which NIL days were spent in hospital

5 The present age of the accused according to his attestation paper is 44

6 The date of his attestation specified in his attestation paper is 13 May 1940

transfer to the reserve is

8 The accused is entitled to deferred pay or gratuity in respect of years' service.

9 The accused is entitled to reckon years' service for the purpose of determining his pension, &c.

10 The accused is in possession of, or entitled to, no military decoration or military reward [*or is in possession of or entitled to*

11 *If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12 *(In the case of an officer.)* The accused holds in the army the rank of , dated , and in his regiment *(or corps or department)* the rank of dated

13 The accused has served as non-commissioned officer continuously without reduction, to the present date,

Date of Promotion

In the rank of years,

In the rank of years,

(Instruction.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name 3 86665 Pte DIXON, J.A. of the R.C.A.S.C.

Note.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.

Description of Court by which tried, or name of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
F.G.C.M.	11 Jun 42 Field	(1) A.A.Sec.15(1) AWL 2300 hrs 29 Mar 42 to 1200 hrs 21 Apr 42. (2) .A.A.Sec.15(1) AWL 1230 hrs 21 Apr 42 to 2250 hours 1 May 42	120 days detention	40 days.
F.C.C.M.	24 Sep 43 Field	A.A. Sec.15(1) AWL from 1200 hrs 31 May 43 until 1320 hrs 16 Sep 43. Time absent 108 days, 1 hrs, 20 minutes.	6 months detention	60 days.

(Continued overleaf

No. B 86665 Name DIXON, J.A. Sqn, Battery, or Company — Corps RCASC — Date of enlistment 13 May 40 — GC Badges N/A — Service or Proficiency Pay N/A — 3/17 MFM 6 (AFB 122) 40/PAS/136(3410)

Date of last entry in Company Conduct Sheet: N/A — No. and date of last drunk: N/A — Period not reckoning towards freedom from extra fine: N/A — Sheet No 1 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
SHEET DESTROYED 26-1-41. DATE OF LAST ENTRY 26-7-40 DATE OF LAST DRUNK NIL									
Isenhurst Park	19-7-41	Pte		A.A.Sec.15(1) from 2245 hrs 19-7-41 to 1500 hrs 23-7-41	Sgt.Gray BSM Mallett	21 days pay	31-7-41	Major Montague	21 days pay FRI 149(2) 4 days pay FRI 149(1)(a
Field	1-11-41	Pte		A.A.Sec.15(1) AWL from 2300 hrs 1-11-41 to 1200 hrs 2-11-41	Cpl. Vivash	14 days CB 7 days pay	4-11-41	Major DeGeer	7 days pay FRI 149(2) Forf 1 d.p. FRI 149(1)(a
Field	29-3-42	(a) Pte		A.A.Sec.15(1) AWL from 2300 hrs 29-3-42 to 1200 hrs 21-4-42	Cpl.Wigley Cpl.Ross	120 days detention	11-6-42	FGCM	FRI 149(1)(a) 120 days pay FRI 149(1)(b) 41 d.p.FRI 149(1)(c)(ii)
		(b) Pte		A.A.Sec.15(1) AWL from 1230 hrs 21-4-42 to 2250 hrs 1-5-42	L/Cpl Taylor				

Total forfeiture 195 days p.

No. B 86665 Name DIXON, J.A. | Sqn, Battery, or Company | Corps RCASC | Date of enlistment | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAM/136 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10 Feb 44	Pte		A.A. Sec.15(1) WOAS, AWL from 2200 hrs 10 Feb 44 until 0755 hours 12 Feb 44. TTA 1day, 9 hrs 55 minutes	Documentary Cpl. Cing Mars	5 days pay	12 Feb 44	Lt-Col. JM McGown	Forfeits 2 d.p. FRI 149 (1)(a). Forf 5 d.p. FRI 149 (2).

Certified true copy of original document.

Capt.
(J.M. Read) Officer having custody of original document.

(PTO)

LIST OF EXHIBITS

Appendix "A" - Declaration of Court of Inquiry d/26 Apr 44

Appendix "B" - A.F.O. 1617 d/26 Oct 44.

STATEMENT OF ACCUSED

It is my wish to have the Commanding Officer detail an officer of No 1 Cdn. N.E.T.D., transit strength to act in my defence at my trial.

W.A. Dixon Pte.
(W. A. Dixon)

301 B. Pte. A Doak.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 7th day of July, 19 41.

Whereas it appears to me, the undersigned, an officer in Command of 1st Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[I am unable to appoint:—

*(1.) Three Officers to form the Court.]

*(2.) A Field Officer as President.]

*(3.) Three Officers having more than one year's service.]

For the following reasons, namely:—]

President.

Rank.	Name.	Regiment.
Major	J. Fitzrandolph.	1 Cdn Div Pet Coy, RCASC

Members.

Rank.	Name.	Regiment.
Captain	H.B. Rankin,	Sask. L.I.(MG) CAC
Captain	R.H. Stevenson,	9 Fd Amb., R.C.A.M.C.
Lieutenant	E.E. Taylor,	12 Cdn Troop Carrying Coy., R.C.A.S.C.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed G.R. Pearkes
(G.R. Pearkes) Major-General,
Commanding 1st Canadian Division.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B.81719. Pte. A. DOAK, 1st Cdn Troop Carrying Coy., R.C.A.S.C.	1st Charge. A.A. Sec. 15(1) SH	Guilty	Guilty 180 days detention	I confirm the finding of the Court but commute the sentence to 180 days detention. G.R. Pearkes Maj.Gen. Cmdg 1st Cdn Div

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) G.R. Pearkes (Signed) L. Fitzgerald Maj.
(G.R. Pearkes) Major-General — (L. Fitzgerald) Maj., 1 Cdn Div Pet Coy., R.C.A.S.C.
Commanding 1st Canadian Division — *President.*
Convening Officer (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 12th day of July 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 12th day of July 19 41

L. Fitzgerald Maj. Mog
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison until further order.~~)

Signed this 16th day of July 1941.

G.R. Pearkes
Confirming Officer

Promulgated and extracts taken in the case of B81719 Pte Doak A.

(*a*) (Dated) 19th July 1941 (Signed) [illegible]

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

"A" 1

CHARGE SHEET

The accused Regtl. No. B-81719 Private DOAK,A. No.1 Canadian Troop Carrying Company,Royal Canadian Army Service Corps,a soldier of the Canadian Army Overseas,when on active service is charged with:-

Army Act Sec. 15(1). ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Walton-on-the-Hill,Surrey,absented himself without leave from 2300 hours 18th.June 1941 until 1800 hours 2nd.July 1941. (Time absent 13 days 19 hours).

(E.H.Dean) Major
O.C.,1st. Cdn.Troop Carrying Company.
R.C.A.S.C.,Cdn.Army Overseas.

"B" 2

Proceedings of a Field General Court Martial held in the field on the 12th day of July, 1941.

Trial of B/81719 Pte Doak, A., 1 Cdn Tp Carrying Coy

Prosecutor: Major L.J.Perry, H.Q., R.C.A.S.C.

Defending Officer: Lieut.E.G.Woodman, 12 Cdn Tp Carrying Coy

Officer under Instruction: Lieut.E.B.Taylor, 12 Cdn Tp Carrying Coy

---

The order convening the court is read in the presence of the accused.

The accused is asked: Do you object to be tried by the President or any members of the Court whose names you have heard read over?

Accused: No, sir.

The President and Members of the Court and the shorthand writer are duly sworn.

The accused answers his name and number and is duly arraigned on the charge.

The accused having pleaded guilty to the charge, Rule of Procedure 36 (B) is complied with.

The accused makes the following statement (not on oath):

Sir, at approx 1930 hrs 16 Jun 41, I went A.W.L. in regard to going to Liverpool. I went to Liverpool to try to secure some information regarding joining the navy. I came across a petty officer of one of the Cdn cruisers. I asked him where I could get information about making application for the navy. He directed me to the best of his knowledge to go to Gourock, Scotland. He said I might be able to secure some information from one of the Commanding Officers. He said I would most likely locate one of these officers in Gourock around the seaport and to get talking to him and ask his information on it. Due to the expense, sir, I could not reach Scotland so I returned back to camp. Previous to this, sir, I had inquired last June of Major Hallom, Officer Commanding 1 Cdn Tp Carrying Coy, for a transfer to the navy. He told me that they had no dealings with the navy whatsoever. He said he would write a letter to the navy asking their information. There was no more heard about it since that day, sir, as Major Hallom, as far as I understand, was sent back home. I have sailed on ships

"B"
1 Till Mar 31st

previously and understand a great deal of sailing. I have always cared for the navy and my whole family are naval folk -- my father and uncles. I have never cared for the army. I have tried to become a good soldier but just wander away from it. I believe if I could get something to do to occupy my mind -- somewhere where I could do my bit as I have come to do -- I could make a man of myself. As for the army, sir, I do not think I will ever better myself.

I have a mother of whom I am the sole support. She is a cripple. My father is dead. There has been a mix-up in the money somehow, sir. The assigned pay has been cut off from her. She got no Govt allowance. Then I had to sign over $20.00 a month to my one child and my wife gets $6.50 of my own money, making $26.50 a month. I have been away from my wife for seven years and I have never supported her in that time. I feel as though I should be a support to my mother now that she is getting old and has nobody else to look after her.

1st witness for the defence

B/82730 C.S.M. Stuart, J., is sworn and states:

So far as Pte. Doak is concerned I have nothing against him as to character, ability and cleanliness. He is one of the cleanest soldiers I have ever had around me. He has his weak points but so far as soldiering is concerned he is one of the most efficient I have ever had. That is all I can give, sir.

The Prosecuting Officer addresses the Court:

The plea of the accused in mitigation of punishment has no bearing on the fact that he pleaded guilty to having committed an offence of A.W.L. under Sec 15 (1) Army Act. This absence was undoubtedly a wilful defiance of authority and the accused has little or no regard for discipline. It is therefore my duty, gentlemen, to point out to you that if you find the accused guilty, in considering sentence your attention is drawn to M.M.L., Chap III, Section 62 and Section 44, which gives the scale of punishments. The principle is also established in this Div that the number of days the accused has spent in arrest may not necessarily be considered in awarding sentence and that the convening officer has the power to reduce a sentence but cannot increase it. This is a case, gentlemen, where in my opinion the accused should be made an example of.

"B" 4

Prosecuting Officer places in evidence a certified true copy of Field Conduct Sheet of the accused.

Court adjourned at 1445 hrs for consideration of the finding.

Taken down by me to the best of my knowledge and ability at Reigate, Surrey, this 12th day of July 1941.

Fred H. Phillips Cpl.
I Cdn Div Pet Coy
Court Stenographer

No. B-81719 Name DOAK. A. Sqn., Battery, or Company 1 CDN. TROOP CARRYING COY. Corps R.C.A.S.C. Date of enlistment 8-9-39 G.C. Badges Service or Particulars of Character "C" 5

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
ABSENT.	23-10-39	DVR.		A.W.L. FROM 0800 hrs 23-10-39 until 0930 hrs 23-10-39	Capt. Bagley, E. RASC	7 DAYS C.B.	25-10-39	MAJ. G.F. FRAWLEY OC No 1 Br Cdn RASC	
"	9-11-39	"		A.W.L. FROM 0930 hrs 9-11-39 until 0930 hrs 12-11-39	A/Sgt. WILKINS R. RASC. A/Cpl. BARNETT J.R. RASC	14 DAYS C.B.	13-11-39	MAJ. G.F. FRAWLEY OC No 1 Br Cdn RASC	Forfeits 5 Days Pay
"	14-12-39	"		A.W.L. FROM 0930 hrs 14-12-39 until 1700 hrs 18-12-39 (3 DYS 11 HRS 45 MIN).	Cpl. W.A. PAGE Cpl. J. PRENTICE	168 hrs DETENTION	20-12-39	MAJ. G.F. FRAWLEY OC No 1 Br Cdn RASC	Forfeits 4 Days Pay
"	3-1-40	"		A.W.L. FROM 0930 hrs 3-1-40 until 0930 hrs 7-1-40 (4 DAYS 24 HRS 30 MINS).	Cpl. J. PRENTICE A/Cpl. J.C. SWEATT	14 Days DETENTION	8-1-40	MAJ. G.F. FRAWLEY OC No 1 Br Cdn RASC	Forfeits 5 Days Pay
IN BARRACKS	27-2-40	"		A.W.L. FROM 2359 hrs 27-2-40 TO 0930 hrs 8-3-40	Cpl. HUGHES Cpl. EVANS Pte. PARKS	28 Days DETENTION	19-3-40	MAJ. DEAN	Forfeits 19 Days Pay.

RELEASED FROM DETENTION BARRACKS AUGUST 1ST 1940. SENTENCE HAVING EXPIRED ON 31ST JULY. SENTENCE HAVING EXPIRED REMISSION EARNED UNDER RULES FOR DETENTION BARRACKS AND MILITARY PRISONS 14 DAYS

COMMANDANTS. INITIALS.

CERTIFIED A TRUE COPY
1 CDN. TROOP CARRYING COY. R.C.A.S.C.
Major O.C.

(P.T.O.)

Place	Date of offence	Rank	Cause of punishment read	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
[illegible]ORMAN	22-5-40	PTE		A.W.L. From 0800 hrs 22-5-40 TO 0830 hrs 28-5-40	[illegible] [illegible] [illegible] [illegible]	Forfeits 7 Days Pay	28-5-40	Maj. H. WILLIAM.	
[illegible]FRED	8-7-40	PTE		A.W.L. 0800 hrs 8-7-40 To 1030 hrs 9-7-40 (1 Day)	SGT. WEST	14 Days C.B	9-7-40	CAPT. ALLEN	1 Days Pay Forfeited.
[illegible]WATSON	18-8-40	PTE		A.W.L. 0800 - 20-8-40 To 2400 hrs 18-9-40 (32 Hours)	C.S.M. HUZZARD WO1. PTE. G.R.	10 Days DETENTION 15/- PAY	18-8-40	MAJ. WILLIAM.	
[illegible]FIELD	9-2-41	PTE		A.W.L. From 0930 hrs 9-2-41 To 2400 hrs 9-2-41 = 14½ hrs.	SGT. WEST	7 Days C.B.	12-2-41	MAJ. DEAN	Forfeits 1 Days Pay.
[illegible]EORGE	7-2-41	PTE		was on 31 MAR. 41. TRIED AND SENTENCED By F.G.C.M. upon the following charge: A.W.L. From 0800 hrs. 7-2-41 TO 0800 hrs 11-2-41 (21 DAYS 24 hrs). held in close arrest from 2400 hrs 11-2-41 TO 2359 hrs 30-3-41.		60 Days DETENTION Forfeits 60 Days Pay 1478(1)(b)	31-3-41 CONFIRMED G.O.C. I.C.D. 2-4-41	F. G. C. M.	Forfeits 88 Days Pay 1478(1)(b) Forfeits 2 Days Pay 1478(1)(b) Total forfeiture 102 Days Pay

RE-RATED FROM DETENTION BARRACKS ALDERSHOT 20-5-41 SENTENCE HAVING EXPIRED.
REMISSION EARNED UNDER "RULES FOR DETENTION BARRACKS AND MILITARY PRISONS" 20 DAYS.
COMMANDANTS INITIALS.

CERTIFIED A TRUE COPY

[illegible] CON. TROOP CARRYING COY. R.C.A.S.C.

[illegible] Major O.C.

"D" 6

SUMMARY OF EVIDENCE

SUMMARY OF EVIDENCE in the case of

No. B81719, Private DOAK A.,
1 Cdn Troop Carrying Coy.,
RCASC., Canadian Army (Overseas)

taken down by CAPTAIN M.R. POULTER, 1 Cdn. Troop Carrying Coy., Royal Canadian Army Service Corps, at Walton-on-the-Hill, Surrey, on the 3rd. day of July, 1941.

1st. Witness for the Prosecution.

No. P15407, Corporal Henwood A.E., 1 Cdn. Troop Carrying Coy., RCASC., having been duly sworn states:

"On the 18 June 41 I was orderly corporal and at tattoo roll call at 2300 hrs. on this date I found Private Doak absent from his quarters. In turning in my tattoo report I marked Private Doak absent from 2300 hrs. 18 June 41. On the 24th. 27th. and 30th. June 41, Imwas also orderly corporal and at all times Private Doak was absent and so reported. On the 2nd. day of July 1941 at approximately 1800 hrs., L/Cpl. Simpson S.W. reported to me that Pte. Doak had returned to and reported to him. I immediately placed Pte. Doak in company detention room in "red Lynch" house."

The accused declines to cross-examine the witness.

A.E. Henwood. Cpl.

2nd. Witness for the Prosecution

No. B82730, C.S.M. Stuart J., 1 Cdn. Troop Carrying Coy., RCASC., having been duly sworn, states:

"I was acting as unit orderly officer on the 18 June 41 and on checking tattoo reports of the unit at 2300 hrs. on that date, Pte. Doak was reported as being absent without leave. This was submitted in my orderly officer's report. Subsequent tattoo reports of Headquarters section from the 18 June 41 until 2 July 41 together with roll calls between these dates showed Private Doak as absent without leave. He was not reported as being present in the unit area until 1800 hrs. 2 July 41 when he voluntarily reported to L/Cpl. Simpson S.W. of the provost staff."

The accused declines to cross examine the witness.

J. Stuart C.S.M.

Summary of Evidence - Pte. Doak A.

"D" 1.W.T.

3rd. Witness for the Prosecution. No. C11657, Lance Corporal Simpson S.W., 1 Cdn. Troop Carrying Coy., RCASC., having been duly sworn, states:

"On the afternoon of the 18th. June I was left in charge of the lorry at Redhill Stadium (RCASC Div. Sports) to pick up the men who were attending the sports meet. At approximately 1645 hrs. the lorry was driven to the stadium gates to pick up the men. I found that Pte. Doak was absent. Pte. Doak reported to me at about 1730 hrs. 2 July 41. I immediately reported to Corporal Henwood A.E. who took man in charge."

The accused declines to cross-examine the witness.

L/Cpl Simpson S.W.

4th. Witness for the Prosecution No. B82619, Corporal Scott J., 1 Cdn. Troop Carrying Coy., RCASC., having been duly sworn, states:

"On the night of 21 June 41 and 28 June 41 I was Orderly Corporal and on calling the roll on the above dates I found Pte. Doak absent from his billets and reported same on the tattoo reports."

The accused declines to cross-examine the witness.

Cpl. Scott J.

5th. Witness for the Prosecution No. B82763, Sergeant West H., 1 Cdn. Troop Carrying Coy., RCASC., having been duly sworn, states:

"On the morning of 19 June 41 at 0815 hrs. I called Headquarters section roll call. Pte. Doak A. was marked absent. Until the 2 July 41 I had no knowledge or communication from him or any other person as to his whereabouts."

The accused declines to cross-examine the witness.

Sgt. West H.

Summary of Evidence - Pte. Doak A.

"D" 8 APR

The accused, Pte. Doak A., B81719, 1 Cdn. Troop Carrying Coy., RCASC., after being duly cautioned in accordance with Rule of Procedure 4(e), desires to make a statement, and having been duly sworn states:

"I was absent from my billets and left at my own free will and returned to my billets at my own free will, reporting to the proper authorities upon my return."

.....A. Doak.....

Certified that Rule of Procedure 4 (c) (d) (e) and (f) and (g) have been complied with.

W R Coulter
Captain.

I, Regtl. Number B-81719 Private Doak, A.,1st. Canadian Troop Carrying Company,R.C.A.S.C., request the Convening Officer to appoint an Officer to represent me at my trial by Field General Court Martial.

A. Doak

B-81719 Pte. Doak,A.
1st. Cdn.Troop Carrying Company
R.C.A.S.C.,Cdn.Army Overseas.

10/D/378/

943. A Pte Doak. A.
No. 1 Cdn. Troop Carrying Coy

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 26th day of March, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 1st Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

*~~[I am unable to appoint~~
*~~(1. Three Officers to form the Court.)~~
*~~(2. A Field Officer as President.)~~
*~~(3. Three Officers having more than one year's service.)~~
~~for the following reasons, namely:—]~~

President.

Rank.	Name.	Regiment.
Major	F.D. Adams	4 Recce Bn (PLDG)

Members.

Rank.	Name.	Regiment.
Capt. P	P.J.R. Payne	1 Cdn Div Amn Coy
Lieut.	J.W.R. Leblond	Sask L.I. (MG)
Lieut.	S.M. Smith	4 Recce Bn (PLDG)

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

Waiting

*Signed G.R. Pearkes
(G.R. PEARKES) Major General
Commanding 1st Canadian Division
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B.81719 Pte. Doak, A. 1 Cdn Tp C Coy R.C.A.S.C.	1st charge Army Act Sec. 15(1) (see charge sheet attached)	Guilty	Guilty 60 days detention J.K. Adams Major	Confirmed GRP

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) G.R. Pearkes (Signed) J.K. Adams Major
(G.R. Pearkes) Major General
Commanding 1st Canadian Division 4 PLDG Regt Bn
Convening Officer (*e*) *President*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 31st day of March 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)
were duly sworn.

* Omit if not applicable.

Signed this 31st day of March 1941.

J.K. Adams Major
President of the Court Martial.

C. Certificate in case of death sentence.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (*b*) on page 764 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison until further orders.~~) GRP

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 3rd day of April 1941

G.R. Pearkes Maj Gen
Confirming Officer
GOC 1 Cn Div

Promulgated and extracts taken in the case of 1st CDN. TROOP CARRYING COY. R.C.A.S.C.

(*a*) (Dated) 5 Apr 41 (Signed) W.G. Hanna Capt. A/DAC

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41720) W.C. 40113—695 200 M. 12/40 P.E. G. Ltd.

CHARGE SHEET

The accused, Regimental No. B-81719 PRIVATE DOAK, Albert, 1st. Cdn. Troop Carrying Company, Royal Canadian Army Service Corps, a soldier of the Canadian Army Overseas, when on active service is charged with,

Sect 15 (1) Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Walton-on-the-Hill, Surrey, absented himself without leave from 0900 hours 17 February 1941 until surrendering himself to Sergeant West H. at 0800 hours 11 March 1941. ~~absent~~ 21 days 18 hrs

Kit shortages on return,

Knives clasp-W.T.O. M.S.	- 1.	value	£0-2-10
Knives Lanyard	- 1.	value	- 1½
		Total	£0-2-11½

E.H.D.

(E.H.Dean) Major
Officer Commanding
1st. Cdn. Troop Carrying Company
R.C.A.S.C., Cdn. Army Overseas.

A1

J.B. Adams Major
A Asst. A.G. (P&D6)

1
1 A C

Trial of

B-31719 Pte. Doak, Albert

1st Cdn Troop Carrying Coy.,
Royal Cdn Army Service Corp.

Prosecutor:

Capt. L.J. Perry
1 Cdn Div Supply Col.

Defending Officer:

Capt. W.J. Stewart
HQ. R.C.A.S.C.

At 0930 hrs Trial commences:

The order convening the Court is read

Do you object to be tried by me as President?, or by any of the officers whose name you have heard over

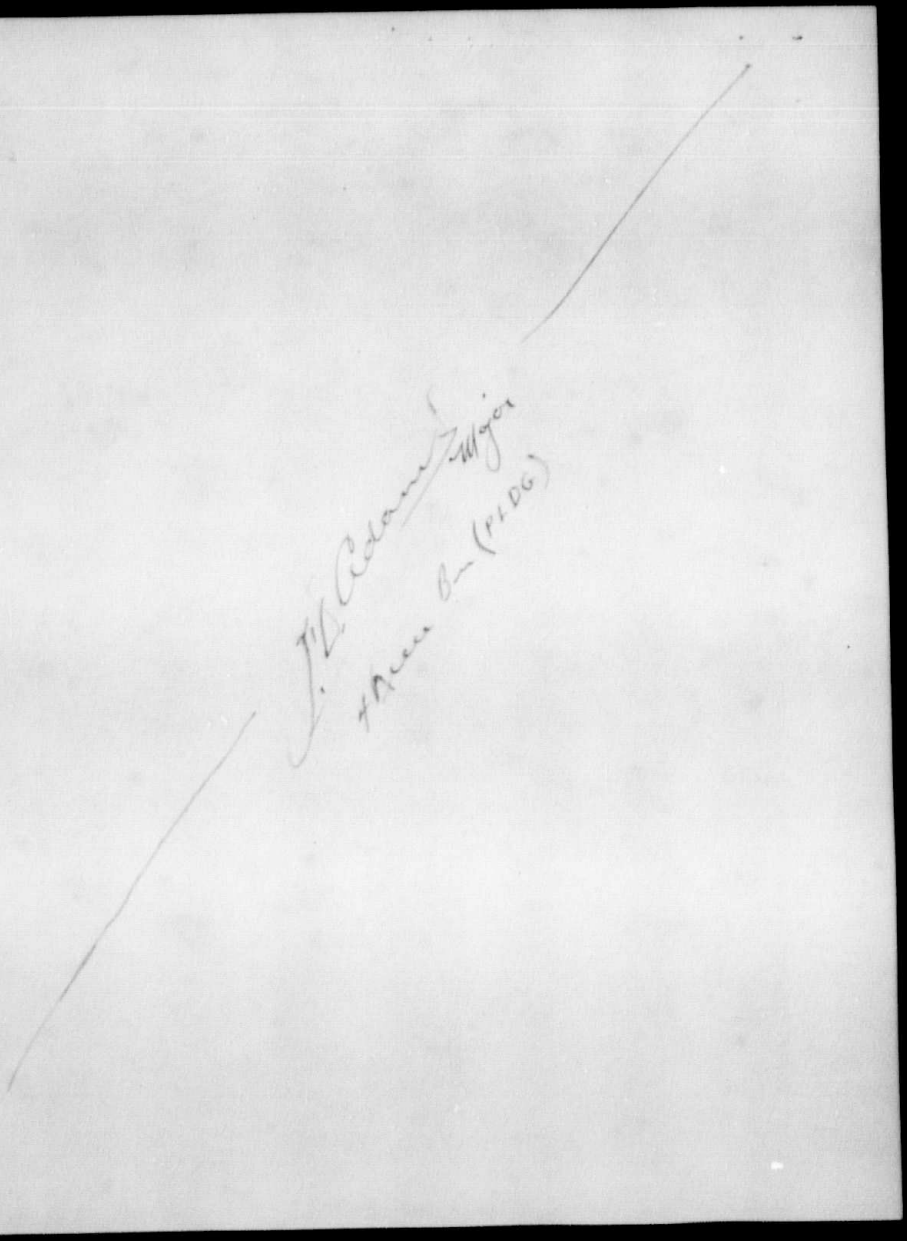
No Sir.

J.L. Caamano Major
4 Recce Bn (PLDG)

2.

The accused having pleaded guilty 1st charge, the provisions of Rule of Procedure 35(B) are complied with.

J. B. Adams
Major
Judge Advocate (PLUG)



Do you wish to make any statement in mitigation of punishment?

No Sir.

Do you desire to call any witnesses as to character?

No Sir.

J. L. Adams
Major
4 Recs B— (PLOG)



4
1265

Prosecuting Officer addressed the Court:

Gentlemen:-

The accused has pleaded guilty to the offence of absence without leave for some twenty days and twenty three hours. In considering the sentence, I would like to draw your attention to the fact that this man deliberately left his unit without authority and his absence can be considered as premedidated - which leaves no alternative but to conclude that the accused has little or no regard for constituted authority and this I put it to you gentlemen, is a wilful defience of military law - and should be taken in the gravest manner. It is our duty to see that discipline is upheld and these cases of Wilful Absence must be severely dealt with.

I leave it to you gentlemen.

J. A. Adams
Major
4 Recce B- (R.C.A.C.)

5.
F.G.C.

Defending Officer addresses the Court:

Gentlemen:-

In the case of the accused, I would plead for leniency in as much as the only charges on his crime sheet were entries for A.W.L. No other charges have been entered against him.

Secondly, this man has applied to his former C.O., Major Mellan who was then commanding I.T.C.C., for a transfer to 5th Gen Hospital. He was assured that this would be done. He paraded four times but nothing ever came of it. This tended to make the accused completely fed up which is perhaps due to his lack of discipline with regard to leaving A.W.L.

Gentlemen I would ask you to consider these facts when passing sentence.

W. Adams Major
4 Rifle Bde (P.L.O.)

SUMMARY OF EVIDENCE

Summary of evidence in the case of

B81719 - PTE. DOAK A.

1 Cdn Tp Carrying Coy., Royal Canadian Army Service Corps, taken down by Lieut G.P. Baker, 1st Canadian Troop Carrying Company, Royal Canadian Army Service Corps at WYKE HOUSE, CHEQUERS LANE, WALTON-ON-THE-HILL, SURREY on the 11th day of MARCH, 1941, in the presence of the accused.

FIRST WITNESS
FOR THE
PROSECUTION

Regimental number B82763, Sergeant WEST H. 1st Canadian Troop Carrying Coy. Royal Canadian Army Service Corps, having been duly sworn, states:

"On the 17th day of February 1941, I called a section parade at 0900 hrs. and found that Pte. Doak was absent. I questioned Cpl. Shiniman as to Pte. Doak's whereabouts. It was unknown to Cpl. Shiniman. I searched for him in the camp area without success. On the tattoo roll call of 17 Feb 41 he was still absent, his whereabouts having been unknown to me until when he reported to me at 0800 hrs on 11 Mar 41. I placed him under close arrest. During his absence I received no word of communication either directly or indirectly from him."

The accused declines to cross-examine this witness.

H. West Sgt.
B82763 - Sgt. West H.
1 Cdn Troop Carrying Coy., RCASC.

The accused having been duly cautioned in accordance with Rules of Procedure 4(e) reserves his defence.

Certified that Rule of Procedure 4 (c), (d), (e) and (f) have been duly complied with.

G.P. Baker
(G.P. Baker) Lieut.
1 Cdn Tp Carrying Coy.,
R.C.A.S.C.

A3

J.L. Adams Major
4 Rcas Bn (PLUG)

I, Private Doak A. Regimental No. B-81719, 1st. Cdn. Troop Carrying Company, RCASC., wish the Convening Officer to appoint my defence counsel, at my trial by F.G.C.M.

Pte A Doak
B 81719

A4

J.L. Adams Major
4 Recce Bn (PLDG)

DOCUMENTORY EVIDENCE

Tattoo report H.Q.section ------- February 17,1941
Tattoo report H.Q. section ------- March 10,1941
Tattoo report H.Q. section ------- March 11,1941

Orderly Officer's report ---------- February 17,1941
Orderly Officer's report ---------- March 10, 1941

Company PART1. Orders issue No.51 issued 25 Feb.41 -effective 26 Feb.1941.

NOTE: The above mentioned order shows the 8th.day of absence.

Company Part 1. Orders issue No.53 issued 27 Feb.41-effective 28 Feb.41.

Company Part 1. Orders issue No.54 issued 28 Feb.41-effective 1 March 41.

Company Part 1. Orders issue No.63 issued 10 March.41-effective 11 March.41.

DEFICIENCIES IN KIT

Knives Clasp - W.T.O. M.S.	--- 1.	value	£0-2-10
Knives Lanyard -	--- 1.	value	1½
	Total		£0-2-11½

H.G. Harrison
Company Quarter Master

I hereby certify that the articles as listed hereunder are deficient from the kit, and were part of the equipment issued to Private Doak A. B-81719, 1st. Cdn.Troop Carrying Company, R.C.A.S.C.

Knives Clasp - W.T.O.S. M.S.	---- 1.	value	£0-2-10
Knives Lanyard	---- 1.	value	1½
			£0-2-11½

H.G. Harrison
H.G.Harrison - C.Q.M.S.
1st. Cdn.Troop Carrying Coy.
RCASC., Cdn.Army Overseas.

11 March 41.
Field.

A 5

J.B. Adams Maj.
4 Res B - (2 Lee)

1st CDN. TROOP CARRYING COY. R.C.A.S.C.

No. B-81719 Name DOAK A. | Sqn., Battery, or Company | Corps ~~No 1 BRIDGE Coy (ASC)~~ | Date of enlistment 8-9-39 | G.C. Badges | Service or Proficiency Pay |

MFM 6 (A.F.B. 122) 5000M—8-39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1. | Signature O.C. Company, etc. G.L. FRAWLEY Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Toronto	23-10-39	Dvr.		A.W.L. from 0945 hrs 23-10-39 until 1345 hrs 23-10-39	Sgt. Pulfer R.C.M.P.	7 Days C.B.	23-10-39	Maj. G.L. Frawley O.C. 1 Bde Coy R.C.A.S.C.	
"	9-11-39	Dvr.		A.W.L. from 1800 hrs 9-11-39 until 1800 hrs 13-11-39	Sgt. Hussey R.C.M.P. Pte. Evans R.C.M.P.	14 Days C.B.	13-11-39	Maj. G.L. Frawley O.C. 1 Bde Coy R.C.A.S.C.	Forfeits 5 days Pay
"	16-12-39	Dvr.		A.W.L. from 1000 hrs 16-12-39 until 1100 hrs 17-12-39 (1 day)	Cpl. W.J. Price Dvr. J. Frontier	168 hrs Detention	20-12-39	Maj. G.L. Frawley O.C. 1 Bde Coy R.C.A.S.C.	Forfeits 4 days Pay
"	3-1-40	"		A.W.L. from 1600 hrs 3-1-40 until 2300 hrs 7-1-40 (4 days 7 hrs)	Cpl. J. Prentice Dvr. J.C. Skuce	14 Days Detention	8-1-40	Major G.L. Frawley O.C. 1 Bde Coy R.C.A.S.C.	Forfeits 5 days Pay
INKERMAN	27-2-40	"		A.W.L. from 2359 hrs 27-2-40 to Toronto 1130 hrs 29-2-40	Cpl. Mooney Pte. Evans R.C.M.P.	28 days Detention	19-3-40	Maj. Dean	Forfeits 4 days Pay.

RELEASED FROM DETENTION BARRACKS ALDERSHOT ON 11-8-1940 SENTENCE (NATURE) SUSPENDED REMISSION EARNED UNDER RULES FOR DETENTION BARRACKS AND MILITARY PRISONS 11 DAYS.
COMMANDANTS INITIALS "DN" (D).

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
INVERMAN	27-5-40	PTE		A.W.L. From 2200 hrs 27-5-40 Till 0630-28-5-40	Lieut. L.W.S. BURTON 2/Lt. WEST	FORFEITS 1 Days Pay		MAJ. HALLAM.	
OXTED	5-7-40	PTE		A.W.L. 2200 hrs 5-7-40 To 0030 hrs 7-7-40 (100)	SGT. WOLST.	14 Days C.B. 1 Days Pay	7-7-40	CAPT. ALLEN	FORFEITURE
GODSTONE	15-8-40	PTE		A.W.L. 0600-15-8-40 To 0600 hrs 18-8-40 (72 hrs)	CSM. INGRAM 2/Lt. PAGE OR.	10 DAYS DETENTION 18 - PAY	18-8-40	MAJ HALLAM	
FIELD	7-2-41	PTE		AB 15 - A.W.L. from 0730 hrs 7-2-41 To 2200 hrs 7-2-41 (CB)	SGT. West	7 Days C.B	12-2-41	MAJ. DEAN.	Forfeits 1 Days Pay.

CERTIFIED A TRUE COPY (MFM-6)

Major

(E.H. Dean)

O.C., 1 Cdn. Troop Carrying Coy.
RCASC., Cdn. Army Overseas.

A.Z.

W.C. Eidam Lt.-Col.
4 Recce Regt (P&DG)

Plate	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
INKERMAN	27-5-40	PTE		A.W.L. From 2200 hrs 27-5-40 Till 0630-28-5-40	Lieut. L.W.C. BURHAM 2/Lt. WEST Sgt. MACKENZIE	FORFEITS 1 Days Pay		MAJ. HALLAM	
OXLEY	8-7-40	PTE		A.W.L. 2200 hrs 8-7-40 To 0030 hrs 9-7-40 (1 day)	SGT. WEST	14 Days C.B. 1 Day Pay	9-7-40	CAPT. ALLEN	FORFEITURE
GOLDSTONE	15-8-40	PTE		A.W.L. 0600-15-8-40 To 0600 hrs 18-8-40 (72 hrs)	SGM. WOODS 2/Lt. PITMAN RA	10 Days Detention 12 " Pay	18-8-40	MAJ. HALLAM	
FIELD	9-2-41	PTE		AWOL from 0730 hrs 9-2-41 To 2400 hrs 9-2-41 (15 hrs)	Sgt. West	7 Days C.B.	12-2-41	MAJ. DEANE	Forfeits 1 Day Pay.

CERTIFIED A TRUE COPY (MFM-6)

Major

(E.H. Dean)

O.C., 1 Cdn. Troop Carrying Coy.
RCASC., Cdn. Army Overseas.

A2

W. Adams
Lieut
4 Recce Bn (P&DC)

127 E. Pte. G. Drake.

O. H. M. S.

M. F. B. 270

Army Form A.3.

OPTIONAL
Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this nineteenth day of December, 1941.

Whereas it appears to me, the undersigned, an officer in Command of Corps Royal Canadian Artillery, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[illegible]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~[illegible]~~

PROCEEDINGS REVIEWED
30/1/42
Deputy Judge Advocate General (Overseas)

President.

Rank.	Name.	Regiment.
Major	A.J. Lorry	12 Cdn A Fd Coy, R.C.E.

Members.

Rank.	Name.	Regiment.
Captain	G.P. Copeman	1 Cdn Res M.T. Coy RCASC
Lieut	E.C. Cowan	R.C.O.C., H.Q. Cdn Corps

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (W.H.N. Brownfield) Brigadier M.C., C.B.E. Cdn Corps
Convening Officer.

SCHEDULE.

Number, Rank (*a*) Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B.61719, Pte. A. Doak 1 Cdn Tp Carrying Coy, R.C.A.S.C.	First Charge Section 15 (1) Army Act	Guilty	Guilty Six months detention. Forfeits seven days FRE pay under 149 (1)(a) Forfeits twenty days pay under FRE 149 (1)(b) Forfeits one hundred and eighty two days' pay under F.R. & I. 149 (1)(b) Total forfeits — two hundred and thirteen days' pay.	Confirmed H.C.N. Brownfield Brigadier A/C.G.R.A. Cdn Corps

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (*h*)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) H.C.N. Brownfield (H.C.N. Brownfield) Brigadier
A/C.G.R.A. Cdn Corps
Convening Officer (*c*)

(Signed) [illegible] maj R.A.
for Chairman
President

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

I certify that the above Court assembled on the twenty-fourth day of December 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. **B.** Certificate of President as to proceedings.

Annexures A to G attached. [illegible]

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) [illegible].
*(4. ~~The officers under instruction~~) [illegible].
were duly sworn.

* Omit if not applicable.

Signed this twenty-fourth day of December 1941.

[illegible] maj R.A.
President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (*b*) on page 76a M.M.L. 1929.

~~I certify that the terms of R.A.I. 5th of 1918 have been complied with.~~

~~Signed this day of 19~~

~~President of the Court Martial~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~

Signed this 8th day of January 1942.

H.C.N. Brownfield
Confirming Officer.
(H.C.N. Brownfield) Brigadier
A/C.G.R.A. Cdn Corps

Promulgated and extracts taken in the case of

(*a*) (Dated) 10-1-42 (Signed) [illegible] major

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

"A"

CHARGE SHEET

The accused, Regimental Number B-81719 Private DOAK, A., No.1. Canadian Troop Carrying Company, Royal Canadian Army Service Corps, a soldier of the Canadian Army Overseas is charged while on Active Service with:-

SECT. 15 (1) Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Marden Park, Caterham, Surrey, absented himself without leave from 2359 hrs 23 November 1941 until apprehended by the Military Police in Charing Cross Road, London, at 2215 hrs. 4 December 1941.

(Time absent- 10 days 22 hrs. 15 min.)

(E.H.Dean) Major
O.C., 1st. Can. Troop Carrying Company
R.C.A.S.C., Cdn. Army Overseas.

Field

24 Dec 41.

Proceedings of F.G.C.M. "E"

B81713 Pte. Doak, A. , Edm Fd Carrying Coy RCASC.

Lt. D. Fuller of the same unit was the presenter.

In addition to the witnesses called in the summary of Evidence the following witnesses appeared before the Court:—

Lt. P. Irwin, Adjutant of the unit, being duly sworn, presented a statement as to the character and particulars of service of the accused, which is annexed hereto as "F".

The accused did not cross-examine this witness.
The accused refused to have a defending officer.
The accused called one witness as to character.

B 82730 CSM (WOII) Stuart, J., of the same unit, being duly sworn, stated that he had known the accused since he had first joined the unit in December 1939 and that he had always done his duties in a satisfactory manner while with the unit. He had been under a severe mental strain lately as his estranged wife had taken divorce proceedings against him, winning the case and custody of their daughter, who had previously been in his mother's care.

The accused handed in a written statement in mitigation of punishment, which is attached as "G".

Lt. Col.
President.

24 Dec 41.

"B" (1)

SUMMARY OF EVIDENCE

Summary of Evidence in the case of

B-81719 Private DOAK, A.

No.1.Canadian Troop Carrying Company,Royal Canadian Army Service Corps,Canadian Army Overseas,taken down by Captain D.C.SHAW,No.1.Canadian Troop Carrying Company,Royal Canadian Army Service Corps, at MARDEN MANOR, Marden Park,North Woldingham,Surrey,on the 10th day of DECEMBER 1941,in the presence of the accused.

FIRST WITNESS FOR THE PROSECUTION. Regimental No.B-83984 Lance Corporal STEVENS,A.R.,No.1. Canadian Troop Carrying Company,Royal Canadian Army Service Corps,having been duly sworn,states:-

"On the 0815 hour parade of Headquarters section on the 24th of November 1941,I called the roll and Pte. DOAK,whom I now recognize did not answer to his name. I searched through the billets but could find no trace of him, I reported the matter to Corporal Cairns to be entered in the Parade State. I did not see Pte. DOAK again until his return on 5 December 1941. Upon his return I checked his kit in his presence,and found all in order."

The accused declines to cross-examine the witness.

L/Cpl. Stevens

SECOND WITNESS FOR THE PROSECUTION. Regimental No. P-15407 Corporal HENWOOD,N.A. No.1. Canadian Troop Carrying Company,Royal Canadian Army Service Corps,having been duly sworn,states:-

"Upon my return from pass at 1200 hrs 24 November 1941,L/Cpl. Stevens reported to me that Pte. DOAK,whom I now recognize,was missing from parade.I inquired as to the time of his absence and was informed thathe had been absent from 2359 hours 23 November 1941. I called the roll of Headquarters section on the 25th and 26th of November 1941 and Pte. Doak did not answer to his name on either day. I did not see Pte. Doak again during my duty as Headquarters Section N.C.O. I was transferred from Headquarters section to "A" Section on the 26th of November 1941 and had no further knowledge of this man. On the 25th of November 1941 I checked the kit left behind by Pte. Doak. List of articles found is as follows:

4 Blankets	1 ground sheet
1 B.D.Trousers & Tunic	1 pr. anklets
1 Water bottle	20 rds. .303 Amm.
2 P.T. Shorts	1 Cap Badge
1 Shirt Woollen	2 Drawers,woollen
2 shorts,cotton	1 house wife
1 hold-all complete	2 towels
1 button stick	3 shoe brushes
1 personal packet ((wallet)	2 pr. P.T.Shoes
1 Kit bag,locked	1 ration bag
1 palliase	1 Knife,fork,spoon,plate,mug.
1 rifle No.08755	1 steel helmet
	Web complete,less 2 straps shoulder carrying, 2 pack straps.

3 Pkgs,20s. Sweet Caporal Cigarettes,left in charge of the Adjutant."

(2)

The accused declines to cross-examine the witness.

THIRD WITNESS FOR THE PROSECUTION

Regimental No. B-82563 Corporal PERRAULT,L.R.,No.1. Canadian Troop Carrying Company, Royal Canadian Army Service Corps,having been duly sworn,states:

"On the 26th of November 1941 I was transferred from "A" section to Headquarters Section.On the morning of the 27th November 1941 I called the roll of Headquarters Section and Pte. DOAK did not answer to his name. I called the roll of Headquarters on each subsequent day and Pte. DOAK did not answer his name. I did not see Pte. DOAK until the morning of 6th December 1941,when I saw him in the detention room".

The accused declines to cross-examine the witness.

FOURTH WITNESS FOR THE PROSECUTION

Regimental No. B-83820 Sergeant LOND, E.N.,No.1. Canadian Troop Carrying Company,Royal Canadian Army Service Corps, having been duly sworn,states:

"I am Orderly Room Sergeant for the No.1 Canadian Troop Carrying Company,and do hereby state that Pte. DOAK,A. was marked absent without leave from 2359 hours 23 November 1941 until his return under escort 5 December 1941."

The accused declines to cross-examine the witness.

FIFTH WITNESS FOR THE PROSECUTION.

Documentary evidence of Lance Corporal LUXFORD,L., Canadian Military Police, No. 6 Provost Company, dated 4 December 1941 London. Purporting to be signed by him at London,has been read to the accused and is included in this summary of evidence. Having regard to the exigencies of the service and the loss of time involved. (2A)

Attendance of this witness cannot,in my opinion,be readily procured.

The accused does not demand the attendance of this witness

SIXTH WITNESS FOR THE PROSECUTION

Regimental No.B-82500 C.S.M.S. HARRISON,H.G., No.1.Canadian Troop Carrying Company, Royal Canadian Army Service Corps, having been duly sworn, states:

"I certify that the kit of Pte. DOAK,A. was checked against Company Records upon his return to this Unit and that no deficiencies were found."

The accused declines to cross-examine the witness.

The accused having been duly cautioned, in accordance with Rule of Procedure 4(E) reserves his defence.

CERTIFIED that Rule of Procedure 4 (c),(d),(e),(f) and (g) have been duly complied with.

(D.C.Shaw) Captain
No.1.Cdn.Troop Carrying Company,
R.C.A.S.C.,Cdn.Army Overseas.

G

NO. 1. CDN.TROOP CARRYING COMPANY
R.C.A.S.C., Cdn.Army Overseas.

TO: The Court

Sirs:

I quite understand,now the seriousness of this, Absenting myself without Leave,and the mistake I have made in doing so in the past.

I have had a great deal of worry,which has been a mental strain to me. My Father died,previous to the War,leaving me the sole support of my Mother.

I am married,with one child,and since comming over here I have had the strain of Divorce Proceedings,which will be complete in the comming year (March 1942)

My financial position is such that after deducting $26.50 assigned pay per month,I am left with less than two shillings per day.

In closing,I realize the error of my past conduct, and with the comming of the new year,I fully intend to become the type of soldier that will be a credit to my Unit,and the country of my adoption.

In view of this,I ask the mercy of the Court in it's consideration of my sentence.

December
24/41

(A.Doak)

A. Doak

CERTIFICATE

Certified that in the case of B.81719, Pte. DOAK, A., 1 Cdn Tp Carrying Coy R.C.A.S.C., tried by F.G.C.M. on 24 Dec 41, the provisions of R.P. 35(B) were complied with.

Major, R.C.E.
President.

Description of Court by which tried, or name of Officer disposing of the charge or disposing with Trial.	Date and place of Trial, or summary award, or of Order disposing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

1st CDN. TROOP CARRYING COY. R.C.A.S.C.

Signed this 24th day of DECEMBER 1941

Major

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

No.1.Cdn.Troop Carrying Company

B-81719 Pte. DOAK, A. of the R.C.A.S.C., Can.Army Overseas.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced to Court with this statement but are not to be entered to the proceedings.

†See para. 664, K.R., 1935.

	*Within last 12 months.	*Since Enlistment.
For A.A.19(1)	1 times	7 times.
For	times	times.
For	times	times.
For	times	times.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, preference being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

Intoxication.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

Number of instances of gallantry or distinguished conduct,

or,

~~There are no entries in the Conduct sheets of the accused.~~x

2. ~~The accused has not been previously convicted.~~x

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

708. Wt. 44487/2165. 10,000. 2/39. Wy.L.P. Gp. 854. Forms/B296/42.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ~~XX~~

beginning on the ~~XXXXXXXXXXXX~~ day of ~~XXXXXX~~

4. The accused has been in confinement, awaiting trial on the present charges

for NIL days in Civil Custody,

and 19 days 11 hrs. 45 min days in Military Custody.

45 min.

Total 19 days 11 hrs. days.

Of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is 29 years

attestation paper 10 Months

6. The date of his ~~XXXXXXXX~~ specified in his record of service is 7 Sept. 1939

attestation attestation paper

7. The service which the accused is allowed to reckon towards discharge on

transfer to the reserve is:

8. The accused is entitled to deferred pay or gratuity in respect of

years' service.

9. The accused is entitled to reckon years' service for the purpose

of determining his pension, ~~XXX~~

10. The accused is in possession of, or entitled to, no military decoration or

military reward (*or is in possession of or entitled to*

NIL

)

11. (*If the accused is a commissioned officer*) The accused before he was made a

~~warrant officer~~ last held the ~~regimental~~ rank of

12. (*In the case of an officer*) The accused holds in the Army the rank of

, and in the regular army

~~or dispensing with the rank of XXX~~ ~~XXXXX~~

13. The accused has ~~XXXXXXXXXXX

1st CDN. TROOP CARRYING COY. R.C.A.S.C.

No. B 81719 Name DOAK. A | Sqn., Battery, or Company: Corps | Date of enlistment: 8-9-39 | G.C. Badges | Service or Proficiency Pay | Character

MFM. 6 (A.F.B. 133) 3000M—8-39 (1783) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
TORONTO	9-11-39	PTE		AA 15(1) 22 hours 9-11-39 Till 6/10 hrs 12-11-39	A/Sgt. HUDSON, B/Sgt. SHEARS, Sgt. MACGREGOR, Cpl. MCCONNELL, Cpl. HEMMING, Pte. BYRNES, Pte. PARKER	14 DAYS. C.B.	13-10-39	MAJOR CRAWLEY	FORFEITS 3 DAYS PAY
TORONTO	16-12-39	PTE		AA 15(1) 0 DAYS 19-12-39 Till 1145 hrs 19-12-39 (10 hrs 45 min)		14 DAYS DETENTION	20-12-39	MAJOR CRAWLEY	FORFEITS 3 DAYS PAY
TORONTO	31-1-40	PTE		AA 15(1) 10 hrs 31-1-40 Till 2030 hrs 2-1-40 (90 hrs 30 min)		14 DAYS DETENTION	8-1-40	MAJOR CRAWLEY	FORFEITS 3 DAYS PAY
UNKERMAN	22-2-40	PTE		AA 15(1) 2357 hrs 22-2-40 Till 1430 hrs 18-3-40	Cpl. HEMMING, Pte. BYRNES, Pte. PARKER	28 DAYS DETENTION	14-3-40	MAJOR REDFERN	FORFEITS 4 DAYS PAY
				RELEASED FROM DETENTION 4-4-40 REMISSION 14 DAYS					
OXTED	9-7-40	PTE		AA 15(1) 22 hours 8-7-40 Till 10 hours 9-7-40 (1 DAY)	SGT. WEST, CSM MURPHY, CSM BRENT R.C.R.	14 DAYS C.B. 10 DAYS DETENTION 14 DAYS PAY	9-7-40	CAPT. ALLEN	FORFEITS 10 DAYS PAY
GODSTONE	15-8-40	PTE		AA 15(1) 0 hrs 15-8-40 Till 22 hours 18-8-40 (22 hrs)			16-8-40	MR. HALLAM	FORFEITS 2 DAYS PAY
LEED	17-2-41	PTE		AA 15(1) 0900 hrs 17-2-41 Till 2359 hrs 3-3-41 (17 DAYS 15 hrs)		60 DAYS DETENTION 60 DAYS PAY	27-3-41	Comp. of O.C. & one Dis. Sergt.	F.G.C.M.
FIELD	18-6-41	PTE		AA 15(1) 1830 hrs 18-6-41 Till 1330 hrs 7-7-41 (19 DAYS 19 hrs 30 min)		AWARD NOT CONFIRMED AT G.C.M. 1 DAY DETENTION 1 DAYS PAY	2 DAYS DETENTION in addition Comp. of O.C. & one Dis. Sergt.	F.G.C.M.	FORFEITS 1 DAYS PAY. TOTAL FORFEITURE 5 DAYS PAY
				RELEASED FROM DET. 30-9-41 - 39 DAYS REMISSION					
			ABOVE ENTRIES TRANSFERRED FROM PREVIOUS SHEET, DESTROYED ON COMPLETION OF CANADIAN SERVICE						

1st CDN. TROOP CARRYING COY. R.C.A.S.C.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	14-10-41	PTE	1	AWOL) 14-10-41 To 18-10-41 (4 DAYS)	Cpl. HENWOOD Pte. GRAVES	F.D DAYS F.P F.D DAYS PAY	20-10-41	MAJ. E.B DEAN	TOTAL FOEI. 5 (DAYS) PAYEETS REMISTN

1st CDN. A TROOP CORPS TAG OGY. R.C.A.S.C.

Major O.C.

HEADQUARTERS 17 DEC 1941 CDN. CORPS (B.T.)

No.1.Cdn.Troop Carrying Company,RCASC. (Unit)

STATION Warden Manor,Warden Park,Caterham, Surrey. Date...16.December.....19 41.

APPLICATION FOR A FIELD GENERAL COURT-MARTIAL

SIR,

I have the honour to submit 1 charge against

B-81719.Pte..Doak,A.,No.1.Cdn.Troop.Carrying.Company,RCASC.,..

of the ....UNIT..... under my command, and request that a Field General Court-Martial may be assembled for his trial.

The Case was investigated by .....

.....Captain.D.C.Shaw,..No.1.Cdn.Troop.Carrying.Coy.,RCASC.

A Summary of Evidence was taken on .19th.day.of.DEC.41 (date)

at Warden.Manor,.Warden.Park,.Caterham,Surrey.

President Xxxxxxx .Captain.D.C.Shaw..... } Ranks
No.1.Cdn.Troop Carrying Coy,,RCASC. Names
..... } and
Members ..... } Corps.
..... }

The accused is now at his.Unit.H.Q.. His General Character is V.G.R.

I enclose the following documents :

(1) Charge Sheet (2 copies)
(2) Summary of Evidence (Original and 1 copy)
(3) List of witnesses for the prosecution
(4) Certified copy of M.F.M. 6 (Conduct Sheet)
(5) Statement waiving counsel by the accused.
(6) Counsel for the prosecution.

I have the honour to be,
Sir,
Your obedient servant

Signature of Commanding Officer .....Major
(E.L.Dean)
1st. Cdn.Troop Carrying Company
R.C.A.S.C., Cdn.Army Overseas.

TO....D.D.S.T.....

..CDN..CORPS.....

MEDICAL OFFICER'S CERTIFICATE

ICERTIFY THAT No. B-81719 Pte. Doak,A.
is fit/ ~~unfit~~ to undergo trial by Court-Martial.

..... Signature of Medical Officer.

"C"

I, B-81719 Private DOAK,A.,No.1. Canadian Troop Carrying Company, Royal Canadian Army Service Corps, request that an Officer to conduct my defence in the pending Field General Court Martial be dispensed with.

A. Doak

Signature

16 DEC.41.

I, the Officer Commanding the 1st. Canadian Troop Carrying Company, R.C.A.S.C., do hereby appoint Lieutenant G.R.FULLER, No.1. Canadian Troop Carrying Company, RCASC., (Attached) as Prosecuting Officer for the Field General Court Martial of B-81719 Pte. DOAK, A., No.1.Cdn.Troop Carrying Company, R.C.A.S.C.

(E.H.Dean) Major
O.C.,1st. Cdn.Troop Carrying Coy.,
R.C.A.S.C.,Cdn.Army Overseas.

"D"

MEDICAL OFFICER'S CERTIFICATE

I, CERTIFY THAT Regtl. No. B-81719 Pte. DOAK,A.
is fit / ~~unfit~~ to undergo trial by Court-Martial

Anthony Major R.C.A.M.C.
.....
Signature of Medical Officer

24 Dec.41.

24 Dec 41.

CHARGE

Army Form B 252
(See King's Regulations

THE ROYAL CANADIAN ARMY SERVICE CORPS. — Regiment

1st CANADIAN TROOP COMPANY. — Battery / Squadron / Troop or Company

CHARGE against No. B. 81719 Rank PTE.

Name A. DOAK

Place — Date of Offence 23 Sept to 23-11-41

OFFENCE W.O.A.S. ABSENT from A until apprehended by the Military Police at 2210hrs in CHARING CROSS RD on 4.12.41.

Time absent 10 days 22 Hours 15 Minutes

Lieut
O. i/c Detention Room
No. 8 Provost Company

Names of Witnesses:—

L/CPL. L.LUXFORD C.M.POLICE

L/CPL. A.CRANE C.M.POLICE

Signature of O.C. Battery, Squadron, Troop or Company — Time in close arrest from 2215 hrs 4-12-41.

Punishment Awarded — Remanded for close arrest pending summary of evidence

By whom Awarded — for A.P.C.M. Lieut. (6-12-41) 7-12-41

Remanded to 8-12-41
" " 9-12-41
" " 10-12-41 Adjutant.
" " 11-12-41
" " 12-12-41
" " 13-12-41

(2294) W.W.2349/1760. 2,000,000 11/40 K. & E. (F) Ltd. (6857)

(2A)

STATEMENT OF **EVIDENCE** IN THE CASE OF

NO: B. 81719 PTE. A. DOAK
1st CANADIAN TROOP COMPANY.
THE ROYAL CANADIAN ARMY SERVICE CORPS.
WORTHING, SUSSEX.

Sir,

At LONDON on the 4.12.41 at 2215hrs I was on duty in CHARING CROSS RD in company with 1/CPL. A.CRANE C.M.POLICE where I saw the above named soldier.

I asked him for his pass and he could not produce one, admitting being absent.

I arrested and conducted him to the CANADIAN PROVOST HEADQUARTERS, HENRIETTA STREET to be detained.

2 Lunsford L/Cpl.
C.M.POLICE

LONDON.
4.12.41.

Sir,

I have read over and corroborate the above statement.

A Crane L/Cpl.
C.M.POLICE

LONDON.
4.12.41.

REMARKS

Complaint
Remanded to 1000 hrs 14-12-41
" " 15-12-41
" " 16-12-41
" " 17-12-41
" " 18-12-41

5 8 I

REGIMENTAL DOCUMENTS

H.Q. FILE No. .....

NAME C.S.M. (W.O.II) DOAK E.S. REGIMENTAL No. .....

UNIT OF ENLISTMENT ..... RANK .....

	CONTENTS	NON-EFFECTIVE BY
	COMBINED DECLARATION FORM OR ATTESTATION AND MEDICAL HISTORY (M.F.M.1 & 1A) OR (M.F.M.2 & 2A)	DEATH
	SERVICE AND CASUALTY FORM (M.F.M.4 & 4A) (A.F.B.103)	DATE
	PARTICULARS OF FAMILY (M.F.M.5)	CAUSE
	FIELD CONDUCT SHEET (M.F.M.6) (A.F.B.122)	AUTHORITY
	CERTIFICATE OF SERVICE (M.F.M.8) COPY OF, OR DISCHARGE CERTIFICATE (M.F.M.7) COPY OF	
	FORM OF WILL (M.F.M.10 OR M.F.M.10A)	
	DENTAL HISTORY SHEET	DISCHARGE
	MEDICAL REPORT OR CASE HISTORY SHEET	DATE
	MEDICAL EXAMINATION ON LEAVING THE SERVICE	REASON
	TRANSFER CLOTHING STATEMENT	AUTHORITY
	LAST PAY CERTIFICATE (M.F.D.930A)	
	PROCEEDINGS ON DISCHARGE	
	PROCEEDINGS COURT OF ENQUIRY	DESERTION
	DECLARATIONS COURT OF ENQUIRY	DATE
	PAY SHEETS	AUTHORITY
	CARDS	
	SUNDRY	

581

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this- - -Eighth- - - - - - - - - day of - - - - - May - - - - - - -, 19 42

Whereas it appears to me, the undersigned, an officer in Command of 5th Canadian Armoured Division, - - - - - - - -

2

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D-56, (CSM) WO II DOAK, Edwin Stanley 7 Cdn F S Sec.	1st Charge, Sec.40, A.A.	not guilty	guilty	Confirmed
	2d Charge, (Alt.) Sec.11, A.A.	not guilty	not guilty	Confirmed
	3d Charge, Sec.40, A.A.	not guilty	guilty	
	4th Charge (Alt.) Sec.11, A.A.	not guilty	not guilty	
	See att.Charge-sheet			

Sentence on the first and third charges to be reduced to the forfeiture of seniority of 3 months and to be placed under stoppage of pay in the sum of $3 per day in addition to the period of detention already undergone.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer to be recorded on separate sheet if necessary.

No.

(Signed) E.W.Sansom (E.W.Sansom) Major-General, *Commanding* 5 Cdn Armd Div. *Convening Officer (e)*

(Signed) J. D. Watterson Major *President*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be entered in same column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

3

I certify that the above Court assembled on the 12th, 15th & 16th day of May, 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. **B.** Certificate of President as to proceedings.

I also certify that :—
1. The members of the Court
2. The witnesses
✓*(3. The ~~interpreter~~ shorthand writer.
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 16th day of May 1942.

J. D. Watterson Major,
President of the Court Martial.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. **C.** Certificate in case of death sentences.

Signed this day of 19

President of the Court Martial.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. **D.** Confirmation

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 25th day of May 1942

E. W. Sansom Major-Gen.
Confirming Officer. ARMD. DIV.

Promulgated and extracts taken in the case of D-56 (C.S.M.) W.O. II Doak, Edwin Stanley, 7 Cdn F.S. Sec.

(a) (Dated) 26 May 42 (Signed) H.A. Hunter Lieut
O.C. 7 Cdn. Field Security Section

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

"I"

A CERTIFIED TRUE COPY OF RELEVANT PORTIONS OF EXHIBITS MENTIONED.

(Sgd) F.J. Witherspoon
Major
President

VEHICLE LOG BOOK

Upper right hand corner of page burnt.

RECORD OF MILEAGE AND CONSUMPTION OF FUEL AND LUBRICANTS.

To be kept up-to-date by the driver in charge of the vehicle.

Date	Fuel received Gallons	Lubricants Engine	Lubricants ~~Driver~~ Oils	Mileage	Remarks and Initials
24-2-42	9			4739	
25-2-42	6			4843	
25-2-42	3			4857	
26-2-42	5	6 pts		4935	
	Greased at	5090	M. Flemming.		(Kelly)
1-3-42	6	2		5085	Flemming
2-3-42	11				Flemming
7-3-42	6			6150	H. Sutcliffe
3-42	7			6215	J.O. Kolenvowich
10-3-42	3			6285	M. Flemming

Certified true copy of relevant portions of above exhibit
J.M. Graham Capt
J.A.G. Rec'd
17 Jun 42

A CERTIFIED TRUE COPY OF RELEVANT PORTIONS OF EXHIBITS MENTIONED.

"L" "L"

(Sgd) F.J. Witherspoon Major REGISTER OF MAIL

President.

PAGE. No.3 No.	Date	From Whom	Contents	File Ref.
90.	9-2-42	2nd Con (A) Bde	D.C.O's Security Orders	
91.	"	H.Q. 5 C.A.D.	Re Additional Pay	
PAGE No.4				
This page blank.				
PAGE No.5				
101	1-3-42	H.Q. 5 C.A.D.	re Trg areas	G 22-4
2	"	"	re Tradesmen's Courses	G 32-70
3	"	C.M.H.Q.	Circular letter No 298 re Airgraph	
4	"	H.Q. 5 C.A.D.	re C.A.H.Q.1671 d/25 Feb 42	8-2-0/2
5	"	"	re C.M.H.Q. Course No 731 (matlock)	G 32-12
6	"	"	re Result C.M.H.Q. Course No 815-Gas. Craven	G 32-53 22/Accom/1/4
7	"	C.M.H.Q.	re Accommodation State.	Q 1a
8	2-3-42	H.Q. 5 C.A.D.	re Amendments to W.E.	G 37-2
9	"	" "	re Nominal Roll officers.	6/1/A.

Certified true copy of relevant portions of above exhibit.

19 Jan 46

Gill Graham, Capt
JAG's Br

"9"

CHARGE-SHEET

The accused, No.D56 Warrant Officer Class Two (Company Sergeant Major) Edwin Stanley DOAK, No.7 Field Security Section, a soldier of the Canadian Army is charged with:-

First Charge
Sec.40
Army Act.

When on active service conduct to the prejudice of good order and military discipline-

in that he in the field while in charge of a Canadian Army Vehicle namely station wagon number C.M.195548 on 28 February 1942 wrongfully without authority and for private purposes drove said vehicle or caused same to be driven from Aldershot, Hants. to Matlock, Derbyshire and return, a distance of approximately 320 miles thereby using approximately 20 gallons of Canadian Army petrol valued at one shilling eight and one sixteenth pence per gallon (1s. 8 1/16 d.) of the total value of one pound thirteen shillings and six pence (£1-13-6.).

Second Charge
Sec.11.
Army Act.
(ALTERNATIVE)

When on active service neglecting to obey Divisional orders-

in that he in the field on 28 February 1942 while in charge of a Canadian Army vehicle namely station wagon number C.M.195548 drove or caused to be driven the said vehicle from Aldershot, Hants. to Matlock, Derbyshire and return, a distance of approximately 320 miles for private purposes and by driving or causing to be driven the said vehicle from Aldershot, Hants. to Matlock, Derbyshire and return thereby used approximately 20 gallons of Canadian Army petrol valued at one shilling eight and one sixteenth pence per gallon (1s 8 1/16 d.) of the total value of One pound thirteen shillings and six pence (£1-13-6) Contrary to 5th Canadian Armoured Divisional Order No.111 dated 19 February 1942 limiting the use of Canadian Army vehicles to within a 25 mile radius from Aldershot, Hants.

Third Charge
Sec.40
Army Act.

When on active service conduct to the prejudice of good order and military discipline-

in that he in the field while in charge of a Canadian Army vehicle namely station wagon number C.M.195548 on 1 March 1942 wrongfully without authority and for private purposes drove said vehicle or caused same to be driven from Aldershot, Hants. to Matlock, Derbyshire and return, a distance of approximately 320 miles, thereby using approximately 20 gallons of Canadian Army petrol valued at one shilling eight and one sixteenth pence per gallon (1s 8 1/16 d.) of the total value of One pound thirteen shillings and six pence (£1-13-6).

Fourth Charge
Sec.11
Army Act.
(ALTERNATIVE)

When on active service neglecting to obey Divisional orders.

in that he in the field on 1 March 1942 while in charge of a Canadian Army vehicle namely station wagon number C.M.195548 drove or caused to be driven the said vehicle from Aldershot, Hants to Matlock, Derbyshire and return, a distance of approximately 320 miles for private purposes and by driving or causing to be driven the said vehicle from Aldershot, Hants to Matlock, Derbyshire and return thereby used approximately 20 gallons of Canadian Army petrol valued at one shilling eight and one sixteenth pence per gallon (1s. 8 1/16 d.) of the total value of One pound thirteen shillings and six pence (£1-13-6) Contrary to 5th Canadian (Armoured) Divisional order No.111 dated 19 February 1942 limiting the use of Canadian Army vehicles to within a 25 mile radius of Aldershot, Hants.

FJW 127

CHARGE - SHEET.

HA Hunter
(H.A.Hunter) Lt.,
O.C. No.7 Field Security Sec.

No.7 Field Security Section,
5th Canadian (Armd) Division,
Canadian Army Overseas.
27 Apr. 42.

To be tried by Field General Court Martial.
Signed in the Field
this 9th day of May 1942.

Maj. Gen.
G. O. C. 5 CDN. ARMD. DIV.

F. M. Watterson
Major
President

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAM.) PARA 557

I certify that I have this morning examined

No. D 56 C.S.M. Doak E.S.

of #7 Fld. Security Sect. and in my opinion he is

fit
~~unfit~~ to undergo trial by court-martial.

Station. Field

Date 16-5-42

Medical Officer

J.W. Wotherspoon
Major
President

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN.) PARA 527

I certify that I have this morning examined
No. D56 CSM DOAK E.S.
of #7 Fd Security Section and in my opinion he is
fit
~~unfit~~ to undergo trial by court-martial.

Station. Field
Date 15-3-42

K.D. Harris Capt RCAMC
Medical Officer

J. J. Watherston Major
President

MEDICAL OFFICER'S CERTIFICATE

KR. (CAN.) PARA 592

I certify that I have this morning examined

No. D. 66 W.O.11. (C.S.M.) POW. E.S. . . . . .

of. . No.7 Field Security Section. . and in my opinion he is

fit to undergo trial by court-martial.

Station. B.A.F. Lucca.

Date . 13. Sept. . . .

Medical Officer

Trial of D-56, WO II (CSM) Edwin Stanley DOAK, 7 Canadian Field Security Section.

Held in the Field on 12 May, 1942.

PRESIDENT:

Major G.D.deS.Wotherspoon, 3 Cdn Armd R (GGHG)

MEMBERS:

Captain W.A.Malkin, 9 Cdn Armd R (BCD)
Captain J.F.Reason, 3 Cdn Armd R (GGHG).

JUDGE ADVOCATE:

Major N.C.Fraser, ADJA, Hq 5 Cdn Armd Div.

The accused requested an adjournment in order to prepare his defence.

The Court, at 10.15 o'clock, adjourned until 9.00 o'clock, 15 May 1942.

On 15 May 1942, at 9.00 o'clock, the Court re-assembled pursuant to adjournment, present the same members as when adjourned.

Prosecutor:- Major M.W.Andrew, Perth R (M).

Defending Officer:- Lieut.J.H.Corrigan, 1 Cdn Armd Bde Coy (14 Coy), RCASC.

Officers under Instruction:

Lieut.A.E.Wilbur, 9 Cdn Armd R (BCD).
" N.C.Root, Perth R (M).

The Convening Order is read in the hearing of the accused.

The accused does not object to the President or members of the Court.

The Court and officers under instruction are sworn.

The accused does not object to K-57793, S/Sgt.J.R.Mahood, CMSC, Hq 5 Cdn Armd Div, acting as shorthand writer.

The shorthand writer is sworn.

The accused answers his name and number and is arraigned on all the charges. Charge-sheet marked "G" signed by the President, and attached to the proceedings.

PLEA

The accused pleads Not Guilty to all the charges.

P_R_O_S_E_C_U_T_I_O_N

R.P. 39 (A) complied with.

The accused does not require an adjournment.

The Prosecutor makes opening address as follows:-

"My statement will be very brief. The case as I see it depends upon fact and it is my intention to prove to the Court that the accused is guilty on all charges"

The Prosecutor proceeds to call witnesses:

First Witness for Prosecution:

F-55676, Sgt.Michael A.Flemming, No. 7 F S Sec, sworn, examined by Prosecutor:-

Q. 1. You are F-55676,Sgt.Michael A.Flemming, No. 7 F S Sec.?
A. 1. Yes.

Q. 2. Do you know the accused CSM Doak?
A. 2. Yes.

Q. 3. Can you point him out in the Court?
A. 3. Yes, right here (pointing to accused).

Q. 4. Have you anything to do with the transport of the section to which you belong?
A. 4. Yes.

Q. 5. In what way?
A. 5. I am supposed to see to the maintenance of the vehicles, and training so far as motorcycles are concerned.

Q. 6. How many vehicles have you, four-wheel?
A. 6. One.

Q. 7. What is that?
A. 7. A station wagon?

Q. 8. How can you describe it?
A. 8. A Ford V-'. three seats, and the number a short time ago was CM-195548.

Q. 9. Do you remember 28 Feb 42?
A. 9. Yes.

Q.10. Will you tell me what happened on that date?
A. 10. On the morning of 28 Feb 42 I left Aldershot along with SM Doak in the station wagon that I have just mentioned about 8.00 o'clock in the morning and drove to Matlock, Derbyshire, arriving there about 1.00 o'clock.

Q. 11. What did you do in Matlock when you were there?
A. 11. Went to visit the War Intelligence College.

Q. 12. And where else?
A. 12. We had dinner -- we had lunch.

Q. 13. Tell me what you did there in Matlock.
A. 13. We had lunch, drove up to the War Intelligence College and left there 2.30 or thereabouts with Sgt.Mary Sumner of the A.T.S. who is employed at the War Intelligence Office.

Q. 14. Then what did you do?
A. 14. Drove back to Aldershot, landing here about 8.00 or 8.30 in the evening of the same day.

Q. 15. How far did you go on that date?
A. 15. 320 miles.

Q. 16. How dod you know?
A. 16. Checked the speedometer at Matlock and at Aldershot when we got back.

Q. 17. Did you check it at any other time that day?
A. 17. No, I don't recall that I did.

Q. 18. Have you any record of the mileage when you arrived at Matlock?
A. 18. I am not sure that I have.

Q. 19. Where would that be placed if your had a record?
A. 19. On the day's work sheet.

Q. 20. I produce and show to you what purports to be a transport work ticket, is that what that is (handing document in question witness)?
A. 20. Yes.

Q. 21. What period does it cover?
A. 21. 23 Feb-1 Mar.

Document in question submitted to Court and Defending Officer, there being no objection same admitted in evidence as Exhibit "HF

Q. 22. Is there any record of 28 Feb 42 there?
A. 22. Yes.

Q. 23. Read it?
A. 23. 11 gals. petrol, mileage out from 5440 to t640.

Q. 24. How many miles does it say?
A. 24. 200 miles.

Q. 25. 200 miles?
A. 25. Yes.

Q. 26. Is that your writing on that work ticket?
A. 26. Not all of it.

Q. 27. Which part of that entry is your writing?
A. 27. That 11 gals. is definitely not mine.

Q. 28. Is the mileage in your own writing?
A. 28. The mileage entries look like my figures.

Q. 29. How do you come to state that it was 320 miles?
A. 29. Because I know that it was 320 miles.

Q. 30. Then that entry, what is done with it after it is placed there.
A. 30. Our day's entry should go in the log book.

Q. 31. I hand you what purports to be a log book, is that right (handing book to witness)?

A. 31. That is right.

Book tendered Court and Defending Officer, no objection entered as Exhibit "I"

Q. 32. What vehicle does that log book belong to?

A. 32. The station wagon on charge to our section.

Q. 33. What is the number?

A. 33. The number originally was CM-195548.

Q. 34. Will you give me the entry for 28 Feb 42?

A. 34. There is no entry.

Q. 35. This transport work ticket (Exhibit "H") then, what would you say as to the mileage on there?

A. 35. It is not correct.

Q. 36. The mileage was -- tell me again what it was.

A. 36. 320 miles.

Q. 37. You got as far as returning here to Aldershot about, I think 8.00 or 8.30, what did you do after that?

A. 37. I went to a dance that evening.

Q. 38. Where?

A. 38. Sergeants' Mess, HQ Sqn, 5 Cdn Armd Div.

Q. 39. Any others of your unit attend?

A. 39. Yes, SM Doak.

Q. 40. Did any of the other occupants of the car attend?

A. 40. Yes, Sgt. Mary Sumner.

Q. 41. Who with?

A. 41. I think she was accompanied by SM Doak.

Q. 42. I want you to go back now to the time before this trip was made, what conversation, if any, did you have with SM Doak concerning this trip?

A. 42. Some time previous, I cannot say how many days, the SM suggested that he might be going to Matlock and I said I would like to be going with him. One reason that we discussed was that we had a little security problem in one of the units of the Division. In addition to that I had a friendly interest in the instructors, only a short time since we came back from there and I would liked to have seen them. I also wanted to see some of the country and get some map reading experience by driving over that part.

Q. 43. What was his conversation with you?

A. 43. I cannot recall definitely any reason that the SM gave.

Q. 44. No reason whatsoever?

A. 44. Except insofar as we agreed on this problem of security in the Division.

Q. 45. You told me just now that he suggested going to Matlock, is that not right?

A. 45. Yes.

Q. 46. Why did he suggest going to Matlock?

A. 46. I suppose because he was thinking about going.

Q. 47. No reason was stated by him, any reason given by him?
A. 47. No, I don't recall any, except that we agreed it would be a good idea to take up the matter I mentioned with the instructors there.

Q. 48. Who was in charge of the vehicle on that trip?
A. 48. SM Doak.

Q. 49. And how much gasolene was used for that trip?
A. 49. 20 gals.

Q. 50. You are sure of that?
A. 50. Yes, I remember we realized quite distinctly that we got just 16 miles to the gallon.

Q. 51. How do you know?
A. 51. Because I checked the amount used.

Q. 52. You mentioned about the Sergeants having a dance the night of 28th Feb?
A. 52. That is right.

Q. 53. How did it come about?
A. 53. Through a mess meeting.

Q. 54. When was the mess meeting held?
A. 54. I cannot recall the exact date.

Q. 55. What mess.
A. 55. Hq Sqn, 5 Cdn Armd Div.

Q. 56. Are you a member of HQ Sqn Sgts Mess?
A. 56. Yes.

Q. 57. Is the accused a member of that mess?
A. 57. Yes.

Q. 58. Were you at that meeting?
A. 58. Yes.

Q. 59. Was the accused at that meeting?
A. 59. Yes.

Q. 60. Can you tell me what business mostly was transacted at that meeting?
A. 60. A good many things, the question of catering, appointment of committees, matter of transportation for the ladies who were invited.

Q. 61. What was said about that?
A. 61. It was agreed that the units would provide it in some cases, transportation for the ladies invited by the members.

Q. 62. Any other ladies?
A. 62. I believe the A.T.S. were mentioned and it was also mentioned that civilians would be invited.

Q. 62. Do you remember anything further about transportation for the ladies?
A. 62. No, except that transportation home would be provided.

Q. 63. Was any limitation placed on how far this transportation would extend.
A. 63. No, not that I recall.

Cross examined by Defending Officer?

Q. 64. You say the entries as to mileage are not your entries?
A. 64. No, I didn't say that, I said the entries of the figures for the 28th look like my figures.

Q. 65. Do you know when that entry was made?
A. 65. No.

Q. 66. Are these entries made at the end of each day?
A. 66. They should be, but it is only recently that I have been given the responsibility of looking after the work tickets.

Q. 67. At this time, Feb 28th, were you in charge of making these out?
A. 67. No.

Q. 68. You stated that several days before this trip to Matlock you had a discussion with the accused about going up, was anything said at that time about the authority for the trip?
A. 68. Yes.

Q. 69. By whom?
A. 69. SM Doak.

Q. 70. What did he say?
A. 70. I went down with SM Doak to visit Mr.Hunter in the Bramshot Hospital. I waited in the car while he went in. When he came out he said "The trip to Matlock is O.K., I spoke to Mr.Hunter and got permission from him?

Q. 71. How many days was that previous?
A. 71. About the 26th.

Q. 72. Just a day or two before?
A. 72. That is right.

Q. 73. Had there been any previous discussion about getting authority for the trip?
A. 72. Only that he mentioned he would have to get authority.

Q. 73. Was that when you first discussed the trip?
A. 73. Yes.

Q. 74. Were you in charge in any way of the vehicle on the 28th Feb?
A. 74. During the trip do you mean?

Q. 75. No, I mean generally?
A. 75. Generally speaking I would say "Yes?

Q. 76. When you say that the accused was in charge of the vehicle you mean just for the trip, he was the senior in rank there?
A. 76. Yes.

Q. 77. To whom was this vehicle charged?
A. 77. To the section .

Q. 78. As far as you know it was not charged to the accused?
A. 78. Yes.

Re-examined by Prosecutor:

Q. 79. You have told my friend that you were in charge of this vehicle generally speaking?
A. 79. Yes.

Q. 80. On this particular occasion, 28 Feb 42, how did it get out of your charge?
A. 80. Because the SM was in the car and he was in charge of it because he was the senior.

Q. 81. How did he come to get the car in the first place from you?
A. 81. He didn't have to get it from me.

Q. 82. How did he get it, just come and take it?
A. 82. Yes, he was in charge of the section.

Q. 83. So he was in charge of the section on 28 Feb 42?
A. 83. I don't suppose technically he was, but he was running the section.

Q. 84. How long had he been running it?
A. 84. About three weeks.

Examined by the President:

Q. 85. You stated that on that date, 28 Feb 42, you went 320 miles?
A. 85. That is right.

Q. 86. Did you go directly to Matlock and return, or go out of the way at all in getting there?
A. 86. As direct a road as we could take.

Q. 87. How do you know the trip was 320 miles?
A. 87. I remember distinctly of checking when we landed at Matlock, was exactly 160 miles. What I said before. It is only a short time since Mr.Hunter made me directly responsible for the log book and work tickets and station wagon. Previously I had only been responsible for the log book and work tickets. About two or three weeks ago Mr.Hunter told me the log book was behind and that from then on it was my responsibility to look after it. I had a great many dates to enter, my name signed to entries probably made by someone else, no way to find out who had got the gas or did the driving so had to make the entries myself, so the mileage as recorded there would not be nearly correct .

Q. 88. This is not a record of what might have happened on 28th Feb?
A. 88. No.

Q. 89. Merely a record over a period?
A. 89. Yes.

Q. 90. Correct as to totals from 1st Jan to this date?
A. 90. Not an individual case but the total is correct and my statement as made in the court of inquiry is correct.

204

Q. 91. You say that this vehicle did 16 miles to a gallon?
A. 91. On that trip.

Q. 92. What is its average?
A. 92. I would say about 12.

Q. 93. On long trips it does better?
A. 93. Yes, and that time not as much mileage as now, it probably needs an overhaul job.

Q. 94. Did it ever do better than 16 miles to the gallon to your knowledge?
A. 94. No.

Q. 95. You mentioned a court of inquiry, you mean a summary of evidence don't you?
A. 95. Very likely that inquiry where a statement of mine taken under oath.

Q. 96. At the sergeants mess meeting at which this dance you refer to was discussed, you stated that some person raised the question of transportation for ladies attending the dance, do you recall who raised that question?
A. 96. No, but there were a good many members who discussed it.

Q. 97. Was any mention made as to who gave authority that transportation would be provided?
A. 97. No, no question about that, seemed to be taken very much for granted.

Q. 98. Had long trips been taken to get ladies for sergeants dances?
A. 98. I wouldn't know, that is the first sergeants' dance I was at.

Q. 99. When you were discussing making the trip to Matlock with the accused, was any mention made of what you were actually going to do?
A. 99. Yes, talked about discussing this security matter I mentioned before with some of the instructors.

Q. 100. Was anything besides that discussed?
A. 100. No, except that it would be good to see the place again.

Examined by Judge Advocate:

Q. 101. When did you first know that Sgt.Sumner was to be picked up?
A. 101. I think it was on the way up to Matlock.

Q. 102. To the best of your recollection you had no knowledge that she was to be picked up until after you had left Aldershot, is that correct?
A. 102. That is correct.

Q. 103. The accused made no mention of it to you?
A. 103. Not that I recall.

Q. 104. Did it come as a surprise to you at that time?
A. 104. Not particularly, we were coming back anyway.

Q. 105. As far as this log book is concerned I am still not quite clear on one or two things there. On what date was it you took charge of the log book?

A. 105. Will you be so good as to tell me the date of the summary of evidence?

Q. 106. 27th April.

A. 106. Just about that time.

Q. 107. I understood you to say that during this period, the latter part of February, that you were most of the time in charge of the vehicles?

A. 107. That is, generally in charge of all vehicles, if the station wagon was to be greased or oiled or changed or anything like that I had to see that it was done.

Q. 108. At that time who looked after the vehicles from the other aspect, the log book and see if work tickets correct and so on?

A. 108. Apparently no one did.

Q. 109. Who did you understand was supposed to look after that?

A. 109. Whoever was driving, quite a few qualified drivers.

Q. 110. With Mr.Hunter away who was the senior present in your section?

A. 110. S.M.Doak.

Q. 111. Do you know what was done with divisional orders when they came into your section?

A. 111. Filed in the office.

Q. 112. Who was in charge of the office at that time?

A. 112. SM Doak.

Q. 113. Were you aware of the existence of any Divisional order limiting the distance that vehicles could be driven from Aldershot on or before 28th Feb?

A. 113. No.

Q. 114. Going back to the log book, there is an entry there for 26th Feb, is that your writing?

A. 114. Yes.

Q. 115. Are those your signatures after the next three entries?

A. 115. Yes.

Q. 116. Were those signed by you at the time or subsequently?

A. 116. Subsequently.

Q. 117. What about the entry for 3d Mar, did you enter that up?

A. 117. No.

Q. 118. I just direct your attention to the entry of 26th Feb, 4935 miles, is that your writing?

A. 118. Yes.

Q. 119. 5090, is that yours?

A. 119. Yes.

Q. 120. Then 1 Mar 42, an entry showing the mileage 5083, you said today you drove 320 miles.

A. 120. Yes, as I said before not knowing the miles exactly for the period tried to split it up.

Q. 121. Did you do that in April?

A. 121. Yes.

Q. 122. Well, you knew that on the 28th Feb you made a trip of 320 miles, why did you not put it in on the date, no entry on that date to account for the 320 miles. Why did you not show it?

A. 122. There was noting so strong in my mind about that Matlock trip when told to fix this book up.

Q. 123. Did you have some responsibility for these vehicles? Did you undertake to fix this book up: 26th Feb mileage 4935, on 1st Mar mileage 5080, then the next March entry is the 7th mileage 6150 miles, over 1000 miles in that last period, and over 1000 in that shorter period from 26th to the 1st, to be accounted for, you realize that don't you?

A. 123. Yes.

Q. 124. So that there is that big jump. Now when you were making up the book to figure out the mileage why didn't you show this Matlock trip?

A. 124. Don't know, no reason why I shouldn't.

Q. 125. I takeiit you tried to figure it out as well as you could.

A. 125. That is right.

Q. 126. And there was no difficulty in fixing the date if it was a sergeants' dance, the first one you ever had.

A. 126. In looking back over the book in trying to fix it up the 28th Feb didn't mean anything to me.

Q. 127. If you were responsible for a vehicle in looking at your log book and finding a strait gap of over one thousand miles that would mean quite a bit to you. You signed opposite these blanks, you fixed up the book for some distance back?

A. 127. Yes.

Q. 128. You signed over the blank pages to account for that gap. I want you to give an explanation to the Court. You say that this trip was authorized so you were all in the clear, yet for something for which you subsequently assumed responsibility you leave a blank of over 1000 miles of which you now say you can account for 320 miles, and you put your signature opposite the blank spaces where the gap exists. You see what I mean.

A. 128. Yes.

Q. 129. Pointing out something that seems on the face of it rather extraordinary the Court would like to have some explanation of it.

A. 129. I cannot explain it. May I have one of those work tickets? (Work ticket handed to witness). There is a March entry here for 5640 for the 28th, on the 26th you see the last day entered (Exhibit H) an entry there of 28th of 5640 miles and the nearest to that in log book is 26th February which goes in the log book 4935 miles, making a d fference I believe of 715 miles.

Q. 130. I point out to you that on this Exhibit "H" there is an entry of 4928 miles which is close to what it is in the log book.

A. 130. 25 there and 35 over here (indicating).

Q. 131. Are those your initials?

A. 131. I initialled that at the summary of evidence.

Q. 132. Whose signature is that (indicating)?

A. 132. SM Doak's. I remember distinctly of pointing out to Mr.Hunterwhen he asked me to incorporate that that the entries of these work tickets were not correct. SM Doak was present when I made that statement. On the 28th an entry made of 200 miles when I knew sao.

Q. 133. Did you tell Mr.Hunter that?

A. 133. Yes.

Q. 134. When was this?

A. 134. At the summary of evidence.

Q. 135. I am trying to get clear on that. You say you told Mr.Hunter that at the time of the investigation in connection with this case?

A. 135. That is right.

Q. 136. There were entries in the log book before that weren't there?

A. 136. I am not sure when I started to catch up on it. I know within a week or two, but don't know how far back I had to go to get the mileage.

Q. 137. Were you running the vehicle for a protracted period without any log book at all?

A. 137. Yes.

Examined by the President:

Q. 138. Was there a permanent driver of this vehicle?

A. 138. No.

Q. 139. No man assigned to the vehicle or the vehicle assigned to any particular man?

A. 139. No.

Q. 140. How many people would normally be driving that vehicle?

A. 140. Four or five. I would like to make my statement clear about those records. When I made my statement at the summary of evidence Mr.Hunter, after I had finished and signed, asked me if I would incorporate in my sworn statement that these work tickets carried entries for 28 Feb and 1 Mar. SM Doak was present at the time. I said "Well, sir, there had been entries for that period but I would not swear that they were correct?

Q. 141. Couldn't you tell when other entries for that period were made in the log book if not exactly correct why not carried forward. Normally you take these from your work tickets?

A. 141. Not necessarily. The mileage entered in the log book for any day shows the mileage that the car did on the speedometer at the end of that day. Naturally the next morning it starts with the last night's reading and so entered in the log book. That is only the complete mileage for that day.

Q. 142. Normally shouldn't all trips shown on the work tickets be in the logbook and brought forward in a correct form?

A. 142. Do you mean each entry or the total of them?

Q. 143. The entry for each day.

A. 143. Yes.

Q. 144. Why wasn't it done for these dates?

A. 144. I don't know, I was not responsible for that logbook at that time.

Q. 145. Why didn't you do it when you became responsible for correcting the logbook?

A. 145. Maybe because it had been partly entered and I started from then on, I don't recall exactly where I started in the logbook.

Q. 146. During this period that we have been talking about, on the 26th Feb an entry in logbook 4935 up to March entry 6150 miles were there any other trips that you know of taken by this station wagon?

A. 146. None that I was on.

Q. 147. When you made this logbook did you know of any other trips?

A. 147. Yes, I believe the station wagon went back over the same road the next day.

Q. 148. That would be a total of 640 miles in two days?

A. 148. That is right, I was not on that trip but I am pretty sure that it was made.

Q. 149. Where was the logbook at this time?

A. 149. I think it used to be in the car.

Q. 150. On a trip of that length would it be necessary to refill the tank?

A. 150. No.

Examined by a member:

Q. 151. How many gallons does that station wagon hold?

A. 151. Ten gallons.

Q. 152. It holds ten gallons?

A. 152. Yes, ten to twelve.

Examined by the President:

Q. 153. When vehicles were refueled was it the practice to enter the logbook up?

A. 153. That logbook definitely was neglected, we should have entered each gas issue in the logbook.

Q. 154. Who should have?

A. 154. Whoever got it.

Q. 155. On this trip then whose responsibility was it?

A. 155. I believe I filled up.

Q. 156. And it was your responsibility?

A. 156. Yes, I should have entered it.

Examined by a member:

Q. 157. Where did you get the petrol?
A. 157. We took tins of petrol with us.

Q. 158. You took it with you somit was not necessary to draw any during the trip?
A. 158. No.

Q. 159. Your answer then is that you didn't draw any petrol on the way back?
A. 159. Yes.

Q. 160. You have referred to making up this logbook at some recent date, would the same refer to work tickets?
A. 160. No, I didn't make them up.

Q. 161. When you went on this trip did you have this work ticket with you?
A. 161. I am not sure.

Q. 162. Did you have any work ticket with you?
A. 162. I think we must have.

Q. 163. Can't you recall whether you had a work ticket or not?
A. 163. The usual thing is to have a work ticket and log-book both in the compartments of the dash.

Q. 164. This is stamped I suppose with the Orderly Room stamp, "23 Feb 42" is that the usual practice to stamp them like that?
A. 164. I think that was made out by the clerk.

Q. 165. Do you know whose writing this is down here in column one?
A. 165. No.

Q. 166. If there was another work ticket used for this trip what would have happened to it?
A. 166. It should have been left in the office.

Q. 167. Can't you say whether this was the work ticket or not?
A. 167. That is the work ticket that covers that period. I can't say that is the one we had in the car.

Q. 168. When would this be made up?
A. 168. On the date it is stamped there.

Q. 169. These figures and times taken, mileage, on right hand side, when would they be entered?
A. 169. Should have been entered on date stated in left hand column.

Q. 170. You said the figures looked like your own figures, if they were your own figures when would you have entered them?
A. 170. I would have entered them on the correct date?

Q. 171. Don't you know whether that is your writing or not?
A. 171. Some of it but not all of it.

Q. 172. The figures opposite 28 Feb are yours?
A. 172. Yes.

Q. 173. Also on the 26th?
A. 173. Yes.

Q. 174. On the 27th Feb where did you go with the station wagon?
A. 174. I don't remember.

Q. 175. What was the practice in making out these transport work tickets so far as mileage, fuel are concerned?
A. 175. I didn't drive the station wagon very often for that period and was not directly c ncerned with it.

Q. 176. Do you or do you not know what the practice was?
A. 176. The correct practice was to enter the mileage for each day, but as I said before both the work tickets and log book must have been neglected.

Q. 177. When you made the entries did you make them on the day of the trip?
A. 177. I am not sure.

Q. 178. You can't say when you made these entries?
A. 178. No, I couldnot have made it on the 28th because that is not the correct mileage.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83 (B).

The witness withdraws.

Second Witness for Prosecution:

Lieut.A.E.Chapple, 5 Cdn Armd Div Tps Coy (17 Coy) RCASC, sworn, examined by Prosecutor:

Q. 179. You are Lieut.A.E.Chapple, 5 Cdn Armd Div Tps Coy, RCASC?
A. 179. I am.

Q. 180. What particular branch of the Army Service Corps is your company?
A. 180. We supply ammunition, petrol, and supplies to Divisional Troops.

Q. 181. Both ammunition and petrol?
A. 181. Yes.

Q. 182. I now produce and show to you what purports to be "Issue and Receipt Voucher" covering petrol, oil, and grease; is that what that is? (Hands paper to witness).
A. 182. Yes.

Document in question submitted to Court and Defending Officer, there being no objection, same was admitted in evidence as Exhibit " J".

Q. 183. Also signed purporting to be a true copy, do you know that is so for a fact?
A. 183. Yes.

Q. 184. That shows the grade of petrol, the quantity, and the price?
A. 184. Yes, the quantity of petrol we issued that month.

Q. 185. What is the price?
A. 185. 1/8-1/16.

Q. 186. For how much?
A. 186. A gallon.

Q. 187. That covers the period from 28 Feb to 5 Mar 42?
A. 187. Yes.

Q. 188. That same price?
A. 188. I given by the Supply Depot.

The Defending Officer declines to cross examine this witness.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83 (B).

The witness withdraws.

Third Witness for Prosecution:

M-55914, L/Sgt.Harold W.McKenna, 7 Cdn F S Sec, sworn, examined by Prosecutor:

Q. 189. You are M-55914, L/Sgt.Harold W.McKenna, 7 Cdn F S Sec?
A. 189. Yes.

Q. 190. Do you remember 28 Feb 42?
A. 190. Yes.

Q. 191. What happened on that day that recalls it to your mind?
A. 191. There was a Sergeants' Mess dance.

Q. 192. What Sergeants' Mess?
A. 192. What we call the Hq Sqn Sergeants' Mess.

Q. 193. How did that dance originate?
A. 193. I assume the same way all Sergeants' Mess dances do.

Q. 194. How is that?
A. 194. Determined by a meeting and so on.

Q. 195. When was that meeting?
A. 195. I don't recall because I was not a sergeant at that time.

Q. 196. Were you at that meeting?
A. 196. No.

Q. 197. On 28 Feb did you attend the sergeants' dance?
A. 197. I did.

Q. 198. Were you a sergeant then?
A. 198. I had just been made that day.

Q. 199. And what other sergeans of the 7 Cdn F S Sec attended?
A. 199. I cannot say for sure, I know Sgt.Flemming and I, all I can remember.

Q. 200. Do you know the accused, CSM Doak?
A. 200. Yes.

Q. 201. Is he here in this room?
A. 201. Yes.

Q. 202. You recognize him?
A. 202. Yes.

Q. 203. Was he at the dance on 28 Feb 42?
A. 203. Yes.

Q. 204. Was he accompanied by any person?
A. 204. Yes.

Q. 205. Do you know that person?
A. 205. Yes.

Q. 206. I don't know her last name, I heard it since then, but didn't at the time.

Q. 207. Describe her.
A. 207. A sergeant of the A.T.S.

Q. 208. And you have heard her name since?
A. 208. Yes.

Q. 209. What is the name?
A. 209. I think Summer.

Q. 210. Do you recall 1 Mar 42?
A. 210. Yes.

Q. 211. And what brings that date to your memory?
A. 211. Because I accompanied SM Doak on a ride.

Q. 212. How did that ride originate?
A. 212. The following day was Sunday, on the morning of that day he said he was going for a little trip, I didn't know where.

Q. 213. Did you hear it from him?
A. 213. No, just a general remark and I asked him if it was very far and said I would like to go along. We needed driving instruction on the station wagon which we had not had much of previously, so I asked if I could go along with the hope that I could drive and learn a little more about the country.

Q. 214. Did you know the purpose of this trip?
A. 214. I believe he said he was going north and that it was some distance and I had never been there so I asked if I could go.

Q. 215. Did he mention that he was going north?
A. 215. I don't recall that he stated specifically, but thought in my mind if going somewheres north it might be quite a distance.

Q. 216. Did you know before you left for what reason the trip was being made?
A. 216. No, I didn't, I thought it might be Matlock or that it might be London.

Q. 217. Why think Matlock?
A. 217. If taking the lady home would be up there, if just going for a ride didn't know where.

Q. 218. Was anything said by the accused about taking the lady home?

Objected to by Defending Officer as being a leading question.

The question withdrawn by Prosecutor.

Q. 219. You went as far in my examination as to your going on this trip, what did you do after you had arranged to go on the trip?
A. 219. Just got in the car and went.

Q. 220. Where did you go?
A. 220. North as I remember.

Q. 221. Where to?
A. 221. We went to Matlock.

Q. 222. In what car?
A. 222. In our station wagon.

Q. 223. Can you describe it?
A. 223. The number was CM-195548.

Q. 224. And what time did you get to Matlock?
A. 224. Left here approximately just before one at noon, arrived there about 7.30 in the evening.

Q. 225. What did you do after you got there?
A. 225. I had something to eat and waitned until we left.

Q. 226. Who was in the station wagon with you on this journey?
A. 226. The SM, L/Cpl.Kolenowich, the lady in question and myself.

Q. 227. The lady in question, will you name her?
A. 227. Mary Sumner.

Q. 228. What did you do, you said you waited there, what did you do after the wait?
A. 228. Returned to Aldershot to our quarters.

Q. 229. What time did you leave to return?
A. 229. Between 10.30 and 11.00 if I remember rightly.

Q. 230. Who came back with you?
A. 230. SM Doak, L/Cpl.Kolenowich, and myself.

Q. 231. What time did you arrive back here?
A. 231. In the early hours of the morning, around 5.00, between 5.00 and 5.30, am not quite certain.

Q. 232. How far did you go on the whole journey?
A. 232. I know now, but not sure then.

Q. 233. How do you know now?
A. 233. We measured it on the map, and I really don't know, cannot say truthfully now.

Q. 234. Have you measured it on the map?
A. 234. No, I haven't.

Q. 235. Who was in charge of the little party in the car?
A. 235. SM Doak.

Cross-examined by Defending Officer:

Q. 236. Do you know the road to Matlock?
A. 236. I didn't, never been over it before.

Q. 237. How did you find the way there?
A. 237. We had about a dozen maps.

Q. 238. Did you have maps for the whole road?
A. 238. Yes.

Q. 239. Coming back Sunday night you travelled in darkness all the way?
A. 239. Yes, very, very dark.

Q. 240. How did you find your way coming back?
A. 240. By maps.

Q. 241. Did you drive yourself coming back?
A. 241. Yes, a short distance.

Q. 242. Who drove the rest of the way?
A. 242. The SM and L/Cpl.Kolenoqich drove most of the way, because I was rather weary and slept quite a while.

Q. 243. Who did the map reading?
A. 243. The SM, he is an expert at it.

Q. 244. Did he give you any instruction?
A. 244. Yes.

Q. 245. In what way?
A. 245. I found out how to orient myself on the way back, because I had seen it going up and he showed me how to recognize different parts of the road.

Q. 246. You actually tried to follow the map?
A. 246. Yes.

Q. 247. Did the L/Cpl. do so too?
A. 247. I assume so.

Re-examined by Prosecutor:

Q. 248. You mentioned that you drove a short distance on the way back, and that then you slept a lot?
A. 248. A couple of hours.

Q. 249. When did you do your map reading?
A. 249. The seats in the wagon so arranged that you could sit behind and look at the map in front, was leaning over the SM's shoulder looking at the map, and part of the time we all three rode in the front seat because it was so cold.

Q. 250. How many times did you tell my friend that you received assistance from the accused?
A. 250. Cannot tell the times, but several times asked questions and got an answer.

Q. 251. How many times would you say was "several"?
A. 251. A lot.

Examined by the President:

Q. 252. On the way up did you read the map?
A. 252. No.

Q. 253. No map?
A. 253. I am very sure I didn't.

Q. 254. You don't recall?
A. 254. No, not on the way going up, I don't.

Q. 255. Do you remember if you took any petrol with you?
A. 255. No, I don't.

Q. 256. Did you have anything to do with the work ticket on the trip?
A. 256. No.

Q. 257. Did you see it at all?
A. 257. No.

Q. 258. Any mention as to who authorized the trip?
A. 258. We have never questioned our SM, always been a stickler for asking permission for everything we do and anything he did was all right with us.

Examined by the Judge Advocate:

Q. 259. Did you drive at all on the way up?
A. 259. No.

Q. 260. When you got to Matlock did your party remain together all the time while there?
A. 260. No, I went to get something to eat.

Q. 261. How long were you away from the rest of the party?
A. 261. I would say until along about half-past ten.

Q. 262. And what time did you arrive there, 7.30?
A. 262. In between 7.30 and 8.00.

Q. 263. Between two and three hours the party was separated?
A. 263. Yes.

Q. 264. Did any of the party remain with you, did the L/Cpl. go with you or with the others?
A. 264. He was with me part of the time.

Q. 265. For that two or three hour period I mean.
A. 265. He was with me quite some little time.

Q. 266. You were all together when you arrived there; just what happened in that respect?
A. 266. Well, when I got there I thought that I needed something to eat, to warm me up, so went and had a glass of beer an d something to eat.

Q. 267. How did you leave them, who went with you, what happened to the others, when did you see them again?
A. 267. Didn't see the SM again until shortly before we left.

Q. 268. You got up there and the car stopped, where did it stop?
A. 268. I don't know the name of the street, at the top of a hill.

Q. 269. By a pub or restaurant?
A. 269. By a church as I remember.

Q. 270. Who got out?
A. 270. We all did.

Q. 271. Did the car remain there?
A. 271. I don't know, I didn't look, I just went.

Q. 272. What persons remained there, did you go and eat alone?
A. 272. I went with L/Cpl.Kolenowich and had something to eat.

Q. 273. Did the other two leave in the car?
A. 273. I didn't look to see.

Q. 274. Did you leave them there with the car, you and the L/Cpl. went off by yourselves?
A. 274. Yes, at that time of year awfully dark.

Q. 275. Then, did you and this L/Cpl. remain together?
A. 275. Not all the time.

Q. 276. For how long did you remain together?
A. 276. I forget, I never even thought of it, I know only went into two places and he did too.

Q. 277. When did SM Doak and Sgt.Sumner come back?
A. 277. She didn't come back.

Q. 278. When did you see the accused again?
A. 278. I would say it was around 10.00 o'clock.

Examined by a member:

Q. 279. When you left the accused you no doubt had some arrangement to meet for the return?
A. 279. Yes.

Q. 280. Where did you arrange to meet?
A. 280. Right where he let us out.

Q. 281. At what time, any time stated?
A. 281. I am not sure about that, I think I recall saying something around 10.00 o'clock.

Q. 282. Around 10.00 o'clock?
A. 282. Yes, because we would go and have something to eat and drink.

Q. 283. You went out and met the SM at that time, was he alone in the station wagon at that time?
A. 283. Yes.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83 (B).

The witness withdraws.

Fourth Witness for Prosecution:

B-61273, L/Cpl.John O.Kolenowich, 7 Cdn F S Sec, sworn, examined by Prosecutor:

Q. 284. You are B-61273, L/Cpl.John O.Kolenowich, 7 Cdn F S Sec?
A. 284. Right, sir.

Q. 285. Do you remember the period around the end of Feb and beginning of March?
A. 285. Yes, I do.

Q. 286. How?
A. 286. Beginning of March we went for a trip with the station wagon.

Q. 287. What s tation wagon?
A. 287. Out station wagon, Security Section.

Q. 288. Can you identify it more particularly?
A. 288. Yes, CM-195548.

Q. 289. And where did you go?
A. 289. Matlock.

Q. 290. Can you give me a date on which you went to Matlock in this station wagon?
A. 290. It was on a Sunday.

Q. 291. That is as close as you can identify the time?
A. 291. Now, as I recall it, it was March 1st on a Sunday.

Q. 292. How did you happen to go to Matlock?
A. 292. I don't get that.

Q. 293. What caused you to go to Matlock?
A. 293. For train ng purposes.

Q. 294. By what authority did you go on this training trip?
A. 294. SM Doak.

Q. 295. SM who?
A. 295. Doak.

Q. 296. The accused?
A. 296. Yes.

Q. 297. Do you know him?
A. 297. Yes.

Q. 298. Is he in this room?
A. 298. Yes.

Q. 299. You can identify him?
A. 299. Yes.

Q. 300. What instructions did you receive regarding this training?
A. 300. We had a good chance for training and also for map reading.

Q. 301. Who was in charge of the training?
A. 301. SM Doak.

Q. 302. You got to Matlock?
A. 302. Yes.

Q. 303. Who arrived in Matlock in that station wagon with you?
A. 303. Sgt.McKenna, SM Doak, Sgt.Mary of the A.T.S.

Q. 304. When you were on this journey what took place?
A. 304. We were studying up map reading directions on the road.

Q. 305. And when you arrived there at Matlock what took place?
A. 305. As far as I know McKenna and myself left the station wagon with SM Doak for a while and then returned.

Q. 306. You left the station wagon with the accused?
A. 306. Yes.

Q. 307. Was anybody with him?
A. 307. Yes, the sergeant.

Q. 308. Who?
A. 308. Mary, of the ATS.

Q. 309. And where did you go?
A. 309. First of all we tried to get in touch with some instructors up there but couldn't see them.

Q. 310. Who is "we"?
A. 310. Sgt.McKenna and myself.

Q. 311. Was anybody with you besides Sgt.McKenna?
A. 311. No, not at that time.

Q. 312. Then what did you do, went for a little walk, what else?
A. 312. Went into a pub and sat down.

Q. 313. Then what did you do?
A. 313. Went out and waited for the SM.

Q. 314. Where did you wait?
A. 314. At the corner where we left him.

Q. 315. Was the station wagon there?
A. 315. It finally came.

Q. 316. Who was in it?
A. 316. SM Doak.

Q. 317. Anybody else?
A. 317. No.

Q. 318. Then what did you do?
A. 318. Drove back to Aldershot.

Q. 319. Who drove?
A. 319. We took turns more or less, I think the SM took the most.

Q. 320. Who were in the car?
A. 320. SM Doak, Sgt.McKenna and myself.

Q. 321. What time did you get back?
A. 321. About four in the morning, probably later or before.

Q. 322. How far did you go on that trip?
A. 322. Around 320 miles.

Q. 323. How do you know?
A. 323. I don't know, am not quite sure.

Q. 324. How far would you say it was, that trip?
A. 324. About 300 miles.

Q. 325. How much fuel was used?
A. 325. 20 gallons.

Q. 326. How do you know?
A. 326. Because a full tank when we left and we added eight gallons on our return trip.

Q. 327. In what condition were the contents of the gas tank when you arrived here?
A. 327. Do you mean how much it held when we arrived here?

Q. 328. How much did you have when you arrived back here?
A. 328. I can't say.

Cross examined by Defending Officer:

Q. 329. When did you first hear about the trip to Matlock?
A. 329. Sunday morning.

Q. 330. Who told you about it?
A. 330. The SM.

Q. 331. What did he say?
A. 331. He asked me if I would like to get my training and said "later on we will be doing night driving, not getting enough night driving, this will be a good opportunity for training"

Q. 332. Who drove the car going up?
A. 332. The SM most of the way, and myself.

Q. 333. Did you drive coming back?
A. 333. Yes.

Q. 334. So you had an opportunity to drive in the blackout?
A. 334. Yes.

Q. 335. Are you familiar with map reading?
A. 335. Yes.

Q. 336. Were you at that time?
A. 336. No.

Q. 337. Did you learn anything on that trip?
A. 337. Yes.

Q. 338. In what way?
A. 338. In the dark judging the road, finding directions in the dark.

Q. 339. Who gave you instruction?
A. 339. SM Doak.

Q. 340. Did you ask him any questions?
A. 340. Yes, mostly about the roads.

Q. 341. What map were you using?
A. 341. We had half a dozen maps of different kinds, looked at all of them.

Q. 342. And you studied the map going up and back?
A. 342. Yes.

Q. 343. Where did the eight gallons of petrol come from that you put in the car?
A. 343. From the cans in the station wagon.

Q. 344. You didn't draw any from any station coming back?
A. 344. No.

Q. 345. None drawn on the whole trip?
A. 345. No.

The Prosecutor declines to re-examine this witness.

Examined by Judge Advocate:

Q. 346. How long was the SM away from you with the station wagon, approximately?
A. 346. About two hours.

In the opinion of the Court and the Judge Advocate it s is not necessary to comply with R.P. 83 (B).

The witness withdraws.

At 12.10 o'clock the Court adjourned until 2.00 o'clock, 15 May, 1942.

On 15 May, 1942, at 2.00 o'clock, the Court re-assembled pursuant to adjournment, present the same members as when adjourned.

Prosecutor:- Gentlemen, I wish, with my friend's consent, to put in as an exhibit Divisional Orders, dated 19 February, 1942, Nos. 103 to 115 inclusive.

Defending Officer admits that document in question is in fact Divisional Orders Nos. 103 to 115 inclusive, and had no objection to its admission.

Document in question admitted in evidence as Exhibit "K"

Fifth Witness for Prosecution:

B-31656, L/Sgt.J.J.Hansen, 7 Cdn F S Sec, sworn, examined by Prosecutor:

Q. 347. You are B-31656, L/Sgt.J.J.Hansen, 7 Cdn F S Sec?
A. 347. Yes.

Q. 348. Do you know the accused, SM Doak?
A. 348. Yes.

Q. 349. Is he here in this room?
A. 349. Yes.

Q. 350. Will you tell me what your duties are in the Security Section?
A. 350. Orderly Room clerk.

Q. 351. And when did you begin your duties?
A. 351. 25 Feb 42.

Q. 352. And from your answer I gather you still are?
A. 352. Yes.

Q. 353. Who commanded the 7 Cdn F S Sec when you took up your duties?
A. 353. SM Doak was A/OC to the best of my knowledge.

Q. 354. And what would be his duties within the section at that time?
A. 354. In charge of the section in the absence of Lieut. Hunter who was in hospital.

Q. 355. I produce and show to you Divisional Orders dated 19 Feb 42 (Exhibit K), Nos.103 to 115, do you recognize them?

A. 355. Yes.

Q. 356. When did you first see them?

A. 356. I don't remember.

Q. 357. About when?

A. 357. Sometime after the 25th Feb.

Q. 358. Why do you say after the 25th?

A. 358. Which was the day I took over.

Q. 359. Where were they then when you saw them?

A. 359. When I saw them they were in the Orderly Room.

Q. 360. In what position in the Orderly Room?

A. 360. As far as I can remember in one of the two baskets on the Orderly Clerk's desk.

Q. 361. Who, if anybody, would have access to those orders?

A. 362. The staff in general.

Q. 363. Who would that be?

A. 363. The members of the section.

Q. 364. What happens to those orders after they are delivered to you, i.e., to the section?

A. 364. Usually they are stamped with the orderly room stamp and the time received by the Orderly Room Clerk. Then they go to the OC's office.

Q. 365. Whose office would that be?

A. 365. Mr.Hunter's office.

Q. 366. And then what?

A. 366. After they have been perused by Mr.Hunter they are filed on a special file for Divisional Orders only.

Q. 367. You mentioned Mr.Hunter's absence; how long before you took over your duties was he absent?

A. 367. To the best of my knowledge approximately four or five weeks.

Q. 368. Who was in charge of the section during that time?

A. 368. SM Doak.

Q. 369. You say that orders after they are stamped go into the OC's office, is that right?

A. 369. Yes, that is the normal procedure.

Q. 370. We will confine it to a time with my friend's permission. Who w uld they go to for perusal during the month of February?

A. 370. I can only speak from the 25th Feb?

Q. 371. All right, who would they go to?

A. 371. When I took over my duties there were no entries of incoming mail made since 9th Feb, a great amount of incoming business unfiled and unstamped.

Q. 372. Was it open?

A. 372. Open in two baskets on the Orderly Room Clerk's desk.

Q. 373. How long have you been a member of this 7 Cdn F S Sec?
A. 373. Since 9 Dec 41.

Q. 374. During the month of Feb who was in command of the 7 Cdn F S Sec?
A. 374. SM Doak.

Q. 375. Do you know personally what is in those orders?
A. 375. There is one order in there pertaining to transport.

Q. 376. Do you read these orders?
A. 376. Yes.

Cross examined by Defending Officer:

Q. 377. Is this copy of the Orders (Exhibit K) from your office?
A. 377. Yes.

Q. 378. This copy does come from your office?
A. 378. Yes, to the best of my knowledge this is the copy.

Q. 379. Is there an orderly room stamp on this copy?
A. 379. No, this copy was received in the office before I took over.

Q. 380. Then I take it that a number of them didn't have the Orderly Room stamp on them?
A. 380. Most of the incoming business during the month of February had no stamp on it, the Orderly Room was only organized 1st March.

Q. 381. You mention a system of mail coming in being stamped and going to the CO?
A. 381. Yes.

Q. 382. When was that system instituted?
A. 382. This way from the 1st March. I instituted stamping incoming business and numbering and typing. Since about two weeks ago Mr.Hunter initials all incoming business so that before I file any correspondence away I make sure that Mr.Hunter's initials are on all copies.

Q.383. But that system took final form only two weeks ago?
A. 383. Yes.

Q. 384. During the month of February I take it that that system did not exist?
A. 384. No.

Q. 385. From your personal knowlegde, before the 25th Feb you didn't know what system there was?
A. 385. No.

Q. 386. When did you read that particular order?
A. 386. That I don't know.

Q. 387. Could you give me some idea of how long after taking over this job that was?
A. 387. It took me a few days to organize all documents that were lying about to be filed away so I gather it must have been some time after 1st March when I finally got most of the business straightened away.

Q. 388. You cannot say this was there before the 1st March?
A. 388. I cannot say for sure and it is impossible to recall which particular document what I seen and read, I cannot say for sure.

Q. 389. Can you say that all those papers on the desk didn't go in to the CO or A/CO?
A. 389. The CO's office at that time was not used. Mr. Hunter was away in the hospital. The incoming business filed in the two baskets for that purpose on the Orderly Clerk's desk.

Q. 390. As far as you know this order may not have been there before 1st March, is that true?
A. 390. I cannot say anything on that.

Q. 391. Even if it had been there you couldn't say if it had been passed to the SM?
A. 391. I couldn't say.

Q. 392. When you refer to SM Doak as the A/OC just what do you mean by that?
A. 392. That ay be an error on my part. That was my personal opinion. Have seen nothing written that he was A/OC.

Q. 393. He was just carrying on?
A. 393. Carrying on with his duties.

Q. 394. Have you a file of Divisional Orders in your office?
A. 394. Yes.

Q. 395. Is that file complete?
A. 395. When I made up the file and looked for missing numbers as far as I recall a copy of Divisional Orders were missing.

Q. 396. Do you know which they were?
A. 396. I don't know.

Q. 397. What did you do then when you found numbers missing?
A. 397. Referred that to SM Doak.

Q. 398. Do you know if additional copies were obtained?
A. 398. To the best of my knowledge the file is complete now.

Q. 399. At the time you took over the job was there a file of Divisional Orders?
A. 399. I believe there was but I am not sure.

Q. 400. Could have been this particular one that was not on file, is that true?
A. 400. When I took over?

Q. 401. Yes, or when you saw it?
A. 401. No.

Re-examined by Prosecutor:

Q. 402. I gather from your evidence that Mr.Hunter was OC and is now the OC of the 7 Cdn F S Sec.
A. 402. Yes.

Q. 403. And who was next to him in seniority?
A. 403. SM Doak.

Q. 404. Was he when you came to the section in December of 1941?
A. 404. Yes.

Q. 405. You mentioned to my friend about Mr.Hunter's office not being used while Mr.Hunter was away, that is the CO's office was not being used while Mr.Hunter was away?

A. 405. It was not being used, SM Doak conducted his duties in the Orderly Room.

Q. 406. Where is your desk in the Orderly Room?

A. 406. There are two desks in the Orderly Room, one with a typewriter on it, the other officially the SM's desk.

Q. 407. How far away from the desk with the typewriter on it is SM Doak's desk?

A. 407. The desks are in a position similar to this table here and that table there (indicating two tables in courtroom).

Examined by the President:

Q. 408. When these Divisional Orders came in if there was some action that should be taken as a result of the order who then in the section issued the orders?

A. 408. The person in charge of the section.

Q. 409. That would be Mr.Hunter when he was there?

A. 409. Yes.

Q. 410. During the period that he was away who would that be?

A. 410. SM Doak.

Q. 411. Do you know of your personal knowledge that he read these Divisional Orders?

A. 411. I don't know, I can't say what time they came in. These orders came in the 25th and are dated to 19th.

Q. 412. Did you ever speak to SM Doak about any Divisional Orders, about the items in them?

A. 412. Not that I recall.

Q. 413. You never checked to see if orders were being carried out?

A. 413. No.

Q. 414. You never drew SM Doak's attention to any particular item in them?

A. 414. I can't say that I did.

Q. 415. Did anybody pay any attention to these Divisional Orders in the section?

A. 415. Anything pertaining to members of the section was published in Part I Orders.

Q. 416. What Part I Orders?

A. 416. 6th Hussars.

Q. 417. Do you know what the general rule was with reference to the opening of mails to the time when you came in as Orderly Room Sergeant?

A. 417. The Orderly Room clerk generally opens the mail, or the SM, except envelopes marked "Secret"

Q. 418. I said prior, I meant from the time you took over?

A. 418. That would be me or the SM.

Q. 419. Think you or the SM opened the mail?
A. 419. Yes.

Q. 420. Prior to 25th Feb you were not in the Orderly Room?
A. 420. No.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83 (B).

The witness withdraws.

6th WITNESS FOR Prosecution:

K-22087, Sgt.D.A.Robertson, CAC, sworn, examined by the Prosecutor:

Q. 421. Will you give your number, rank, name, and unit?
A. 421. K-22087, Sgt.D.A.Robertson, CAC.

Q. 422. What position do you hold in the Army?
A. 422. Clerk to DAQM, Hq 5 Cdn Armd Div.

Q. 423. What mess do you belong to?
A. 423. Hq Sqn Sergeants' Mess.

Q. 424. Do you recall 28 Feb 42?
A. 424. Yes.

Q. 425. What brings it to your memory?
A. 425. That was the night of our Sergeants' Mess Dance.

Q. 426. What mess?
A. 426. Hq Sqn Sergeants' Mess.

Q. 427. What was the origin of that dance?
A. 427. I don't understand your question.

Q. 428. How did the dance originate?
A. 428. We had just opened our mess about 6th Feb and we decided that would be called our opening night dance.

Q. 429. "We decided" what do you mean?
A. 429. The committee, I happened to be on the committee at that time.

Q. 430. What committee?
A. 430. The mess committee.

Q. 431. What arrangements were made for that dance?

Judge Advocate:- Aren't you getting just a little far afield. I any arrangements were made in the presence of the accused they should be established, but I don't think this will help the Court.

Prosecutor:- If the Court wants to know I can tell you.

President:- Has it anything to do with the case itself?

Prosecutor:- Yes.

Judge Advocate:- There may be further questions as to its admissibility as to such time the accused was shown to be present when arrangement was made. It may be quite proper and quite useful.

Q. 432. Do you know the accused?
A. 432. Yes.

Q. 433. Do you recognize him here in this room?
A. 433. Yes.

Q. 434. Where?
A. 434. At the end table (pointing to accused).

Q. 435. Did you see the accused at the dance 28th Feb?
A. 435. Yes, I remember seeing him there?

Q. 436. How did he come to be there?
A. 436. That I cannot tell you.

Q. 437. Is he a member of the mess?
A. 437. Yes, he is a member of the mess.

Q. 438. You have told us that the committee arranged the dance.
A. 438. That is right.

Q. 439. Upon what authority?
A. 439. We were permitted to hold the dance by the OC Sqn, at that time Major Paterson.

Q. 440. What was the first thing that happened regarding the dance?
A. 440. One. procuring women; two, transportation of women to and from the dance. The idea of the dance was the unanimous opinion of the members.

Q. 441. When was it the unanimous opinion of the members do you remember?
A. 441. It is over a period cannot tell you the exact time.

Defending Officer:- The accused is charged with the improper use of a vehicle. We seem to be getting into the question of a dance and I don't have any idea what it is for, but can scarcely see how it is related to the charges before the Court.

President:- Major Andrew, I think you are straying away from the subject matter of the charge in your questions.

Prosecutor:- There is a question of authority.

Judge Advocate:- You are asking the arrangements of the dance and where the idea originated. That doesn't bring anything home to SM Doak. If it is something about the arrangements relating to him it might be all right.

Prosecutor:- I am trying to get something to corroborate a statement made by two other witnesses.

Q. 442. Was the accused present at any of these meeting regarding arrangements for the dance ?
A. 442. Yes.

Q. 443. And what business was transacted at that particular meeting?
A. 443. At the particular meeting I remember SM Doak being present, it was just general discussion as to how to get the dance moving, the decorating, procuring of a dance band and who was going to look after particular items in connection with the dance.

Q. 444. And what are some of the particular items?
A. 444. The bringing together of women at the dance, the necessity for transportation.

Q. 445. Regarding transportation, what was said and discussed?
A. 445. It was going to be left entirely in the hands of TQMS Scattergood who at a later date couldn't handle it and it was passed over to SSM McKinnon.

Q. 446. Do you remember anything made at that meeting about transportation?
A. 446. My knowledge is practically nil of that.

Q. 447. You have said that you were with the DAQM?
A. 447. Yes.

Q. 448. In what capacity?
A. 448. As his clerk.

Q. 449. I produce and show to you what purports to be a record book of some kind, can you tell me what it is? (Hands book to witness).
A. 449. This is the outgoing register from 31 Jan 42 to 5 Mar 42 of our headquarters, where all correspondence leaving the headquarters is entered.

Q. 450. All correspondence?
A. 450. Yes.

Q. 451. Are you familiar with that book?
A. 451. Yes.

Book in question submitted to the Court and the Defending Officer.

Defending Officer:- I would like to ask just how this witness is producing this book; as an NCO in charge of the book, or as one who made the entry.

Prosecutor continues examination:

Q. 452. What connection have you personally with anything in this book?
A. 452. Personally I have no charge of the book with the exception that we are to see that all correspondence from our branch is entered in the book. The chap who entered that could be either of two people, either Tpr.Shepherd or Tpr.St.James.

Q. 453. Where are they now?
A. 453. Tpr.St.James is now our mail clerk at headquarters and Tpr.Shepherd with the 7th Employment Platoon.

Q. 454. Where are they now at this time?
A. 454. I don't know.

Q. 455. And that was entered by whom?
A. 455. Either Tpr.St.James or Tpr.Shepherd.

Defending Officer:- That is merely hearsay evidence and the person making the entry will have to be called.

The Court rules that there is not sufficient evidence to permit the book to be produced by this witness and does not allow it to be entered.

The Defending Officer declines to cross-examine.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83 (B).

The witness withdraws.

Prosecutor:- I wish to get in the record Divisional Order 111 of 19 Feb 42.

There being no objection by the Defending Officer the Prosecutor reads into the record Div Order 111, 19 Feb 42:

"Transport. Use of Transport:- In view of the necessity for economy in the use of transport no Canadian military vehicle (incl staff cars and sta wags) will be used beyond a 25 mile radius from Formation HQ without permission from the Brig Comd in the case of Armd Bdes and Sp Gp and GSO (I) or AA&QMG in the case of Div Tps"

Prosecutor:- In view of the fact that I wish to produce evidence to show that this order was delivered to the 7 Cdn F S Sec. I would ask the Court to give me leave for an adjournment to produce the necessary evidence. Under the circumstances which have arisen I, as Prosecutor, have had no fair opportunity of producing the same and have been prejudiced in the preparation of my case. Now, gentlemen, I ask for that adjournment on those grounds. I will then be prepared to go on and close the prosecution if that evidence is produced. It is essential to my case that I can show that that order arrived on a certain date and that notice was given of the order to whoever had command of the unit at that time.

President:- What witnesses do you wish to call?

Prosecutor:- I wish to call the OC Div Sigs, the despatch rider who delivered the order, the AA&QMG, the person who under his command is in charge of the Central Registry, the party who made the entry in the Central Registry record book of the despatch to the Sigs of the correspondence for 19 Feb 42 to the 7 Cdn F S Sec.

President:- When can you have those witnesses here?

Prosecutor:- One witness is on leave, don't know when he will return; the AA&QMG is away with the GOC and may be back with the General tomorrow; one man is in the hospital, don't know when he will be back. I would say a week to ten days.

Judge Advocate:- What is the position of the accused.

Accused:- Under open arrest.

Prosecutor:- At this point here, there is Mr.Hunter whom I was intending to call, but at this point he can give no evidence. He was not there, he was in the hospital. I may call him before the prosecution's case is closed but I want this evidence.

The Court directed that the Prosecutor and the Defending Officer confer together and ascertain whether or not it is possible for the Defending Officer to make a Admission that the order in question was delivered to the 7 Cdn F S Sec on or about 19 Feb 42.

At 4.00 o'clock the Court adjourned until 9.00 o'clock, 16 May, 1942.

On 16 May, 1942, at 9.00 o'clock, the Court re-assembled pursuant to adjournment, present the same members as when adjourned.

The Prosecutor and Defending Officer admit that:-

(a) Envelope No. 2245 was sealed in Central Registry, Hq 5 Cdn Armd Div, and contained the following documents addressed to 7 Cdn F S Sec:-

(1) Div Orders dated 19 Feb 42.
(2) Document dealing with discipline, file 5-20/A dated 20 Feb 42.
(3) A secret document, file 25-2.

(b) Such envelope No. 2245 was delivered to the Signals Office, Hq 5 Cdn Armd Div.

(c) This envelope was despatched from the Signals Office and a receipt for its delivery returned to the Signals Office on 21 Feb 42 for checking.

No objection to admission by the accused.

The trial is continued.

Seventh Witness for Prosecution:

Prosecutor states and Defending Officer admits that R.P.76 has been complied with.

Lieut.H.A.Hunter, 7 Cdn F S Sec, sworn, examined by Prosecutor:-

Q. 456. Will you give your initials and name?
A. 456. H'A'Hunter.

Q. 457. Of the 7 Cdn F S Sec?
A. 457. Yes.

Q. 458. Do you know the accused SM Doak?
A. 458. Yes.

Q. 459. Do you see him here in the courtroom?
A. 459. I do.

Q. 460. Do you recognize him?
A. 460. I do.

Q. 461. How long have you known the accused?
A. 461. I have known the accused since approximately the end of June, 1941.

Q. 462. And how did you come to meet him?
A. 462. I first met him when he was engaged in duties at Hq 5 Cdn Armd Div.

Q. 463. What duties has he now?
A. 463. CSM, W) II, 7 Cdn F S Sec.

Q. 464. When did he become that?
A. 464. He became A/CSM on 24th or 25th Oct 41, and was subsequently confirmed 14 Feb 42.

Q. 465. You mentioned he came to the section will you describe what you mean by the section?

A. 465. A Field Security Section consists of one officer of the rank of Captain or Lieutenant, a WO II with rank of CSM, two sergeants, four corporals, and six lance-corporals and one batman-driver. It is a small section, self-contained, with a serial number of its own, and works under the general direction of the "G" staff of Div HQ.

Q. 466. How many altogether in the section?
A. 466. At present, 13.

Q. 467. How many are you supposed to have?
A. 467. 15.

Q. 468. How long have you been in command of the section?
A. 468. Went up to Camp Bordem, Ontario, as Field Security Officer, 5 Cdn Armd Div, 5 May 1941.

Q. 469. You have been Security Officer since that time?
A. 469. I have.

Q. 470. Do yourrecall 28 Feb 42?
A. 470. I do.

Q. 471. Where were you on that date?
A. 471. I was in No. 15 Canadian General Hospital.

Q. 472. How long had you been there?
A. 472. I went in on 2 Feb 42 and came out 23 Mar 42, seven weeks in all.

Q. 473. What happened to the section during your absence?
A. 473. At the time I went into the hospital I took the matter up with G 2, Div HQ. At that time I was under the impression that I would be in hospital for a period of only ten days, and it was satisfactory to G 2 that SM Doak act in my absence.

Q. 474. Act as what?
A. 474. In charge of the section. At that time there were no Field Security Officers ava lable from our own pool as at that time it was not established.

Q. 475. What normally is the position of SM Doak in the section?
A. 475. He is the senior in the section, ranking next to myself. Normally in a Field Security Section the CSM is responsible for the office administration and routine matters of the section.

Q. 476. What have been the duties of the accused during the months of February and, we will say, March?
A. 476. He was acting in my place as OC Sec at that time as well as being in charge of the general administration. At that time the matter cropped up of having detachments on various units in the Division for security instruction and delivering lectures, and checking up on security generally within the Division.

Q. 477. Can you tell me what duties he would have regarding the administration of the section?
A. 477. He would be responsible for the administration of the office, the submission of returns and matters of that nature, the provision of transport and the handling of transport in the section, and also in

matters dealing with security problems. Minor matters in a security section. There are certain documents come in on security investigations that are to be opened by officers only.

Q. 478. He wouldn't open those?
A. 478. Those are to be opened by me.

Q. 479. As far as you have told me about the administration, he would perform those duties while you were present?
A. 479. See that they were performed, check up on them. A good deal of the administration was usually done by one of the NCOs, Cpl.Sutcliffe, who has since left the office.

Q. 480. You did say on your instructions whatever was done?
A. 480. The arrangements actually weren't under my instructions, they were under G 2, but I had discussed the matter with the SM and suggested that he contact Major Murphy who would make the necessary arrangements with the Brigades and I understand SM Doak contacted the Brigades as well with a view to having personnel attached for security duties.

Q. 481. In this administration end of it, can you tell me anything about correspondence, what happens to it?
A. 481. The correspondence comes through the Central Registry at Div HQ.

Q. 482. I mean just what you know about it in your own section.
A. 482. Entered in the incoming mail ledger, the outgoing correspondence is entered in the other half of the book as it goes out.

Q. 483. What happened to the correspondence in the months of January and February to your knowledge?
A. 483. Entered during the month of January and was entered up till the time I left in February.

Q. 484. I now produce and show to you what purports to be a record of incoming mail, is that right?
A. 484. That is right.

Q. 485. What is that really?
A. 485. That is a record of every letter that comes into the office on routine matters on purely internal security investigations. I keep "Secret, Officers Only" record locked up, but this is the record of all other mail that comes into the office.

Q. 486. What would be included in all that other mail?
A. 486. Security letters from Div Hq on routine matters, CACROs, Div Orders, and other correspondence of a like nature.

Book in question submitted to the Court and the Defending Officer. There being no objection it was admitted in evidence as Exhibit "L"

Q. 487. What period does that book cover?
A. 487. That covers the period from 23 Dec 41 till 15 May 42.

Q. 488. Is that record complete?
A. 488. It is not.

Q. 489. Where is the discrepancy in it?
A. 489. The last entry in incoming mail is dated 9-2-42 and the next succeeding date is on 1 Mar 42.

Q. 490. During that period that the record was not kept in the incoming mail book who was in charge of the section?
A. 490. SM Doak.

Q . 491. To your knowledge did you ever have any reason to complain about the state of your mail, I mean the incoming mail?
A. 491. No, I can't say that I did.

Q. 492. You mentioned to me about, when you were giving your duties, that transport of your section was one of your duties?
A. 492. We have an issue of transport for the section of one station wagon and 13 solo motorcycles.

Cross examined by Defending Officer?

Q. 493. Before you went to the hospital and were acting as OC Security Section, were you out of the office a good deal?
A. 493. A fair amount of the time, yes.

Q. 494. Could you give any estimate of what percentage of time?
A. 494. I couldn't give an estimate as to percentage. At that time or shortly after arriving over here, I was appointed Mess Secretary, had duties in connection with that; also had calls to make around the Division.

Q. 495. In any event, it was a good deal of the time?
A. 495. Yes.

Q. 496. So that the office administration would be carried on pretty well by the accused?
A. 496. Under his supervision, yes.

Q. 497. So I take it that the institution of such records as the mail book was the work of the accused?
A. 497. I requested after we arrived in this country that a mail register be set up, in other words directed that it be set up to register incoming and outgoing mail. That was subsequently done.by the accused.

Q. 498. He would be the one that would keep it going?
A. 498. Yes.

Q. 499. So that when he was acting in his capacity of SM the record would be kept?
A. 499. Yes.

Q. 500. Until the 9th Feb?
A. 500. Yes.

Q. 501. So that he was doing his job?
A. 501. Yes.

Q. 502. You stated that you never had to complain about non-delivery of mail?

A. 502. I can't recall that we had any serious troubles in that regard.

Q. 503. Actually, you as OC would not be in very close touch with mail coming in, it would go through someone else's hands before going to you?

A. 504. It comes into our office and is seen by myself.

Q. 505. But ordinary routine mail would go through someone else's hands first?

A. 505. Yes.

Q. 506. Probably the SM would know more about whether mail came in on time than you did?

A. 506. Possibly.

Q. 507. He would be the one who was actually in closer touch with the delivery of mail?

A. 507. I wouldn't say that. If mail does not come in I expect to be notified about it by my staff.

Q. 508. Might not the SM get in touch with those who were to send the mail rather than to bother you with the fact that it had not come in?

A. 508. That could happen, yes.

Q. 509. When you left the unit and went to the hospital the SM's duties were extended?

A. 509. Yes.

Q. 510. So that he would have to be out of the office a great deal more than normally?

A. 510. Yes.

Q. 511. Consequently he could not pay as much attention to office administration?

A. 511. Naturally he would not have as much time for office administration as he would have if I was there.

Q. 512. Furthermore he wouldn't have as many people to work for him as you did?

A. 512. Not during February owing to detachments to various units.

Q. 513. So that if from the 9th Feb till the 1st Mar the book was not kept up it is not a very bad reflection on his administration is it?

A. 513. The ledger should be kept up in any case. Myself I see no reason why it was not kept up despite the fact one of the men in the office was out on detachment.

Q. 514. The entries were resumed again before you knew about it?

A. 514. They were.

Q. 515. And presumably under the direction of the SM?

A. 515. I presume so.

Q. 516. Do you consider that the SM ran the section satisfactorily during your absence?

A. 516. I was in touch with the G 2 on that matter and everything was considered satisfactory by Div HQ and from a security point of view in the units around the Div the actual work had been considered satisfactory.

The Prosecutor declines to re-examine this witness.

Examined by the President:

Q. 517. While you were in the hospital did the accused come down to see you at all?

A. 517. Yes, quite frequently.

Q. 518. Why did he come down to see you?

A. 518. He came down for personal contact; he brought my mail. I was actually not struck off the strength of the section, and was advising him on various questions that cropped up.

Q. 519. Did he speak to you about what he was actually doing, specific things, or just general policy?

A. 519. Questions of general policy and also one matter discussed, that of placing men with the various units. I suggested that he contact Major Murphy who in turn would contact Brigade Majors and have attachments put into operation.

Q. 520. Do you remember him going down a few days prior to 28th Feb?

A. 520. On one occasion prior to the 28th, the 25th I got special leave to come back to B Mess, Div Hq, for the purpose of getting out a statement for the mess. The accused picked me up that morning at No. 15 General Hospital and took me back that evening and he visited me around that time in the hospital.

Q. 521. Did he visit you between that time and 28th Feb?

A. 521. He believe he may have been there on the 27th, am not certain of that but normally he would be in around that time of the week.

Q. 522. Any discussion at that time with respect to any trips he might be taking?

A. 522. There were a few words said on the 25th when we arrived back at the hospital about a dance and some mention was made of a trip to Matlock. He said he had met a S/Sgt. there and would like to bring her to the dance. I asked the distance and was told it was around 120 miles, and I said at that time there would have to be some better reason to go that difference. Also in conversation with the SM relative to the dance was told that transportation was being provided through Div Hq. At that time I said no objection to station wagon being used in accordance with policy of Div Hq.

Q. 523.4 Do you know of any reason whereby a trip might be made to Matlock?

A. 523. Well, that would depend largely on the G 2 of the Div or the G 1. In my own case before I go into London I get in touch with G side and get authority.

Q. 524. That don't quite answer my question. What I want to know is is there anything at Matlock, any problems there, that might require a trip?

A. 524. I know of no problems at Matlock to require a trip.

Q. 525. You said a minute ago you told the accused he would have to have a better reason for going to Matlock than picking up Sgt.Mary Sumner and taking her to a dance.

A. 525. Yes.

Q. 526. What did you mean by that?
A. 526. I thought the inference there was obvious in itself.

Examined by Judge Advocate:

Q. 527. Did the accused ever mention to you any other reason for going to Matlock about that time?
A. 527. I can't recall that he did.

Q. 528. Did he mention to you that he had been at Matlock, did he report that to you?
A. 528. Previous to this?

Q. 529. No after the 28th or 1st March.
A. 529. I became aware that the trip had been made.

Q. 530. When did you first become aware of the trip?
A. 530. Some time afterwards.

Q. 531. Was it the accused who mentioned it to you?
A. 531. No.

Q. 532. About how long after the 1st March would it be when you first saw the accused?
A. 532. It would be some time during that week of 1st March.

Q. 533. He was seeing you every few days?
A. 533. Yes.

Q. 534. So far as you are aware was there any business done at Matlock about that period by your section?
A. 534. Not as far as I am aware.

Examined by the President:

Q. 535. Do you know of a Div Order regarding vehicles of this Div not going outside of a 25-mile radius?
A. 535. Yes.

Q. 536. When were you first aware of that?
A. 536. After I came back from the hospital.

Q. 537. When you are going on a trip what would be approximately the maximum distance you would drive without authority?
A. 537. Within a ~~zone~~ radius of about 25 miles. At one stage of the game when we first came to this country and were issued motorcycles it was necessary to get 500 miles on them before the chaps took the driving test, and had trips to Winchester and so forth, but normally confined to a 25-mile radius. In my own case, like going into London, I get authority from G 2.

By the Judge Advocate:

Q. 538. Was that the state of affairs the latter part of Feb and 1st of March?
A. 538. It was.

Q. 539. You reported to G 1 and G 2 before making the trip?
A. 539. Yes, I did myself. If it was one of the section detailed I naturally took the responsibility for that and took the matter up with the G side.

By a member:

Q. 540. As you know, in a regiment the normal procedure is for the 2 i/c to ask permission of the Sqn Commander for a station wagon.

A. 540. Yes.

Q. 541. What is the case in your section, does anyone junior to you have to ask permission for the use of the station wagon?
A. 541. At the present time restricted to my use unless ordered otherwise.

Q. 542. What about Saturday and Sunday work, is it necessary for you to go to the G 2 and get permission?
A. 542. In that case usually take it up verbally with them and state that I am sending the vehicle out.

Q. 543. You don't have to have a form?
A. 543. I issue the permit myself.

Q. 544. What is there at Matlock to do with Field Security?
A. 544. The Field Security Wing of the War Intelligence College is located at Matlock. That is the final school where Field Security candidates are passed before they take the field with their section. Matlock deals more with theory and principles of Field Security, other ranks sent there for two weeks and either pass or fail, then go back to the Winchester Pool and placed in various units.

By Judge Advocate:

Q. 545. This school at Matlock is it purely instructional?
A. 545. Purely instructional but certain points of policy formulated for consideration of the War Office.

By the President:

Q. 546. I believe a number of your NCOs, have been on courses at Matlock?
A. 546. Yes.

Q. 547. During this year?
A. 547. Yes.

Q. 548. Has the accused been to the school at Matlock?
A. 548. Yes.

Q. 549. Has Sgt.Flemming been there?
A. 549. Yes.

Q. 550. Sgt.McKenna?
A. 550. Yes.

Q. 551. And a number of others?
A. 551. Yes, the whole section at the present time including myself have had a course at Matlock.

Q. 552. So you are fairly well acquainted with the town?
A. 552. Yes.

Q. 553. Had a pretty fair idea of what part of the country it was in?
A. 553. Only roughly, I knew it was up north some place.

Q. 554. So that you would know it was not just around within 20 or 25 miles?
A. 554. Yes.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83 (B).

The witness withdraws.

Prosecutor;- Before I close my case I would like to bring up a matter brought up yesterday concerning the evidence of the AA&QMG and GSO 1. When I mentioned it yesterday I thought my friend stated that no authority had been obtained from either of the two mentioned by the accused to make this trip and that he was content to leave it at that. I would like it as a matter of record exactly what my friend cares to do with reference to these two witnesses.

Defending Officer;- I would not require to have them called.

Prosecutor;- To complete my case I either have to call them or it has to be agreed that he didn't get consent from them.

Defending Officer: It is admitted that he didn't get the consent of the AAAQMG or GSO 1.

Defending Officer;- Before the accused is called upon for a defence I submit that the first and third charges should be dismissed on the ground that all the essentials have not been proven. The one in particular that he took the station wagon wrongfully and without authority. As I said I am not stating anything about authority from GSO 1 or AAAQMG but there is still the case of the CO from whom authority might be obtained and I submit that the evidence is very, very slight. There is no reason that he didn't have authority. The CO has stated that the accused made a definite request and his answer to the accused to my mind would be just "Sure, ge ahead, think up a good reason for going" and unless the Prosecution can show that the trip was made without any authority; a definite refusal of a request or the alternative that no request was made. The essential part of the first and third charges has not been proven and the case under those charges should be dismissed.

Prosecutor;- Evidence is before the Court that a Divisional Order No. 111 was sent to the 7 Cdn F S Sec. At that t me the accused was in charge of the office, he was also in charge of the section, he was the CO. You are familiar with the order because it was read to you yesterday and in the order it states that consent must be obtained from the GSO 1 or AAAQMG in the case of Divisional Troops for a station wagon to go outside of an area 25 miles from formation headquarters. There is nothing, I submit, to lead us to believe that this order never reached the orderly room of the 7 Cdn F. S Sec. As CO of that section the order would come before the accused. That order was sent out of the Signals office in the usual routine procedure on 21st Feb 42. The offence for which the accused is on trial was committed on 28 Feb 42 and on 1 Mar 42. This being a Divisional Order and setting out who shall give consent nobody below the rank or official capacity of the GSO 1 or AA&QMG can give consent to divisional troops to use that station wagon, therefore I submit that whether or not Mr.Hunter gave consent there is nothing to it whatsoever because the order definitely states who can give it.

The ,ext thing is that Mr.Hunter, whose evidence was obtained by the Court, stated that he never gave consent at all. He didn'y say anything regarding "yes" or the affirmative. What he said were words to this effect "You must have a better reason than that" when he was talking to the accused. He was talking to his 2 i/c, a man of responsibility, and a man

of great responsibility at that time who had a certain job thrust upon him whereby he assumed greater duties than ordinarily. Therefore he was placed in a position where he must be cautious and wary and thoughtful of everything he did. But evidently, from the evidence, he has taken some meaning from Mr.Hunter's remarks and twisted them to suit himself because he made the journey, he made the journey.

Now, I submit that there wasn't any authority given and that the evidence proves conclusively that no authority was given and I contend that the motion should be dismissed.

Defending Officer:- The way the charges are framed, first, using conduct to the prejudice, in that . . . used with the alternative charge of disobeying an order. There is the divisional order entering into the second and fourth charges. The question therefore is whether the accused is responsible for disobeying those orders.In the first and second charges there is no mention of authority. Presumably authority would come from the CO of the accused. I might also point out that the accused in this position goes to his CO for authority to use a vehicle and he has to rely entirely on what his CO says. If his CO gives authority for the vehicle to go outside the 25-mile limit that is the CO's responsibility, nothing to do with the accused or anyone under him, they are not required to see the G 1's signature, they are entitled to assume that the CO has made enquiries from higher formation. I cannot see how the question of this divisional order enters into the first and third charges in any way and particularly as the charges are drawn here.

The Court is closed to consider their decision.

The Court disallow the submission. The Court is reopend and the decision announced.

The trial is proceeded with.

The Prosecution is closed.

D_E_F_E_N_C_E

R.P. 40 (A) and (B) complied with.

The accused states that he desires to give evidence under oath and to call witnesses as to character only.

First Witness for Defence:

D-56, WO 11 (CSM) Edwin Stanley Doak, 7 Cdn F S Sec, sworn, examined by Defending Officer:

Q. 555. Would you tell the Court generally your duties in your unit as CSM?

A. 555. Looking after the Orderly Room generally, there is a clerk to assist. In that capacity I deal with correspondence coming into the office and the general running of the section as regards administration. When correspondence or anything with regard to training comes up I take the matter up with Mr. Hunter, our OC, and if the policy which I have stated meets with his approval put it into effect. At times my duties also entail leaving the Orderly Room and visiting the men on detachment to various units. They in their turn have difficulties, quite

frequently come up against some security matter on which they are not quite sure. I should be in a position to give them advice on it. Normally they should come in from detachment and discuss their troubles with Mr.Hunter, but Mr.Hunter's time is ordinarily taken up with other duties, visiting Brigades, officers on leave, and other investigations, the result is that frequently he doesn't get time to see the men himself and I get there and try to make things as simple as possible.

Q. 556. What changes were made in your duties at the time Mr.Hunter was in hospital?

A. 556. It would become necessary for me to carry on with a larger number of his duties, going to see the 1st Bde, 2d Bde, and Sp Gp, whom we talked to very frequently, also to the unit secutiry officers.

Q. 557. Would you be as closely in touch with office routine at that time?

A. 557. No, definitely not. Some of the section made remarks to me that my place was terribly disrupted n in the orderly room since Mr.Hunter was away. At that particular time I might mention that up to the 1st Feb no one had been out on detachment to the various units. If they had been on detachment before that there probably would not have been the same necessity for getting out on my part because the men would be acquainted with their duties and have had experience doing it. At that time they were not acquainted with it and it became necessary for me to get them out to the various brigades and units in the Division and getting them going.

Q. 558. Who was in charge of the Orderly Room routine during the latter part of February?

A. 558. Cpl.Sutcliffe up to the 25th Feb, that is when Sgt.Hansen took over.

Q. 559. What can you tell us about this Divisional Order No. 111?

A. 559. With regard to that particular order I can definitely state that up until such time as the matter was put before me by Sgt.Hansen I was unaware of the order. On 25th Feb Div Orders were given a definite file in the office, in other words, a wall file. Up to that time Div Orders, Unit Orders and others were kept in the file jackets, they were there and subject to use by the section, they could be used by any of the men to check up on orders affecting the security section.

Q. 560. When you say used by the men, what do you mean?

A. 560. That the men could take the orders and get the gist out of them and study them up thoroughly, be conversant with a particular order, be it Routine or Div.

Q. 561. What was the policy about removing orders from the Orderly Room?

A. 561. I wouldn't say generally a policy, a matter of the men themselves. One of the features of security work is the fact that we are dealing with men of a reliable nature. The result is that they themselves are checking on security throughout the Division. I think in that case the means indicated beyond question that no policy be laid down with regard

to men taking orders for perusal. Have had them in my quarters and they could take them at any time to study them. I can recall one particular instance where I know one of our personnel had orders out for his own information to make a summary of the orders and what they contained for reference and study by unit security officers in the division.

Q. 562. How long had this practice of taking orders out of the office been in vogue?

A. 562. Since the office opened never been any question about taking them out, no policy laid down whatever in the early stage because there were no files. Now, since Sgt.Hansen changed over, he had his work cut out for some considerable time until comparatively recently that we managed to get a file.

Q. 563. What was your practice with regard to the use of the station wagon while Mr.Hunter was away?

A. 563. While Mr.Hunter was away it was used a minimum of every second day by myself in journeys to and from the hospital to see Mr.Hunter. I have used it at other times. I had a slight mishap with my motorcycle and fell on my ankle which had the effect that I could not use my motorcylce any further.

Q. 564. What distance would you go on these trips?

A. 564. Down to Bramshot Hospital, to the various units of the Division, also went up to London to take up war diaries. I took the matter up with Mr.Hunter and he said to take the war diary direct to London to CMHQ which I did and used the station wagon.

Q. 565. Was that the only occasion?

A. 565. No, on 26th Feb the picture "Next of Kin" was being shown at Curzon Theatre at 1445 hours, and Major Lord, G 3, phoned and asked me to come up and see him, and he ordered me to appear at London on 26th Feb to see that picture which was a secret pre-view, and bring back a report if I considered the picture of good security value for the Division. I used the station wagon then.

Q. 566. What authority did you get for using the station wagon on that date?

A. 566. When I got the intimation of it I made a note and I mentioned to Mr.Hunter that I had been told by G 3 to go to London to see this picture and that I was going in the station wagon and he said "All right?"

Q. 567. What complaints did you have, if any, in the Orderly Room about non-delivery of mail?

A. 567. The clerk that is there at the present time has a complaint about the DRs missing their regular schedules. A case happened no longer ago than Monday of this week when Sgt.Hansen mentioned to me that the DR had not called on the morning run. I took the matter up with Signals. We have had difficulty a few times.

Q. 568. With regard to going to the dance on 26th Feb, when did you first discuss this with Mr.Hunter?

A. 568. A short time before the dance, I think it was some during the 26th, I am not sure, I had a discussion with Sgt.Flemming and I remarked to him that I would like to go to Matlock, I am positive of my statement, "I would like to go to Matlock" and his reply was "Well, why don't you go?" I said "No, not unless I take the matter up with Mr. Hunter". He remarked "Well, Mr.Hunter is in the hospital, you can go in the station wagon" I said "No, I won't" He said "As a matter of fact I would like to go up myself" and I said "Why?" and he said "On account of this matter we have on hand." I will admit he had trouble, I had given suggestions. He said "As a matter of fact I would like to go up and see the instructors at Matlock and discuss it with them" On the 27th I went down to see Mr.Hunter and brought the matter up with him and in the course of conversation asked if he had any objections to my going to Matlock. I said there was a young lady there I would like to take to the dance, also said that transportation to the dance had been mentioned, authority would be procured for the transportation of parties to and from the dance. I said that I would like to go up there and pick up Sgt.Sumner and Mr.Hunter thought for a few minutes and he said "How far is it?" I said that I had measured it as approximately 130 miles. He thought and his exact reply was words very much to the effect "Yes, but think of a good reason" I said in reply "As a matter of fact, sir, Sgt.Flemming wishes to go with me as he wishes to see his instructors at Matlock on the difficulty of which you are aware" Mr. Hunter said "Yes, a good reason" and as he made no denial I assumed I had definite permission to go.

Q. 569. What would have been your reaction if you hadn't thought you had permission?

A. 569. I would not have gone on the trip at all, would never take French leave with the station wagon other than permitting Sgt.Still, our QM, to go to the dump for which I have permission, have never taken the station wagon outside immediate Aldershot area without consulting Mr.Hunter.

Q. 570. You have had the various witnesses tell about the trip to Matlock and you confirm that the trip was made?

A. 570. Yes.

Q. 571. Why did Sgt.Flemming not see the instructors at Matlock?

A. 571. When we got up there found that the school had terminated one course and that it was three days before the next course opened and he could not see the instructors that he wanted to see.

Q. 572. How long have you been in England?

A. 572. Since 23 Nov 41.

Q. 573. And what unit are you with?

A. 573. No. 7 Cdn F S Sec.

Q. 574. What was your general practice in Canada with regard to military vehicles?

A. 574. In Canada we had no vehicles actually on charge to us, we had two vehicles attached to HQ Sqn, motor-

A. 568. A short time before the dance, I think it was some during the 26th, I am not sure, I had a discussion with Sgt.Flemming and I remarked to him that I would like to go to Matlock, I am positive of my statement, "I would like to go to Matlock" and his reply was "Well, why don't you go?" I said "No, not unless I take the matter up with Mr. Hunter." He remarked "Well, Mr.Hunter is in the hospital, you can go in the station wagon." I said "No, I won't." He said "As a matter of fact I would like to go up myself" and I said "Why?" and he said "On account of this matter we have on hand." I will admit he had trouble, I had given suggestions. He said "As a matter of fact I would like to go up and see the instructors at Matlock and discuss it with them." On the 27th I went down to see Mr.Hunter and brought the matter up with him and in the course of conversation asked if he had any objections to my going to Matlock. I said there was a young lady there I would like to take to the dance, also said that transportation to the dance had been mentioned, authority would be procured for the transportation of parties to and from the dance. I said that I would like to go up there and pick up Sgt.Sumner and Mr.Hunter thought for a few minutes and he said "How far is it?" I said that I had measured it as approximately 130 miles. He thought and his exact reply was words very much to the effect "Yes, but think of a good reason." I said in reply "As a matter of fact, sir, Sgt.Flemming wishes to go with me as he wishes to see his instructors at Matlock on the difficulty of which you are aware." Mr. Hunter said "Yes, a good reason" and as he made no denial I assumed I had definite permission to go.

Q. 569. What would have been your reaction if you hadn't thought you had permission?

A. 569. I would not have gone on the trip at all, would never take French leave with the station wagon other than permitting Sgt.Still, our QM, to go to the dump for which I have permission, have never taken the station wagon outside immediate Aldershot area without consulting Mr.Hunter.

Q. 570. You have had the various witnesses tell about the trip to Matlock and you confirm that the trip was made?

A. 570. Yes.

Q. 571. Why did Sgt.Flemming not see the instructors at Matlock?

A. 571. When we got up there found that the school had terminated one course and that it was three days before the next course opened and he could not see the instructors that he wanted to see.

Q. 572. How long have you been in England?

A. 572. Since 23 Nov 41.

Q. 573. And what unit are you with?

A. 573. No. 7 Cdn F S Sec.

Q. 574. What was your general practice in Canada with regard to military vehicles?

A. 574. In Canada we had no vehicles actually on charge to us, we had two vehicles attached to HQ Sqn, motor-

cycles, for our exclusive use, later on had access to three other combinations and solos. As Mr.Hunter remarked in his statement our policy made it necessary that men had to have considerable mileage on before they could get their driver class CIC Motorcycle, result was that we had space there and men have gone off quite some considerable distance at all times under authority of the garage . Mr.Hunter knew the men were going and I had authority for them to go as long as going at one time under Sgt.Liot, Sgt.Flemming, or myself.

Q. 575. That is considerable use of vehicles?
A. 575. On one occasion can recall going up close to Gravenhurst from our lines at Borden.

Q. 576. You had recently come from Canada where military vehicles were used very readily for various purposes?
A. 576. Yes.

Q. 577. Had anything happened over here to impress upon you the diffierent situation in this country with regard to military transportation?
A. 577. You mean when I came over here!

Q. 578. Yes.
A. 578. Yes, when I came over here I had no knowledge at all of the gasolene situation. Saw plenty of civilian cars around and military vehicles used for lots of purposes and the importance of conservation was never impressed on my mind.

Cross examined by Prosecutor:

Q. 579. You told my friend that your duties entailed looking after the Orderly Room generally?
A. 579. Yes.

Q. 580. Tell me what happened with regard to correspondence coming into that office when you were in charge.
A. 580. When Mr.Hunter went to the hospital, the policy was laid down. The correspondence came into the office and it was opened by the clerk, it was entered in incoming correspondence book. It was his duty then to take the correspondence and bring anything of note to my attention which he usually did in the course of his duties when he came in. Frequently not there early in the morning as men stationed here at that time not on detachment, required training and I was with them for some little time. I returned to the office and he would put before me all the correspondence that had arrived.

Q. 581. All of it?
A. 581. That I can't answer, because if on coming in I had an appointment with one of the Field Security Off- from one of the Brigades he would put before me what he considered urgent.

Q. 582. Would you see the correspondence at some time or other that he had left in the office?
A. 582. Normally I would, but cannot be sure of it.

Q. 583. Would you normally see it?

A. 593. If it was something that didn't require attention and a routine matter that he had been in the habit of handling he would carry it out himself.

Q. 584. Orders, when they came in would they be brought to your attention?

A. 584. Anything that came into the Orderly Room, Routine Orders, Div Orders, I made a practice of seeing myself if I knew they came in.

Q. 585. It was your duty to see them.

A. 586. It was my duty when attached to the Orderly Room and Mr.Hunter was there, but when he went to the hospital I could not see them all.

Q. 586. It was your duty as the person commanding 7 Cdn F S Sec to see all orders that came into that Orderly Room.

A. 586. I was not commanding 7 Cdn F S Sec.

Q. 587. But you were acting.

A. 587. I was not, Mr.Hunter was not struck off strength, he was only attached to No.15 General Hospital. His evidence stated that I was acting O/C, that is not exactly correct, it may be from his point of view but it was neither mentioned to me by Mr. Hunter or G 2 verbally or in writing that I was carrying on Mr.Hunter's duties at the time he was in the hospital; I went down every second day taking d wn the correspondence.

Q. 588. Who was in charge of the Orderly Room when Mr.Hunter was in the hospital?

A. 588. Most of the time the clerk.

Q. 589. I am trying to get you to say it was your responsibility at all times, is it not your responsibility?

A. 589. Definitely when Mr.Hunter is here.

Q. 590. And when he is away too.

A. 590. That is a question.

Q. 591. We have an order which is supposed to have reached your Orderly Room.

A. 591. I have see that order.

Q. 592. When?

A. 592. That i Can't state. I am sure of having seen that order at the time Sgt.Hansen and myself put this order on file and that is the first time it came to my attention, that was somewhere in the vicinity of the end of the first week in March when we completed a file for Divisional Orders.

Q. 593. That order, when it came into the office you didn't see it?

A. 593. That I can definitely say that I didn't see it until the file was being made up and then went through all orders.

Q. 594. Did you through any correspondence coming into your office, into the Orderly Room, learn of a meeting of officers to be held in the Garrison Theatre at Farnborough on 25th Feb?

A. 594. No.

Q. 595. Did you ever hear of a lecture to be held in the Prince Consort's Library 24 Feb 42 on Air Liaison?

A. 595. I can't recall that.

Q. 596. Do you recall ever receiving a notice of a lecture to be given by Maj-Gen.Sansom toward the end of February?

A. 596. I cannot recall.

Q. 597. Did you ever receive circular letter from the DAAG 5 Cdn Armd Div, regarding discipline, something to this effect: "It is desired to point out to Form and Unit Comds that any matter of considerable importance, or of an unusual nature, occurring in a Formation or Unit should be reported to this HQ immediately through the proper channels" Did you ever hear that?

A. 597. No, I can't recall -- can truthfully state I don't recall it.

Q. 598. Now then, what did you do with your days? Tell me what in February your duties would be on an average.

A. 598. Nothing, you could say, would be regular. In Mr. Hunter's absence my duties would be on a number of days in the week talking to unit security officers.

Q. 599. How long would that talking take?

A. 599. Sometimes it might entail the work of one entire days.

Q. 600. You would start away at what time in the morning?

A. 600. A matter regarding the training to be carried out that day.

Q. 601. Well, on an average how far would you go, what time would you start in the morning?

A. 601. The Security personnel are on duty 24 hours a day.

Q. 602. What time did you start to work in the morning?

A. 602. Mostly 9.00 o'clock.

Q. 603. Every day did you go to the Orderly Room?

A. 603. Sometimes go at nine o'clock at the present time.

Q. 604. In February what did you do, go to the Orderly Room in the morning?

A. 604. I went to the Orderly Room when I got the men on their duties.

Q. 605. Every day?

A. 605. Yes, most of the men on their way at 9.15 and had an appointment at 9.15 with a security officer didn't have time to go to the office, went there sometime during the day.

Q. 606. When you went there, there was correspondence that had come in during the day?

A. 606. Yes.

Q. 607. And as the person in charge of the administration wouldn't it be reasonable that you would read it?

A. 607. Yes, but at that time the correspondence situation was nothing like to the system introduced only recently.

Q. 608. I asked you if it was not a reasonable conjecture that you would read mail every day, then you answer and say didn't have the same system then as now.

A. 608. I would possibly read what mail the clerk had left out.

Q. 609. You had been following that system up to the first of March we will say, and sending it on, I imagine, to whoever is supposed to look at it.

A. 609. Frequently didn't send on all mail at that time, e.g., Routine Orders didn't go direct to Mr.Hunter or I.

Q. 610. Where did they go?

A. 610. Into the Routine Order file.

Q. 611. What happened to Div Orders?

A. 612. Usually placed in another file jacket.

Q. 613. And when Mr.Hunter was away did you feel it was important to read Div Orders when they came out?

A. 613. I definitely felt it important to understand Routine or Div Orders, but whether or not during that period I cannot say.

Q. 614. It would be, would it not, the correct thing for you in carrying out your duties correctly, appropriate to read these orders when they came would it not?

A. 614. Right now it would be.

Q. 615. Why not then?

A. 615. Because the pressure of carrying Mr.Hunter's duties and in addition the fact that I taken off practically a full afternoon or morning every second day to go to the hospital gave me a very short time.

Q. 616. What I want is this, and I want a direct answer, you were the senior man in this Orderly Room during February in that section were you not?

A. 616. Yes.

Q. 617. And as senior man you had certain responsibilities thrust on you which you didn't have before, is that right?

A. 617. Yes.

Q. 618. And you had to go out and visit units?

A. 618. Yes.

Q. 619. You went to the Orderly Room some time during the day?

A. 619. I will not say always had any available time when not on Mr.Hunter's business.

Q. 620. You were there mostly every day through February?

A. 620. Yes.

Q. 621. And these greater duties thrust on you a greater responsibility?

A. 621. Yes.

Q. 622. In the administration of it?

A. 622. Yes.

Q. 623. Being the senior man in there?

A. 623. Yes.

Q. 624. And therefore you were interested in what the men were doing?
A. 624. Definitely.

Q. 625. And what things affected the men?
A. 625. Yes.

Q. 626. Including orders from higher command?
A. 626. Right.

Q. 627. And therefore it was in your interest every day to read those orders?
A. 627. Yes.

Q. 628. Now, then, I want to come down to this mess meeting that you mentioned; when was this mess meeting held when arrangements for the dance were made?
A. 628. Cannot say the date.

Q. 629. About when?
A. 629. It would be in the early part of February.

Q. 630. Now then, at that meeting what arrangements were made for the transportation of guests, the lady guests?
A. 630. It was suggested at that meeting that TQMS Scattergood have it in hand.

Q. 631. How to make arrangements, anything said?
A. 631. Nothing said at the meeting.

Q. 632. Anything said at any subsequent meeting as to what arrangements had been made?
A. 632. Yes.

Q. 633. What?
A. 633. It was stated that SSM McKinnon was looking after the transportation.

Q. 634. If you belong to the squadron and wanted to take a lady friend what would you do?
A. 634. Had I been with the squadron I would have asked SSM McKinnon to supply transportation.

Q. 635. Was anything said about the distance they would go?
A. 635. No.

Q. 636. They would go any place?
A. 636. No remarks about distance.

Q. 637. Was anything said conforming to what the Div had done at a dance they had had previously?
A. 637. No, not to my knowledge.

Q. 638. Why didn't you ask McKinnon to go up to Matlock to get your girl?
A. 638. They have nothing to do with me, McKinnon belongs to Hq Sqn, I am 7 Cdn F S Sec.

Q. 639. Now then, we come from there to the time you said you spoke to Mr.Hunter and that would be on the 27th would it?
A. 639. 27th, I know definitely I was there.

Q. 640. Did you speak to Mr.Hunter before the 27th about this dance?

A. 640. I can't recall having spoken to Mr.Hunter before I spoke to him on the 27th, I can't recall mentioning it to him previously.

Q. 641. And you remember the conversation on the 27th?
A. 641. Yes.

Q. 642. Almost in detail?
A. 642. Very close to it.

Q. 643. And therefore Mr.Hunter is mistaken when he said you had spoken to him before the 27th on another occasion?
A. 643. I cannot remember.

Q. 644. On the 26th you told Sgt.Flemming you would like to go to Matlock?
A. 644. Yes.

Q. 645. And what reason did you give him that you wanted to go to Matlock?
A. 645. Cannot say that I stated any reason, think he realized the reason, but can't recall mentioning the reason.

Q. 646. For what?
A. 646. That I would like to make the trip to bring Sgt. Sumner down to the dance.

Q. 647. And on the27th you had it in mind and asked Mr. Hunter?
A. 647. Yes.

Q. 648. Now, your statement is this, it is practically the same as Mr.Hunter's: "Yes, but think of a better reason? That is your evidence?
A. 648. Yes.

Q. 649. His evidence was, as you heard, something to this effect "You must have a good reason" or "You will have to have a good reason" or words to that effect?
A. 649. No stipulation, definite as far as I was concerned.

Q. 650. Mr. Hunter made no denial?
A. 650. No.

Q. 651. You were second in command to Mr.Hunter?
A. 651. Yes.

Q. 652. I imagine you felt a responsibility to him as well as to the section, that not right?
A. 652. Definitely.

Q. 653. I should imagine that you are in a position, as far as he is concerned, of considerable trust?
A. 653. Yes.

Q. 654. And you have worked together a considerable time?
A. 654. Yes.

Q. 655. You know his ways, you should:
A. 655. Yes.

Q. 656. And I imagine that you think he is a man of some considerable commonsense?
A. 656. Yes.

Q. 657. And you go and tell him that you want to go to Matlock, and you tell us that he said "yes"; and that it was 130 miles to there?
A. 657. Yes.

Q. 658. Which would 260 miles which he could figure out mentally in his head?
A. 658. Yes.

Q. 659. And you didn't say anything about taking her back again did you?
A. 659. That I can't be sure of, I may have mentioned the fact of bringing her.

Q. 660. You can't state that?
A. 660. No.

Q. 661. To take her back would double the 260 miles?
A. 661. Yes.

Q. 662. Which makes 520 miles?
A. 662. Yes.

Q. 663. And you told me that Mr.Hunter consented to your going 520 miles to bring a girl to a dance?
A. 663. He didn't deny me.

Q. 664. Can you tell me whether or not Mr.Hunter talks to you in the same manner he talks to his men?
A. 664. Mr.Hunter talks to us all very friendly.

Q. 665. Does he talk to you dictatorily the same as he would perhaps adopt to the men?
A. 665. Cannot recall unless because of speaking to a man of something he shouldn't have done.

Q. 666. Mr.Hunter confides in you and talks to you as man to man doesn't he?
A. 666. Yes.

Q. 667. And as one person having trust in another?
A. 667. Yes.

Q. 668. Now, when he said what he says he said, if he said that what would you have taken out of it?
A. 668. That was absolutely a definite statement.

Q. 669. You didn't discuss the question with him?
A. 669. No.

Q. 670. Your answer upon being asked this by my friend "What did Mr.Hunter say" "I assumed I had definite permission to go" If he had said yes?
A. 671. Mr. Hunter said "yes"

Q. 672. Now then, were you in charge of the station wagon that went up to Matlock?
A. 672. As the senior in it I presume I would be.

Q. 673. Were you in charge of it?
A. 673. Yes.

Q. 674. That station wagon had a logbook in it I presume?
A. 674. Yes.

Q. 675. And certain entries were made in the logbook?
A. 675. Yes.

Q. 676. There was a work ticket?
A. 676. The work ticket would be in the logbook.

Q. 677. Now, the logbook and the work ticket, who was the person ultimately responsible that that is correctly copied?
A. 677. Sgt.Flemming was looking after transportation.

Q. 678. Was Mr.Hunter responsible for his transport?
A. 678. Yes.

Q. 679. And in his absence you were responsible?
A. 679. Yes.

Q. 680. You were responsible for the entries in that logbook?
A. 680. Yes.

Q. 681. Did you ever examine this logbook?
A. 681. The proper system was set down with regard to the logbook and I didn't check it. That was the procedure that should be carried out, I hadn't time to look after the routine procedure in the office.

Q. 682. Where did you get the gasolene for this trip?
A. 682. Drew it from the pump.

Q. 683. Fill the tank?
A. 683. Yes.

Q. 684. Understood from one of the other witnesses some was carried in cans?
A. 684. Have five cans behind the seat.

Q. 685. They were full?
A. 685. Yes.

Q. 686. How much gasolene actually used?
A. 686. Tank full when we left.

Q. 687. How much?
A. 687. Approximately 16 gallons.

Q. 688. How many miles on the trip?
A. 688. 320 approximately for the round trip, the actual mileage 158.

Q. 689. And Saturday and Sunday you went 640 miles?
A. 689. Yes.

Q. 690. As a responsible person in a position of responsibility to that section do you think that a reasonable thing to do?
A. 690. I don't know exactly my position to say what reasonable or not.

Q. 691. Is it reasonable for a person in a trusted position to go 640 miles to get a girl for a dance?
A. 691. Not for that sole purpose.

The Defending Officer declines to Cross-examine.

Examined by the Judge Advocate:

Q. 692. With reference to the first trip to Matlock on 28th Feb, did you or Sgt.Flemming in fact do any business there?

A. 692. We endeavoured to contact the instructors there.

Q. 693. On the first trip no one in the car actually succeeded in doing any business with anyone there?

A. 693. Not with the instructors we had set out to see.

Q. 694. Had any efforts been made prior to going up to arrange that these instructors would be there?

A. 694. No.

Q. 695. Had any inquiries been made to see if they would be there, I believe 7.00 o'clock Saturday night you got there?

A. 695. No, at 1.00 o'clock, 1.15 I think, which would be the time they would normally be in the mess.

Q. 696. But there had been no talk with them about your respective visits?

A. 696. No.

Q. 697. Was any specific mention of the Sunday trip made to Mr.Hunter?

A. 697. I can't be definite, I assume it had, but can't truthfully say it was.

Q. 698. After the trip had been made did you ever report to Mr.Hunter the second trip had been made?

A. 698. I can't say yes but I am quite positive that I made mention to Mr.Hunter when I went down on the Monday.

Q. 699. Can you recall any specific occasion after these trips were made when you mentioned either trip?

A. 699. It has been mentioned definitely since.

Q. 700. I mean before any trouble arose over the trips?

A. 700. Yes.

Q. 701. How long afterwards?

A. 701. I can't definitely say, but I had discussed it down in the hospital with him before any trouble started.

Q. 702. You aren't able to state the first occasion on which you spoke to him about it?

A. 702. No.

Q. 703. Are you able to give any explanation as to why there was no record on any of your work tickets or logbook of either of these trips?

A. 703. No.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83 (B).

The witness resumes his seat as the accused.

At 12.25 o'clock the Court adjurned until 2.00 o'clock, 16 May 1942.

On 16 May 1942, at 2.00 o'clock, the court re-assembled pursuant to adjournment, present the same members as when adjourned.

Second Witness for Defence:

Captain Peter Templeton, 9 Cdn Armd R (BCD), sworn, examined by Defending Officer:

Q. 704. Do you recognize the accused, CSM Doak?
A. 704. Yes.

Q. 705. Will you tell the Court how long you have known him and under what circumstances?
A. 705. I first met Doak in 1939 shortly after war broke out in the month of September. I was Adjutant of the 6th Hussars in Montreal. Unit mobilized. Doak came and enlisted as a trooper. On looking up his record saw that his record with our predecessor, 1st Motor Machine Gun Unit, was very good. Recruits were under my control and after a week I sent him to a squadron and was in close contact with him until February, 1941, at which time mobilized a squadron which later became Hq Sqn. Doak in the meantime had become SSM and again reverted to become a trooper and in a very short time reached the rank of S/Sgt. He was outstanding as a soldier and reliable. On many occasions I had taken advantage of my faith in him to give him tasks to do and never had the slightest bit of trouble with him at all.

Q. 706. When did the accused leave that unit?
A. 706. Mr. Hunter, Field Security Officer, approached me in Camp Borden and told me that Doak was the ideal type for his branch of the service. I refused to let him go but they afterwards persuaded me telling me that his prospects for advancement were much better so I eventually consented.

The Prosecutor declines to cross examine this witness.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83 (B).

The witness withdraws.

Third Witness for Defence:

Captain Harry Feltus Pierce, Hq Sqn (6H) 5 Cdn Armd Div, sworn, examined by Defending Officer:

Q. 707. Would you give your full name and unit to the Court?
A. 707. Harry Feltus Pierce, Captain, 2 i/c, HQ Sqn 5 Cdn Armd Div.

Q. 708. Do you know the accused SM Doak?
A. 708. Yes.

Q. 709. He is here in the room?
A. 709. He is.

Q. 710. Would you tell the Court how long you have known the accused and briefly what dealings you have had with him and your opinion as to his general character?
A. 710. I have known him since November, 1938, at which time I joined the 6th Hussars as Assistant Adjutant. I had considerable dealings with him as Rifle Training Officer. At that time he was in charge of NCO's

training school. I have known that since our re-organization in 1936 he has had an enviable reputation and when this unit was detached from the regiment and mobilized for overseas service in April, 1941, he was at that time SqnSM. He stepped down to the rank of trooper, came in and made staff sergeant. Was mobilized to be staff sergeant of Divisional Headquarters but the CMSC also supplied these people. From our point of view he was considered very reliable, so much so that we wanted him for that job. Before coming Overseas he was transferred to the Field Security Section. The only reason we let him go was because there was a promotion for him in the offing. He was at that time S/Sgt. He was very reliable, conscientious, and a man who obeyed any orders given him, not only in the letter but in the spirit. I might mention that when this case came up he came to me and asked me to defend him.

Q. 711. You have been in touch now and then with the accused in the past few months?
A. 711. Yes, his unit is attached to us for rations and quarters.

Q. 712. Has your former opinion of him changed any?
A. 712. In no way at all.

The Prosecutor declines to cross examine this witness.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83 (B).

The witness withdraws.

Fourth Witness for Defence:

Major Ralph Lockart Tindall, Perth R (M), sworn, examined by Defending Officer:

Q. 713. What is your name, rank, and unit?
A. 713. Ralph Lockart Tindall, Major, Perth R (M).

Q. 714. What is your appointment in that unit?
A. 714. Acting OC.

Q. 715. Do you know the accused, CSM Doak?
A. 715. Yes.

Q. 716. Would you tell the Court how long you have known him and a general statement as to his character?
A. 716. I have known him since 1933, about nine years, he was a NCO in our unit in Montreal, 1st Motor Machine Gun, and also in the 6th Hussars. I am not sure but I think he was a QM/Sgt. at least for a while, there, but all the time he was with usI can say that he carried out his duties well and I had no trouble with him whatsoever, he was in every way satisfactory.

Q. 717. Have you been in touch with him at all in recent years or months?
A. 717. How do you mean in touch with him?

Q. 718. Have you had any dealings with him?
A. 718. Not sin ce 1940.

The Prosecutor declines to cross-examine this witness.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83 (B).

The witness withdraws.

The Prosecutor makes the following closing address:-

May it please the Court:- You have heard the evidence of the various witnesses and from the evidence you will decide as to the guilt or innocence of the accused. There are one or two things I would like to bring to the attention of the Court in a very brief manner.

The first is the evidence that has been submitted regarding the trip to Matlock. I don't think there is any question about the trip having been made because the accused himself admits having made it. It boils down to a question of authority and for what purpose the trip was made. With regard to the authority the evidence shows that the accused during the month of February and the beginning of March was commanding the 7 Cdn F S Sec, Mr.Hunter being then in the hospital.

I think there is no question as to Mr.Hunter assisting the accused with certain problems that arose in the every-day business of the Section. However, the administrative end of the section was in the hands of the accused. Into that office came from time to time, from day to day, correspondence. On one day during February I submit that there came with the correspondence a Divisional Order, No. 111, dated 19 Feb 42, relating to Army transport and placing thereon a limitation such as contained in that order which was read to the Court. I submit that there is sufficient envidence to show that in the ordinary course of procedure as adopted by Hq 5 Cdn Armd Div that through those channels that copies of the orders regularly reached the Security Section. We have submitted, and it has been admitted by the Defence, the record book of the Central Registry at Div Hq. That book shows that an entry was made which is a record of the order being sent to Div Signals. The Div Signals office have a record of that order being sent to the Field Security Section. I submit that in the ordinary course of the procedure adopted that would reach the Security Section. That was sent on 21 Feb 42, it would arrive in the Orderly Room on 21 Feb 42 by the record in the Sigs record book. The accused said that he was in charge of the Orderly Room of the Security Section. He was in a responsible position made doubly so by the fact that the CO was absent because of ill health.

Orders are important, they are important to the Field Security Section. I submit that that order was in the Orderly Room where it could have been read by the accused and where it was very likely read by him. The fact that the Order arrived at the Orderly Room is sufficient in itself notice to the OC or the person in charge of the unit, sufficient notice as to the contents of that order. It is not up to the Div to put somebody there and see that the person in command reads the order, the fact that it reaches there is sufficiat notice. I submit that there is sufficient evidence for you to find that that order of 19 Feb 42 sent by the Div reached 7 Cdn F S Sec Orderly Room.

The Prosecutor declines to cross-examine this witness.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83 (B).

The witness withdraws.

The Prosecutor makes the following closing address:-

May it please the Court:- You have heard the evidence of the various witnesses and from the evidence you will decide as to the guilt or innocence of the accused. There are one or two things I would like to bring to the attention of the Court in a very brief manner.

The first is the evidence that has been submitted regarding the trip to Matlock. I don't think there is any question about the trip having been made because the accused himself admits having made it. It boils down to a question of authority and for what purpose the trip was made. With regard to the authority the evidence shows that the accused during the month of February and the beginning of March was commanding the 7 Cdn F S Sec, Mr.Hunter being then in the hospital.

I think there is no question as to Mr.Hunter assisting the accused with certain problems that arose in the every-day business of the Section. However, the administrative end of the section was in the hands of the accused. Into that office came from time to time, from day to day, correspondence. On one day during February I submit that there came with the correspondence a Divisional Order, No. 111, dated 19 Feb 42, relating to Army transport and placing thereon a limitation such as contained in that order which was read to the Court. I submit that there is sufficient envidence to show that in the ordinary course of procedure as adopted by Hq 5 Cdn Armd Div that through those channels that copies of the orders trgularly reached the Security Section. We have submitted, and it has been admitted by the Defence, the record book of the Central Registry at Div Hq. That book shows that an entry was made which is a record of the order being sent to Div Signals. The Div Signals office have a record of that order being sent to the Field Security Section. I submit that in the ordinary course of the procedure adopted that would reach the Security Section. That was sent on 21 Feb 42, it would arrive in the Orderly Room on 21 Feb 42 by the record in the Sigs record book. The accused said that he was in charge of the Orderly Room of the Security Section. He was in a responsible position made doubly so by the fact that the CO was absent because of ill health.

Orders are important, they are important to the Field Security Section. I submit that that order was in the Orderly Room where it could have been read by the accused and where it was very likely read by him. The fact that the Order arrived at the Orderly Room is sufficient in itself notice to the OC or the person in charge of the unit, sufficient notice as to the contents of that order. It is not up to the Div to put somebody there and see that the person in command reads the order, the fact that it reaches there is sufficient notice. I submit that there is sufficient evidence for you to find that that order of 19 Feb 42 sent by the Div reached 7 Cdn F S Sec Orderly Room.

There is another point which I wish to make. In that order it states two people, or on command of two people only can vehicles be driven outside a radius of 25 miles. It is definitely stated there. It would place anybody intending to use a vehicle outside the 25 mile radius on their guard so that they would obtain the proper authority for using that vehicle. The accused's evidence is that he went to see Mr.Hunter and that he stated he would like to go to Matlock and Mr.Hunter said "Yes, if you have a suff-icient reason." Now, that isn't the story as given by Mr. Hunter. Mr.Hunter states that on one occasion the accused broached the subject to him regarding a trip to Matlock, saying that he wanted -- something to the effect that there was a dance coming up and that he wanted to take a girl who lived in Matlock. Then again, the accused on a later date brought up the same subject and Mr.Hunter says that he answered somthing like this -- I don't remember the exact words -- "You must have a better reason than that" or words to that effect. Now, there is a similarity in some of the words used. Mr.Hunter says one thing and the accused says another. It is easy to see that something along that line was stated, but it can be easily placed so that a different meaning exists all together. I ask you to accept the evidence of Mr.Hunter. Mr.Hunter clearly gave his evidence, he was explicit in what he said and I see no reason for any doubt to exist in the minds of the Court as to the sentence and what he has said.

In any event if the accused, who is a man in a respons-ible position, had read the order he would know that Mr.Hunter Had nothing to do with giving him permission unless it was for this reason: He wanted an excuse to go to Matlock and there-fore a way around it was to try and get the permission of Mr.Hunter on whose shoulders he could place the blame for anything that arose on the trip.

There is no question at all as to the purpose for which the trip was made. The accused states himself that the dance was coming up and he wanted to go to Matlock to get this young lady, Sgt.Mary Sumner, to bring to the dance. May I suggest to the Court to consider whether making two trips for a dance, involving some 600 miles and 40 gallons of gasolene is a reasonable thing for a man in a position of trust to do? Wouldn't anybody think twice before such a trip would be made? There is a suggestion that Sgt.Flemming went along to see if he could get some assistance on a problem that was bothering him from an instructor at a security school also the fact that there was map reading done. It was never mentioned by the accused in his evidence that there was map reading, but it was by the witnesses. I would suggest to the Court that it examine carefully these things: What was the purpose in Flemming going, and the accused going, and these other men who were supposed to be doing map reading? Flemming went to try and solve a problem. There is no evidence, and I didn't produce any, but there is no evidence as to whether or not he tried to clear up his problem within his own section by using the efforts of the people there.

The whole thing was a joy-ride and I think it is con-clusively proven by the prosecution that the vehicle, CM-195548, was on the 28th Feb wrongfully and without authority and for private purposes driven to Matlock. I don't think there is any question about the mileage, it has been given in the evidence and supported by the accused, also a differance of four gallons in the gasolene. On the third charge I submit the same thing, on the Sunday trip that there was a wrongful use of the Army vehicle to take the young lady back there.

The second and fourth charges I submit have been conclusively proven by the prosecution in that the accused knew of the existence of Div Order No. 111 and acted absolutely contrary to what that order said. I don't think there is anything more certain. Other points you have had before you but these are the most important and I leave them with you.

The Defending Officer makes the following address:

I would like first of all just to say a few words with respect to the accused's position during Mr.Hunter's absence. He has been described as A/CO and having the responsibilities of CO, through Mr.Hunter going to hospital and the accused being left as senior there. There was nothing said to him, however, about being A/CO and as to how long Mr.Hunter would be away. That came out in evidence. His position was to stay there and do the best he could and any matters he could not handle to take them to Mr.Hunter. I don't think any greater responsibility could be placed upon the accused for running the section than had been before other than that his duties were extended by having to carry out Mr.Hunter's work.

With regard to the question of the Div Order: It is upon the prosecution to prove that the accused knew about the order, or that order was placed in a position that he would know. Now, we have no direct evidence that the order was ever in the Orderly Room prior to the occasion we are dealing with, some time after the first of March. Also his statement that on 26 Feb 42 he made a trip to London which is considerably outside the 25-mile limit without having to get permission. He went on the direction of the C 3 which had been the normal procedure in the past, thereby proving conclusively that there was no question in his mind that this Order No. 111 was in existence. That was just two days before the incident here, therefore in that case the Court is in this position with respect to the second and fourth charges:--They have no direct evidence that the order was there, they have some to the effect that the order was not there and certainly that the accused didn't know about it. And in addition they have the evidence that the routine of the office had been greatly disturbed and that the accused was out a great deal more than his ordinary job called for. Therefore assuming that the order was there and the accused had not seen it it is a very serious thing to find him guilty of disobedience of that order when there are very real reasons why he should not have seen it, such a WO being called upon to fulfill many of the functions of the CO as well as his own and for that reason not being in position to deal with such matters as looking at correspondence and thereby seeing all orders .

I would ask you to bear in mind that this order did come out and reached the unit, if it did reach the unit, only one week before the incident occurred and it would be an order that had not been long enough out for some discussion, so a person would not know about the order unless he had read it, therefore I contend there must be some doubt in the minds of the Court whether the order ever reached the Orderly Room of 7 Cdn F S Sec, and whether the accused ought to have known about it, and because of that doubt the accused is entitled to an acquittal on those charges.

Now, as to the trip itself. As the Prosecutor pointed out Mr.Hunter admitted that the accused spoke to him about the trip. I think it is very clear that the accused made a

definite request to Mr.Hunter as to whether or not he could use the station wagon to go to Matlock for the purpose of bringing the young lady to the dance. It is very important that he made a definite request, not brought up in the course of transacting other business with Mr.Hunter, not slipped in with other business so that Mr.Hunter might say yes, it was a specific request and Mr.Hunter knew where Matlock was. He knew the trip would be a long one and knowing that he made some answer "you would have to have a better reason". Mr. Hunter's words were "he would have to have a better reason" and there was no reason why the station wagon should not be used except the policy of Hq. Think of a better reason.- to my mind have to have a better reason or think of a better reason has the same meaning, more so in this case that Mr. Hunter and the accused had recently arrived from Canada and had not been impressed for months with the necessity of conserving gasolene, not to drive vehicles any further than necessary. It takes time for that to be impressed on the minds of new comers to this country. The accused and Mr. Hunter have been together a long time, they place mutual confidence in one another. The accused goes to his CO and asks permission and teh CO asks how far it is, which at that time was lightly under, he comes and asks this permission and the CO says , "You will have to have a better reason" which is in so many words "Sure, go ahead, but have a better reason than going up for Sgt.Mary Sumner for the purpose of bringing her to a dance". In my mind that is exactly what was in the minds of Mr.Hunter and the accused. You have seen him give his evidence and you have heard the evidence of other witnesses, even witnesses for the prosecution. They state he is not a man who would disobey orders wilfully, and I think we must all be satisfied that this was not a case of the accused trying to put something over on his CO.

The cards were all out on the table and Mr.Hunter knew what was going on. In that case he was taking the responsibility on his shoulders of allowing this car to go to Matlock and return. As to Flemming going along I deny there was any evidence that the accused asked Flemming to go with him. He suggested a few days before that he would like to go to Matlock and Flemming said he would like to go along with him. The accused did not ask him so that in case he was caught he would have this business of going up to see the instructors as an excuse. My contention is that that isn't so, and I think the evidence bears it out. The accused wanted to go for Mary Sumner, he was told to have a better reason, so he says to Mr.Hunter, "I have a better reason, Sgt.Flemming wants to go up and see the instructors."

The accused has stated that back in Canada they used to go on these trips for all sorts of purposes. One was for instruction in map reading. We readily admit that he wanted to go up for Sgt.Mary Sumner and the combination of this other reason made it quite feasible to go on the trip, and I think he certainly would not have gone if he could not have done some other business. In asking Mr.Hunter for permission and not being definitely refused he must be considered in the position as having received permission from Mr.Hunter to go.

I would like to impress upon the Court how thoroughly convinced I am and I think the evidence has shown that it was not a case of him trying to put something over on his CO and as I say again I just want the Court to bear that in mind in considering the finding and they have heard the evidence given. All have been character witnesses who bear that out very strongly.

In the opinion of the Court and the Judge Advocate a summing-up is not necessary.

The Court is closed for the consideration of the finding.

FINDING

The Court find the Accused, D-56, WO II (CSM) Edwin Stanley DOAK, 7 Cdn F S Sec., is Not Guilty of the second and fourth charges, and Guilty of the first and third charges. The Court being re-opened, the Accused is again brought before it, and the Finding on the second and fourth charges are read in open Court. R.P. 45 (C) complied with.

EVIDENCE AS TO CHARACTER, ETC.

Major M.W.Andrew, Perth R (M), the Prosecutor, sworn, states: I produce A.F.B 296, M.F.M., and certified true copy of M.F.M.2, relating to the Accused, which I have compared with the Regimental Books, and which are true statements as to character and particulars of service of the accused, D-56, WO II (CSM) Edwin Stanley Doak, 7 Cdn F S Sec. The documents are read, marked "YY "ZY and "Z-1" respectively, signed by the President, and attached to the proceedings.

The Defending Officer declines to cross-examine this witness.

The accused makes the following statement:-

"I have always tried to play the game, and be a good soldier, both with those I come in contact with, and with my CO. In this particular case I now realize how badly I have erred, but at the time just after coming over here and only being here three months I did not realize the seriousness of the gas situation. I now realize the seriousness and throw myself on the mercy of the Court"

The Court is closed for the consideration of the sentence.

SENTENCE

The Court sentence the accused, D-56, WO II (CSM) Edwin Stanley Doak, 7 Cdn F S Sec., to be reduced to the rank of Corporal, and to be put under stoppages of pay until he has made good the cost of petrol improperly used in the sum of £3-7-0.

Sentence: Reduction to Corporal; stoppages £3-7-0.

CERTIFIED A TRUE RECORD OF THIS TRIAL, this 16th day of May, 1942.

J.D. Patterson Major
President.

Army Form G 1518 Exhibit "A" 1948

TRANSPORT WORK TICKET "H"

No. 90

Make of Vehicle Ford. Class Station wagon W.D. No. CM 195548 Date 23 FEB 1942

Unit 7 Field Security Section 5th Column Driver's Name Hour of Parade

For whose journey is performed (1)	FULL Details of load and service (2)	ROUTE From (3)	ROUTE To	ROUTE Via	Signature of person authorising journey (6)	TIME TAKEN From (7)	TIME TAKEN To (8)	Miles run (9)
					A	4730	4738	08
Duty					B	4738	4806	68
23 Feb 42	M.T.				C	X		
24 "			9 gals.		D	4806	4925	119
25 "			9 "		E	4925	5090	165
26 "			5 "	6 pts.	F	5090	5440	350
27 "			11 Gals		G	5440	5640	200
28 "					H			
1 Man Hr					K		TOTAL	910

HQ 7 Cdn Field Sec Coy

Speedometer Readings	Miles
(10) In	5640
(11) Out	4730
Mileage	910

Fuel	Galls
(12) Held at Start	4
(13) Add—Amount drawn	
(14) Deduct—Remains on completion	
(15) Quantity Consumed	

(16) Total hours out on duty

(17) Signature of Driver

(18) Countersigned

Rank

Exhibit "C"
1148

"J"

Canadian Military Forces

ISSUE AND RECEIPT VOUCHER.

Army Form C 2033
(Amended)

To be completed by Consignor

Issue Voucher No. 2/3
Account P & L
Date account commences 1-3-42

"Date Stamp."
Supply Officer
3 Apr. 1942
No.
Aldershot

To be completed by Consignee

No. of sheets in voucher
Sheet No.
Receipt Voucher No.
Account
Date account commences

Issued by Officer To Supplies Aldershot At
To O/C 5th Cdn. Armd Div. Troops Coy. At
Authority
Date and mode of conveyance
Carrier's or Convoy Note No. and Date

Ledger Folio (1)	Cat. or † Part No. (2)	DESIGNATION (3) Section or Sub-Section	Total number or quantity (4)	Description and marks on packages (5)	For Store Depot use only S. (6)	R. (7)	D. (8)	U. (9)	Rate (10)	Value (11) £	s.	d.
									per gal			
		Petrol Grade III R.T.W.	7800	galls					1-8-1	16		
		Oil M 160 (4 gal tin)	16	"					2-3.5			
		Oil M 120	20						-6.5			
		Oil C 600	30						3-2.5			
		Oil Bright Stock 110	25						3-6.5			
		Oil M 120	90						3-3			
		Grease G.S.	168						40-2.5	per cwt		

(‡ Consignor on original and triplicate and of Consignee on duplicate. First line, to be completed in the case of M.T. and similar stores.

* (Signature of Consignor or Consignee.)

IF USED BY ORDNANCE OFFICERS AS AN ISSUE VOUCHER, TONNAGE TO BE ENTERED ON REVERSE

ISSUE AND RECEIPT VOUCHER.

Army Form G. 1033
(In books of 100.)

Issue Voucher No. }
Account
Date account commences }

To be completed by Consignor

For Office Stamp.

To be completed by Consignee

No. of sheets in voucher ..... Sheet No. .....
Receipt Voucher No.
Account
Date account commences

Issued by - At
To At
Authority
Date and mode of conveyance ..... Carrier's or Convoy Note No. and Date .....

Ledger Folio (1)	Cat. or †Part No. (2)	DESIGNATION (3) Section or Sub-Section	Total number or quantity (4)	Description and marks on packages (5)	For Store Depot use only S. (6)	R. (7)	D. (8)	U. (9)	Rate (10)	Value (11) £ s. d
		Grease Special	56 lbs						40-2,5	per cwt
		Hypoid	25 gals						3-5	

Certified True Copy.
(R.E.H. Besley) Capt.
Supply Officer
5th Cdn. Armd Div. Troops Coy. 17th Lon. R.C.I.R.C.

O i/c Supplies Aldershot District
* (Signature of Consignor or Consignee)

(a) Consignee on original and triplicate and of Consignor on duplicate.
† (a) No. to be completed in the case of M.T. and similar stores.

IF USED BY ORDNANCE OFFICERS AS AN ISSUE VOUCHER, TONNAGE TO BE ENTERED ON REVERSE

"K" Exhibit "D" 133

3 Motor Coy Regt President

5 CANADIAN ARMOURED DIVISION

DIVISIONAL ORDERS

by

MAJOR-GENERAL B.W. SANSOM, D S O
General Officer Commanding

19 FEB 42 Nos 103 - 115

- GENERAL STAFF -

103. QUALIFICATION OF TRADESMEN

1 The personnel shown in Appendix "A" to this Divisional Order, having passed the prescribed test, are qualified in the trades and from the dates shown therein.

2 Appendix distributed to units concerned only.

(G 31-2)

104. PHYSICAL FITNESS

1 In order to bring all ranks of this Division to a high state of physical fitness, each Wednesday afternoon will be devoted to physical training in some form.

2 The normal training hours will be utilized for organized sport as far as possible, with those not included participating in some form of individual training such as cross-country running.

3 It cannot be too highly emphasized that armoured engagements result in the "survival of the fittest" and it must be a source of individual pride for every officer and man of the 5th Canadian Armoured Division to be "Fighting Fit and Fit to Fight".

(G 20-7)

105. VEHICLE MARKING

A number of units have not yet completed the marking of vehicles, particularly insofar as unit serial nos are concerned. Markings of vehicles will be completed forthwith.

(G 41-4)

H A Young Lt.Col
General Staff
5 Cdn Armd Div

- ADMINISTRATIVE STAFF -

LEGAL

106. FIELD GENERAL COURT-MARTIAL
D-121287 Dr Jean Charles GOYETTE
8 Coy CDC

The undermentioned detail of offrs will assemble in the anteroom, offrs mess, 4 A Tk Regt RCA, at 1000 hrs, Tue 24 Feb 42, for the purpose of trying by Field General Court-Martial the accused person named in the margin (and such other persons as may be brought before them):-

PRESIDENT

Major W.A.D.Gunn, C B Highrs, CA.

MEMBERS

Capt J.F.Cooper, RCA, HQ 5 Cdn Armd Div Sp Gp CA.
Capt D.H.MacCuish, C B Highrs, CA.

WAITING MEMBER:

Lieut A.J.MacSween, C B Highrs, CA.

JUDGE ADVOCATE:

Capt H.C.Fraser, ADJA, [illegible]

106. (Continued)

Lieut B.Merr, C B Highrs, OA, is appointed Prosecutor.

The CO of each soldier brought before the court will appoint a Defending Officer for the trial of such soldier.

OFFICERS ATTENDING UNDER INSTRUCTION

The OsC the undermentioned units will each detail one offr to attend the Court-Martial for instruction:-

H Q Sqn 5 Cdn Armd Div
13 Lt Fd Amb RCAMC
11 Lt Fd Hyg Sec RCAMC
7 Lt Fd Amb RCAMC
24 Lt Fd Amb RCAMC

The offrs to be detailed for instruction will be detailed by name in Part I Orders, and copies of these orders will be delivered to the President.

The CO of each soldier brought before the Court for trial will detail a Court Orderly and Escort for the trial of such soldier. (5-20-54/A)

107. COURT OF INQUIRY

(a) A Court of Inquiry, composed as under, will assemble at the Orderly Room, 5 Cdn Div Sec Armd Corps Ord Wkshop, at 1000 hrs on Mon, 23 Feb 42, to inquire into and report on the circumstances surrounding the removal of a cash box from the office of the Paymaster, 5 Cdn Div Sec Armd Corps Ord Wkshop RCOC, on Mon, 16 Feb 42:-

President - Lt.-Col. J.M.Pocock, RCASC.

Members - Capt T.W.Hall, Westmr Regt (M).
Lieut A.D.Cain, 1 Cdn Armd C Regt (RCD).

(b) Proceedings of the Court will be completed on NDB 303 and submitted to Div Hq in duplicate. (5-22/A)

MAIL

108. ADDRESSING OF MAIL

(a) Instances have occurred of mail, both official and personal, intended for the undernoted Units becoming mixed, and forwarded to the wrong address, which necessitates the mail being readdressed and causes a delay in its delivery to the Formation or Unit concerned:-

Sp Gp, 5 Cdn Armd Div.
5 Cdn Armd Div Sp Gp Coy, RCASC.

(b) Special attention will please be given to addressing mail correctly to the above mentioned Formation and Unit, to ensure that the correct nomenclature is used.

(c) This order is to be republished in Unit orders. (5-1-16/5-1-37)

SPORTS

109. AMDT - 5 CDN ARMD DIV SPORTS COMMITTEE

Div Order No 70, dated 5 Feb 42, is amended as follows:-

Opposite "Secy": Delete "Capt F.N.Lord, Aux Ser Offr 5 Cdn Armd Div" and substitute "Mr W.C.Naylor, Supervisor, Aux Ser."

Under "Members" and following "Capt F.E.Rigle, etc" insert "Capt F.N.Lord, Aux Ser Offr 5 Cdn Armd Div."

#61

LEAVE

110. PERSONNEL ON LEAVE

The following provisions of CAORO 1017 will be published in the orders of all formations and units and will be brought to the individual attention of all personnel prior to their proceeding on leave:-

"Conduct of Personnel on Leave

All ranks should be warned that:-

(a) Troops on leave are much in the public eye. Good behaviour and manners, a smart soldierly bearing, and attention to saluting at all times will go far to maintain the high prestige of the Canadians.

(b) Any breach of military discipline will lead to the immediate return of the soldier to his unit, where disciplinary action will be taken.

Provost personnel will endorse the pass of an offender with a note to the effect that same has been cancelled for a breach of discipline and is valid only for the period necessary to permit of immediate return to his unit. The date and time of cancellation will be shown."

"Free Travel Warrants - Use and Abuse

Every soldier proceeding on leave will have his pass stamped by the R.T.O. at the point at which he spends his leave. In the event that the actual destination as shown by the R.T.O.'s stamp discloses that the soldier did not use free travel warrant issued to him to its full extent, then disciplinary action will be taken and the soldier placed under stoppages to reimburse the Crown for the expenses caused by him in relation to the waste of transportation, unless for some good reason beyond the control of the soldier it was impossible for him to travel to the destination named in the warrant."

(6-26/A) (5-20/A)

TRANSPORT

111. USE OF TRANSPORT

In view of the necessity for economy in the use of transport no Canadian military vehicle (incl staff cars and stn wags) will be used beyond a 25 mile radius from Formation HQ without permission from the Brig Cond in the case of Armd Bdes and Sp Gp, and GSO(1) or AA&QMG in the case of Div Tps.

(7-2-0/A)

112. VEHICLE HOLIDAYS

It has been found that vehicles are being used on vehicle holidays without the proper authority from a Commanding Officer, and without the definite purpose being shown. Since the use of transport on vehicle holidays must be rigidly controlled, the following regulations will apply with effect from 23 Feb 42:-

(a) One lorry per unit may be authorized for general regimental duties and the authority for this will be signed by the Commanding Officer.

(b) No other vehicles will be used except in an emergency in which case the authority must be signed by the Commanding Officer with detailed particulars of the purpose of the journey.

(c) Provost will impound any vehicle not complying with paras (a) or (b) above and these vehicles will only be released to the Commanding Officer on application to Div HQ.

HOLIDAYS (CONTD)

(d) The procedure to be followed and the form employed will be as shown at Appx "C" to Div RO's dated 2 Dec 41. The responsible offr as mentioned in parms 2 and 6 of this Appx will be the Commanding Officer.

(9-2/A)

113. MT (NEGLECT, MISUSE AND DAMAGE REPORT)

(a) The following policy concerning damage to MT vehicles will be adopted within 5 Cdn Armd Div:-.

(i) RCASC or RCOC Wkshops will complete Part 1 of the Cdn Army (O/S) Vehicle Neglect, Misuse and Damage Report (Appx "C" to this order) in quadruplicate, passing, original and duplicate to OC Unit concerned, triplicate through ADOS (for MCO vehicles) or CRASC (for RCO vehicles) to "Q" at Div HQ, retaining the quadruplicate for his own records.

(ii) OC Unit will investigate the circumstances and complete Part II of the form, forwarding original copy to "Q" at Div HQ through the usual channels.

(iii) In the case of an officer "Q" Div HQ will complete ADOS of CRASC triplicate copy with the particulars listed in Part II by OC Unit, and pass to ADOS or CRASC, who will then be responsible for the preparation of a CDV against the officer concerned. In the case of an OR, "Q" Div HQ will note action taken by OC Unit and return triplicate copy to Unit.

(9-6-0/A)

MISCELLANEOUS

114. CAMP KITS - OFFRS

(a) The standard set of Camp Kits for Offrs as per CARO (Can) No 1361, dated 8 Oct 41, is now available for Offrs of this Div.

(b) The details of Camp Kits for Offrs is as shown at Appx "B" to this order.

(c) Units will forward the necessary indents to ADOS and will quote as authority CARO (Can) No 1361.

(d) Offrs who have already received their outfit allowances as per FR & I (O/S) Art 782 parm 2 will not draw this Camp Kit.

(9-5-0/A).

115. BARRACK DAMAGES

(a) Div Routine Order No. 389, dated 9 Dec 41 republishing CAORO 923 and CMHQ "Instructions Regarding Barrack Damages and Deficiencies", provides for a regimental barracks damage account for the recovering of barrack damages from the tps.

(b) Parm 4 of CAORO 923 directs that this amount should be assessed at least once a month or more frequently at the discretion of the OC.

(c) A certificate will be forwarded to A Branch, 5 Cdn Armd Div, by the 5th of each month stating that the value of barrack damages and deficiencies, up to and including the end of the previous month, has been assessed against any individuals concerned, with the balance assessed against the Unit as a whole.

(W P Gilbride), Lt.-Col,
A.A.&Q.M.G, 5 Cdn Armd Div

.....5

961

N O T I C E S

5 Cdn Armd Div Boxing Championships

The semi-final bouts of the 5 Cdn Armd Div Boxing Championships will be held on Fri, 20 Feb 42, at 1400 and 1900 hrs in the riding school in the 2 Cdn Armd Regt (LSH) lines.

The final bouts will be held in the same place on Sat, 21 Feb 42, at 1400 hrs.

Div Tps Sports

The following have been appointed Chairmen of the various branches of the Div Sports as noted hereunder:-

Boxing:-	Capt Guy Savard, 1 Cdn Armd C Regt (RCD)
Cross Country Running:-	Capt R.E.C. Schmidlin, RCE.
Softball:-	Lieut F.T. Burgess, 5 Cdn Armd Div Postal Unit.
Soccer:-	Capt G.L. Stoker, 13 Lt Fd Amb RCAMC
Tabloid Sports:-	Lieut D.H. George, 5 Cdn Armd Div Sigs.

APPENDIX "B" TO DIVISIONAL ORDER NO. 114

ARTICLES	NO.	REMARKS
Section J		
Basins, camp	1	
" " bag	1	
" " Stand (a)	1	
Baths, camp	1	(a) also for use with bath
Bedsteads, camp:-		
bags	1	
canvas top	1	(b) only if required by individuals 6 ft in height or over
frames	1	
extension pieces:-(b)		
canvas	1	
sockets	2	
Buckets, water, canvas, Mk V	1	
Chairs, camp	1	(c) With name, regiment or corps, painted thereon in 1 inch block letters in black paint.
Valises, Officers (c)	1	
" " straps, sets	1	
Pillows, feather, small	1	

APPENDIX "A" TO DIVISIONAL ORDER NO. 103

No	Rank	Name	Trade	Group	Date
5 Cdn Armd Div Int Sec					
K37010	Sgt	Willis, B L	Clerk	C	16-2-42
1 Cdn Armd Bde Coy RCASC					
D115334	Dr	Scott, R	Driver Mechanic	C	1-1-42
B86734	Dr	Dorion, D	" "	C	1-1-42
D21510	Dr	Hoolahan, G	" "	C	1-1-42
D115431	Dr	Sears, R	" "	C	1-1-42
D115499	Dr	Brunette, L	" "	C	1-1-42
D122663	Dr	Richards, D L	" "	C	1-1-42
D106847	Dr	Wilcox, H A	" "	C	1-1-42
D115397	Dr	Gauthier, R	" "	C	1-1-42
D115573	Dr	Desroches, J E	Fitter	A	1-1-42
D115387	Dr	Salter, H J	Driver Mechanic	C	1-1-42
L53041	Dr	Trudon, A L P	" "	C	1-1-42
D115320	Dr	Dufrense, D	Fitter	A	1-1-42
7 Cdn Lt Fd Amb RCAMC					
B93224	Pte	Burnett, A S	Cook	C	21-11-41
B93261	Pte	Bobby, D H	"	C	21-11-41
5 Cdn Armd Div Sigs					
B31802	L/Cpl	Hilliard, F M	Instrument Mech Hlpr	C	10-2-42
A57376	Sigmn	McNaught, H F	" " "	C	10-2-42
B31681	Sigmn	Heywood, R J C	Electrician Hlpr	C	10-2-42
B31893	Sigmn	Olson, N E	" "	C	10-2-42
D116140	Sigmn	Chicoine, V O	Instrument Mech Hlpr	C	10-2-42
3 Cdn Armd Regt (GGHG)					
B70133	Tpr	Chapman, G	Tech Storeman	C	3-10-41
Perth Regt (M)					
A11123	Pte	Westbrook, L J	Tech Storeman	C	15-2-42
A11089	Pte	Weames, G	Cook	C	6-2-42
A11366	Pte	Wilson, R R	"	C	6-2-42
1 Cdn Armd C Regt (RCD)					
M63551	Tpr	Geisler, T E	Driver Operator	C	4-2-42
K74196	Tpr	Ford, R C	" "	C	4-2-42
D 1556	Tpr	Drysdale, B I	" "	C	4-2-42
M50267	Tpr	Crossfield, J A	" "	C	4-2-42
B61806	Tpr	Mayes, E J	" "	C	4-2-42
B 143	Tpr	Cano, S S	" "	C	4-2-42
P 1146	Cpl	Judd, J L	" "	C	4-2-42
B61334	Tpr	Mackenzie, J A	" "	C	4-2-42
B61398	Tpr	Ryan, W J	" "	C	4-2-42
B 43	Tpr	Wade, A R	" "	C	4-2-42
B61465	Tpr	Wilson, D A	" "	C	4-2-42
L53869	Tpr	Webber, F J	" "	C	4-2-42
A 4208	Cpl	White, A G	" "	C	4-2-42
B 188	Tpr	McQuarrie, R	" "	C	4-2-42
B61404	Tpr	Tait, D D	" "	C	4-2-42
B 361	Tpr	Workman, J J	Clerk	B	28-9-41

361

APPENDIX "C"

CANADIAN ARMY (OVERSEAS) VEHICLE NEGLECT, MISUSE AND DAMAGE REPORT

File.....
Date.....
Number.....

PART I

O.C.....

1. Vehicle No..... on your charge has been received in this workshop damaged by accident/neglect/misuse.

2. The damage is attributed to:-

3. The assessed cost of damage not due to fair wear and tear is £.....

4. When received in this workshop the above vehicle was deficient of tools and equipment detailed on the back of this form.

.....
(O.C. Workshop, or L.A.D.)

PART II

5. .....has been found responsible.
(No., rank, and name)

6. He has been paraded and:-

(A) (If an Officer) advised that a Cash Debit Voucher is to be passed requiring him to pay £.....s.....d.....

(B) (If an OR):- .....

.....

.....

7. In the case of 6(A) may the necessary C.D.V. be passed please.

In the case of 6(B) it is certified that a Casualty Return entry has been made.

DATE..... .....
Officer Commanding

O.C. Unit or (S & T or Ord) .....

.....

.....

.....("Q")

W.O. II S.J. Waterfall 1441

ARMY FORM B 206

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
056	W.O.2 (C.S.M.)	Doak E.S.	No. 7 Field Security Section

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, permanence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for desertion the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	times	times.
For	times	times.
For Nil		Nil
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct. 1496

1496

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~ 1496

3. ~~The accused is not under sentence at the present time, or The accused at the present time is under sentence for~~ 1496

4. ~~The accused has been in confinement awaiting trial on the present charge for~~ 1496 The accused has been in confinement awaiting trial on the present charge for Nil days in civil custody and Nil days in military custody, making a total of Nil days. 1496

~~in civil custody and~~ ~~days in military custody, making a total of~~ ~~days.~~ 1496

of which ~~days were spent in hospital.~~ 1496

5. The present age of the accused according to his ~~attestation~~ 1496 attestation paper is 36 years

6. The date of his ~~attestation~~ 1496 specified in his ~~attestation~~ 1496 attestation paper is 2 May 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 year 15 days

8. The accused is entitled to deferred pay or gratuity in respect of N.A. service.

9. The accused is entitled to reckon N.A. service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). Nil

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of Staff Sergeant

12. (*In the case of an officer.*) The accused holds in the army the rank of N.A. dated , and in his regiment (*or* corps *or* department) the rank of N.A. dated

(71463) Wt.30048/162 75,000 12/40 A.& E.W.,Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D56 Rank W.O.II (C.S.M.) Name Doak E. S. of No 1 F.C.C. Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted
		Nil		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16 day of May 42.

H.A. Hunter Lt.
O.C. No 1 Field Workshops

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion
In the rank of	[illegible]	[illegible]
In the rank of	[illegible]	[illegible]
In the rank of	[illegible]	[illegible]

(INSTRUCTION.—If any matter relating to the above paragraph cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a relief by field general court-martial the information may be obtained from such sources as are available and the paragraph concerned amended accordingly.)

No. D-56 Name DOAK, Edwin Stanley | Sqn., Battery, or Company | H.Q. Sqn Arms Div (6-H) A. | Date of enlistment | 2-May-41 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | T.M.Lantzius Lieut A/Adj.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY 29 April 42.					
				A.A.Hunter					
				(H.A.Hunter) Lieut.					
				O.C.No.7 Field Security Section.					

P.T.O.

Christian Name

Surname

STATION	Date of Arrival at this Station	DISEASE	Admitted into Hospital: Day	Admitted into Hospital: Month	Admitted into Hospital: Year	Discharged from Hospital: Day	Discharged from Hospital: Month	Discharged from Hospital: Year	Number of days in Hospital	Remarks as to nature of the disease, how caused, if mild or severe, if corrigibly accepted from, whether any medical certificate was adopted. In the case of a soldier, state whether accidental or due to his own misconduct, how long he was absent from his duty, and what punishment was awarded. If he accident, state whether it occurred on duty and what evidence, and if inquiry was held. Date of same and particulars of accidents (such as surgical appliances supplied	Signature of Medical Officer

ORIGINAL
DUPLICATE
TRIPLICATE

(To be completed in triplicate. Copy designation to be shown by striking out terms not applicable.)

"Z-1" J. G. Wolfenden 1939 Major President

M.F.M. 2
A.F.B. 271
430M—1-40 (33337)
H.Q. 1772-39-1048

Unit R.C. Sig. Army Div (Sig) A.F.

Regimental Number D56

CANADIAN ACTIVE SERVICE FORCE
ATTESTATION PAPER

1. Surname: D O A K
2. Christian Names: Edwin Stanley
3. Present address: 5470 Park Ave., Apt 5, Montreal, Que. Canada
4. Date of birth: 13 June 1906
5. Place of birth: Northern Ireland (Country) Down (County or Province) Belfast (Town or Township)
6. Religion (state denomination): Presbyterian
7. Trade or Calling: Clerk
8. Married, Widower or Single: Married (Legally Separated)
9. Name of next of kin: Mrs. Mary Doak
10. Relationship: Mother
11. Address of next of kin: 13 Hillsborough Park, Belfast, Northern Ireland
12. Do you belong to, or have you served in the Active Militia of Canada? 6th DCOR., RCA., from September 1938 to Date, No. 400410 (rank) (If Yes, Give Units and Dates of Service)
13. Have you served in (a) The Canadian Active Service Force? No (If Yes, Give Regimental No. and Unit) (Yes or No) (b) Any other Naval, Military, or Air Force? No (If Yes, specify Unit and Period of Service) (Yes or No)
14. Did you serve during the Great War 1914-1918? No (If Yes, specify Regimental No., Unit and Dates of Service)

DECLARATION TO BE MADE BY MAN ON ATTESTATION

I, Edwin Stanley Doak do solemnly declare that the above particulars are true, and I hereby engage to serve in the Canadian Active Service Force so long as an emergency, i.e., war, invasion, riot or insurrection, real or apprehended, exists, and for the period of demobilization after said emergency ceases to exist, and in any event for a period of not less than one year, provided His Majesty should so require my services.

Date 2 May 1941 Edwin Stanley Doak (Signature of recruit)

OATH TO BE TAKEN BY MAN ON ATTESTATION

I, Edwin Stanley Doak do sincerely promise and swear (or solemnly declare) that I will be faithful and bear true allegiance to His Majesty.

Edwin Stanley Doak (Signature of Recruit)

CERTIFICATE OF MAGISTRATE, JUSTICE OF THE PEACE OR ATTESTING OFFICER

The Recruit above-named was cautioned by me that if he made any false answers to any of the above questions he would be liable to be punished as provided by law.

The above questions and answers were then read to the recruit in my presence.

I have taken care that he understands each question, and that his answer to each question has been duly entered as replied to, and the said recruit has made and signed the declaration and taken the oath before me, at North Montreal, Que., this 2nd day of May 1941.

Illegible (Signature of Magistrate, Justice or Attesting Officer.)

No. 4 District Depot R.C.A. (Office or Rank and Unit or appointment.)

N.B.—ATTENTION IS DRAWN TO THE FACT THAT ANY PERSON MAKING A FALSE ANSWER TO ANY OF THE ABOVE QUESTIONS IS LIABLE TO A PENALTY OF SIX MONTHS' IMPRISONMENT

100

Christian Name

Surname

Rank

Regtl. No.

STATION	Date of Arrival at this Station	Date of Admission into Hospital: Day	Month	Year	Date of Discharge from Hospital: Day	Month	Year	DISEASE	Number of days in Hospital	Remarks on nature of the disease, how incurred, if mild or severe, if completely recovered from; whether any certificate (copies) has been placed in the Soldier's Documents; whether recovery has been complete. If by accident, state whether it occurred on duty and, where a Court of Inquiry was held. Date of issue and particulars of artificial limbs or surgical appliances supplied.	Signature of Medical Officer

For additional entries see A.F.W. 3 and 3 (a)

"Z-1"

M.F.M. 2
A.F.B. 371
450M—5-40 (8427)
H.Q. 1772-30-1041

ORIGINAL
DUPLICATE
TRIPLICATE

(To be completed in triplicate. Copy designation to be shown by striking out terms not applicable.)

Unit R.C. Sqn Aero Dav (Sr) A.F. Regimental Number D66

CANADIAN ACTIVE SERVICE FORCE
ATTESTATION PAPER

1. Surname D O A K
2. Christian Names Edwin Stanley
3. Present address 3472 Park Ave., Apt 5, Montreal, Que. Canada
4. Date of birth 15 June 1905
5. Place of birth Northern Ireland (Country) Down (County or Province) Belfast (Town or Township)
6. Religion (state denomination) Presbyterian
7. Trade or Calling Clerk
8. Married, Widower or Single Married (Legally Registered)
9. Name of next of kin Mrs. Mary Doak
10. Relationship Mother
11. Address of next of kin 12 Cliftonville Park, Belfast, Northern Ireland
12. Do you belong to, or have you served in the Active Militia of Canada? 6th D.C.O.R., RC., from September 1930 to Date, No. 800810 (new) (If Yes, Give Unit and Dates of Service)
13. Have you served in (a) The Canadian Active Service Force? No (If Yes, Give Regimental No. and Unit) (Yes or No) (b) Any other Naval, Military, or Air Force? No (Yes or No) (If Yes, specify Unit and Period of Service)
14. Did you serve during the Great War 1914-1918? No (If Yes, specify Regimental No., Unit and Dates of Service)

DECLARATION TO BE MADE BY MAN ON ATTESTATION

I, Edwin Stanley Doak do solemnly declare that the above particulars are true, and I hereby engage to serve in the Canadian Active Service Force so long as an emergency, i.e., war, invasion, riot or insurrection, real or apprehended, exists, and for the period of demobilization after said emergency ceases to exist, and in any event for a period of not less than one year, provided His Majesty should so require my services.

Date 2nd May 1941 Signed: Edwin S. Doak (Signature of person)

OATH TO BE TAKEN BY MAN ON ATTESTATION

I, Edwin Stanley Doak do sincerely promise and swear (or solemnly declare) that I will be faithful and bear true allegiance to His Majesty.

Signed: Edwin S. Doak (Signature of Recruit)

CERTIFICATE OF MAGISTRATE, JUSTICE OF THE PEACE OR ATTESTING OFFICER

The Recruit above-named was cautioned by me that if he made any false answers to any of the above questions he would be liable to be punished as provided by law.

The above questions and answers were then read to the recruit in my presence.

I have taken care that he understands each question, and that his answer to each question has been duly entered as replied to, and the said recruit has made and signed the declaration and taken the oath before me,

at Outh Montreal, Que. this 2nd day of May 1941

W.Deeble (Signature of Magistrate, Justice or Attesting Officer)

No. 6 District Depot A.F. (Office or Rank and Unit or appointment)

N.B.—ATTENTION IS DRAWN TO THE FACT THAT ANY PERSON MAKING A FALSE ANSWER TO ANY OF THE ABOVE QUESTIONS IS LIABLE TO A PENALTY OF SIX MONTHS' IMPRISONMENT

Regimental Number

Record of Service of DOAK (Surname) EDWIN (Christian Names)

Qualifications

Educational Qualifications

	High School or Collegiate	Graduation or Matriculation	Graduate (specify)
Military	VII.		
Business or Professional	VII		
Trade or Civil	4th K		
Technical	VII		
Languages	ENGLISH		

*Name of institution, course or years completed, and degrees obtained by Graduates

All enlisted personnel will be taken on as Private soldiers, appointments and promotions to higher rank to be shown as provided in the space below.

Record of Promotions, Reductions, Transfers, Casualties, Sentence, etc., from date taken on Strength of Unit Form	Authority	Dated	Rank Shown
Joined on appointment			Pte
To. 4 District Depot A.F.		3/5/41	
To be attchd R/Sgt-smith. of M/G O.C.		4/5/41	
To be attchd to 4th Cdn Inf Bde Cdn Div.		5/5/41	
Posted to 4th Bn Cdn Inf Bde Cdn Div.		7/5/41	
Rejd-L/Cpl-Attached to 4th C.I.Bde for duty		11/7/41	
4th L.Cdn Inf. Bde. Now known as 4th Cdn Inf Bde		14/7/41	
Cease to be attchd to 4th Cdn Inf Bde for pay		21/7/41	
A/L. to 5th Cdn Inf Bde for pay		24/6/41	
Qualified in Trade Sig Group "C"		6/8/41	
Having qualified in trade was (auth. Div order 2007 A/Adj/8/41) and having passed same prior to		7/8/41	
1/9/41 (Div order 21 A/Adj/8/41) will henceforth trade as			
T.O.S. on transfer to 7 Bn. Cdn. Inf.			

For additional entries see M.F.H. 1 and 2 (a)

CERTIFICATE OF MEDICAL EXAMINATION

Name in full DOAK EDWIN HEATLEY Date Aug 19th 1941

Part 1. Information obtained from the recruit.

1. Age 35

2. Have you ever suffered from any of the following diseases?

a. Rheumatism	NO	k. Ear disease	NO
b. Tuberculosis	NO	l. Eye disease	NO
c. Bronchitis or asthma	NO	m. Epilepsy	NO
d. Heart disease	NO	n. Nervous or mental disease	NO
e. Kidney or bladder disease	NO	o. Syphilis	NO
f. Gastro-intestinal	NO	p. Gonorrhoea	NO
g. Rupture	NO	q. Have you ever worn glasses?	NO
h. Varicose veins	NO	r. Are you now or have you in the past received disability pension or compensation? If so, give details	
i. Flat or deformed feet	NO		
j. Nasal trouble	NO		

COLOR VISION DEFICIENCY (CD)
KING AND KINGDOMS NORMAL
A.L. DELAWARE MAJ.

Signed: Edwin S. Doak
Signature of Applicant
EDWIN H. 21/8/41
K-CAT W.O.'s H
C. Saint Pierre, Lt-Col.

Part 2. Information obtained by medical examination. The recruit must be stripped.

1. Identification marks or scars. (If operative obtain history.)
1 Tatoo Lt. arm--Scar Lt. Temple--Small scar both wrist.

2. Height 5 feet 8 3/4 inches. 3. Weight 136 pounds. Good / Fair / Poor

4. Complexion Med. Eyes Blue 5. Development Good
Hair Black

6. Chest measurement—Girth on full expansion 40 inches.
Range of expansion 3 1/2 inches.

7. Vision, right 20-20 left 20-20 8. Hearing, right cv 20 left cv 20

9. Condition of mouth and teeth Good --- Lower molars missing

10. The abnormalities (congenital and pathological) found on examination are as follows
NIL

Part 3. We, the examiners find no evidence of the diseases mentioned in Question 2, Part 1, except as reported in the remarks. We have examined the Recruit in accordance with the pamphlet "Physical standards and Instructions for the medical examination of recruits" and he is found fit for Category "A"

Special remarks when category lower than A

J.S. Brooms Lt.-Col. President T.T. Bateman Capt. Member C.F. Wylde Col. Member

VACCINATIONS, INOCULATIONS, BOARDS, RECLASSIFICATION OF MEDICAL CATEGORY

Date	Brief details and signature	Date	Brief details and signature
2/5/41	Vac. T.T.		
15/5/41	Tab		
30/5/41	Tab		
6/11/41	T.T.		
2/9/41	Re-Examined Med Cat. Confirmed		

Statement of the Service of No. D56 Rank S/Sgt Sheet No.

Name D.O.E. Edwin Stanley

REPORT Date	REPORT From whom received	Record of Promotions, Reductions, Transfers, Casualties, Reports, etc. (Continuation of Folio I, M.F.M. I or M.F.M. II)	Rank Shown	Effective Date	Unit	Place	Authority Part II D.O. No. Cas. List, etc.	Authority Dated
		(auth: SC/D 6-2-3-0						
		T.O.S. of 7 Pl. Sec Sect. R.A.S.C. (A/S/S/41)	A/Sgt	5/9/41	7Pl. S.S.	Camp Borden	26-IIB. Sqn Gp SC/D	7/9/41
		Confirmed in rank of Staff/Sergeant	S/Sgt	24/10/41	"	"	53	25/10/41
		Promoted to acting/C.S.M.	A/WOII	24/10/41	"	"	53	25/10/41
		Ceases to draw trades pay Group "C"	"	10/10/41	"	"	53	25/10/41
		S.O.S. CA (Canada)	"	11/11/41				
		T.O.S. CA (O/S) Disembarked 25 Nov 41	"	12/11/41	"	U.K.	1	30/11/41
		Leave of absence to 30/10/42	"	25/10/41	HQ Sqn SC/D	U.K.	1	8/1/42
		On Course to 41 C/S's Security Course	"	17/1/42	7Pl S.S.	U.K.	3	31/1/42
		Attd. f.o.p. (except pay to Nor Int. R.S. Wing	"	17/1/42	"	U.K.	3	31/1/42
		Returned from On Course	"	31/1/42	"	U.K.	4	6/2/42
		Ceases to be Attd to Pl. Sec Wing	"	31/1/42	"	U.K.	4	6/2/42
		Confirmed in Rank of C.S.M. W.O. II	CSM	24/10/41	"	U.K.	5	13/2/42

CCC-1 (can #2)

GNR DOAK W.M.

Jan 1-67 for last case

CCC-1

FIELD GENERAL COURT-MARTIAL

(CFA98 (In lieu of AFA3) A.C.I. to S. 1508 (2004))

Convened by Order of Brig J.C. Stewart CBE DSO Comd "C" Gp - CRU dated 7 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-4270	Gnr		Weston Melford	DOAK	1 CARU

PROCEEDINGS REVIEWED
10 Feb 44
D A Wand Lt Col
REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 8 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, J.A.~~ if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1019 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter? Ans ~~—~~
~~The interpreter is sworn.~~(1) Do you object to Sgt R.A. Andrews as shorthand writer? Ans No
The shorthand writer is sworn.(2) (~~Asst Provost Marshal~~) 1 CRU

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, J.A. if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	F D Tweedie	H.Q. CRU
Member	Capt.	D.A. Forsyth	No 2 C.A.R.U.
Member	Lieut.	N.J. Sinclair	No 2 C.A.R.U.
Judge-Advocate			
Prosecutor	Capt.	F.R. Kelley	No 1 C.A.R.U.
Defending Offr	Capt.	T.J. Keats	No 1 C.A.R.U.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G-4270 Gnr DOAK, Weston Melford 1 CARU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
~~2nd~~			
~~3rd~~			
~~4th~~			
~~5th~~			
~~6th~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and to loss of kit see RP 44 fn b.)

At present under sentence for ~~—~~ beginning on (date) ~~—~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for one hundred and fifty (150) days; To be put under stoppages of pay until he has made good the sum of £14-17-6d cost of apprehension & return B.mouth.

(Sgd) 8 Feb 44 (Sgd) F D Tweedie Lt Col.
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ~~—~~ (Sgd) ~~—~~ Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the prisoner be not committed to prison or detention barracks until further orders.~~ (1) ~~—~~

(1. AA 57A. Delete if not used.)

Date 9/Feb/44 (Sgd) J C Stewart
J. C. STEWART, Brigadier,
Commanding Canadian Troops
Con. Inf. Brigade
Commanding. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
G 4270 Gnr DOAK, W.M.	10 Feb 44	R K Gibson MAJOR ADM OFFR 1 CARU

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 69(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

NOT. B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(3), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(4), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(5)

President to accused : Do you wish to make a statement ? Ans No (2)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3. MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his~~ (their) plea(s) of Guilty to Not Guilty on NOT. charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) on~~ charge(s). ~~Part 3 of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

NOT. B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

~~C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8~~ inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

NOT. C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E on p~~ 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

~~D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules~~ relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

NOT. D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 43, 120(A). 2. AA 54(3), RP 43, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E below~~.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

NOT. E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFW 6. 3. RP 46. KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

NOT. E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

NOT. E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(*1. When several accused tried separately see RP 94(b). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 138, 142, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 90, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. G.4270 Gunner Weston Melford DOAK, R.C.A. on strength of No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

Art Charge
A Sec 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,
in the field, did absent himself without leave from No. 10 Canadian Training Coy from 1800 hrs 21 Dec 43 until arrested at Nottingham by the Civil Police at 0615 hrs 24 Jan 44, incurring the cost of apprehension and return to No. 1 Canadian Artillery Reinforcement Unit to the amount of £1-4-7.

(Absent: 33 days, 12 hours, 15 minutes)

(W.A. TOWNSLEY) COLONEL,
Commanding Officer.
No. 1 Canadian Artillery Reinforcement Unit,
R.C.A. Canadian Army Overseas.

Dated at Bordon, Hants.,
this 4th day of
February, 1944.

To be tried by Field General Court Martial.

Brigadier,
Commanding "C" Group, Cdn Reinforcement Units,
(Convening Officer)

Bordon, Hants.
7 Feb 44.

401.

FIELD GENERAL COURT-MARTIAL

CFA05 (In lieu of AFA3)
40(F&S)1697 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-4270	Gnr		Weston Melford	DOAK	1 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~have~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Feb 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is expedient that the trial should take place at a place beyond the seas~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I nominate as deputy judge advocate to form the Court, the Offr whose position for the purpose is stated below~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I appoint the following Offrs to be members of the Court~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt-Col (Rank.)	F.D. Tweedie (Must be named. RP 106.)	HQ CSE (Unit.)

MEMBERS.

Captain	detailed by CO	2 CARU
Lieutenant (Rank.)	detailed by CO (Named or detailed. RP 106.)	2 CARU (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 7 Feb 44

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding "C" Gp, Cdn Reinforcement Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

901

Medical Officers' Certificate
K.R. (Can) Para 557

I certify that I have this morning examined No G4220 Dask WM
(Rank) (name)
of 10 CARD and in my opinion he is fit to undergo
trial by Court Martial.

Station Field 701. Sgd. .....
(Medical Officer)

Date 8 Feb 44

Proceedings of F.G.C.M. C-4870 Gnr.DOAK, Weston Melford.

Plea of Mitigation

Sir: It will be necessary to go back a few years. The Mother of the accused died shortly after he was born and he was raised by an aunt and uncle. He enlisted on the 17 June 40 when he was 16 years and 23 days old. He was raised under the family name of the aunt and uncle which was Doak. His own name was Miner. With permission of the Court may I show a certified copy of the registration of birth.

He came overseas to CARU in December of the year he enlisted or when he was 16½ years old. The first crime was on the 30 Aug 41 or 14 months after he joined, still under age. Since then unfortunately he has managed to have many entries on his crime sheet. In fact, he has 18 charges, but it is interesting to note that some of the charges are for very short periods of absence, one for 15 minutes, one for 50 minutes, one for 30 minutes, one for 7 hours - 18 charges showing a total absence of 59 days, 23 hours, which includes his last long one. It is like giving a dog a bad name, particularly in charges that are pretty pleayne and I submit, Sir, that the charge of 15 minutes or 50 minutes A.W.L. reflects more on the ability of the one who lays the charge when you take into consideration the youth and upbringing of the accused. The accused has paid a heavy price for his short periods of absence.

He has two brothers, comparatively unknown to him owing to the circumstances of his upbringing, in the service. One has since been boarded out and returned to Canada and the other is in the Forestry Corps and has returned to Canada. These brothers, had they known him better, could have, or should have, claimed him and taken care of him.

The accused also mentions the fact that several high ranking officers, one of whom was a Brigadier, learned of his age at a Christmas party and knew he was under age and nothing was done. Also in spite of an imposing selection of personnel selection officers this unfortunate youth was never allocated properly in the army and there is a place for him if they must keep him in the army.

Although he is now only 19 years and 10 months he has served 5 years and 8 months in the army, over three years of which has been overseas and I submit, Sir, a lot of the personnel laying charges against him perhaps have not had the service that he has in the army and they are bending over backwards in trying to uphold the rules laid down and are not helping in any way this lad's character as a soldier or civilian.

701

CERTIFIED TRUE AND ACCURATE COPY OF ORIGINAL DOCUMENT HELD IN MY POSSESSION.

APPENDIX "A"

(G.A. Charlton) Lieut.
Adjutant
10 Canadian Training Coy

Date. 14 Jan 44.

Last Order No. 27 d/21 Dec. 43.

10 CANADIAN TRAINING COMPANY
PART II ORDERS
Issued By
Major J.S.P. Armstrong Officer Commanding

This Order No. 28. d/28 Dec. 43.

Exhibit "A"
J.H. Kelly Capt
21 Jan 44

SECTION "A" OFFICERS

N I L

SECTION "B" OTHER RANKS

1. STRENGTH INCREASE

(a) TOS 10 Cdn. Trg. Coy. on posting from No. 1 CASCRU w.e.f. 22 Dec. 43. (Auth. 8/10 Trg Coy/1 (AG2c) d/24 Sep. 43.)

B-86290 Pte. Glover, S.

(b) TOS 10 Cdn. Trg. Coy. on posting from No. 1 CASCRU w.e.f. 24 Dec. 43. (Auth. 10/Hogue, J.G./1 (AG2c) d/19 Nov. 43.)

C-12401 Pte. Hogue, J.G.

(c) TOS 10 Cdn. Trg. Coy. on posting from No. 2 CACRU w.e.f. 24 Dec. 43. (Auth. 10/Dompierre, L/1 (AG2c) d/17 Dec. 43.)

D-123175 Tpr. Dompierre, J.L.R.

(d) AMENDMENT Pt. II Order #27 Sec. "B" para 2(b) d/21 Dec. 43. Insofar as it concerns the w/m is amended to read "w.e.f. 17 Dec. 43."

B-73326 Pte. Smith, L.

2. HOSPITAL

(a) Discharged from No. 1 Cdn. Spec. Hosp. w.e.f. 21 Dec. 43.

B-85443 Gnr. Heslin, S.D.

(b) Discharged from No. 1 Neurological Hosp. Basingstoke w.e.f. 23 Dec. 43.

H-20547 Pte. Smith, A.R.

(c) Discharged from No. 3 C.M.C. w.e.f. 23 Dec. 43.

K-38142 Tpr. Sise, F.T.

(d) Admitted to No. 8 Cdn. Gen. Hosp. w.e.f. 21 Dec. 43.

B-47918 L/Bdr. Werbowsky, W.

(e) Admitted to No. 17 Cdn. Gen. Hosp. w.e.f. 21 Dec. 43.

D-118627 Gnr. Goodenough, G.A.

(f) Admitted to No. 2 Cdn. Gen. Hosp. w.e.f. 24 Dec. 43.

D-118180 Gnr. Lowell, F.D.

3. LEAVE OF ABSENCE

(a) Granted 7 days Privilege Leave from 1200 hrs. 9 Dec. 43. to 1200 hrs. 16 Dec. 43. (Total leave and entitlement 7 days) with money allowance in lieu of rations (F.R. & I (Overseas) 789 para 3 & 4) and returned on date shown.

D-76316 Tpr. Moreau, H.J. 16 Dec. 43.

JDT

4. ABSENT WITHOUT LEAVE

(a) AWL from 0600 hrs. 13 Dec. 43. Apprehended at 1515 hrs. 20 Dec. 43. (Absent 7 days 9 hrs. 15 mins.)

B-22928 Spr. Nogas, B.W.

(b) AWL from 2230 hrs. 16 Dec. 43. Apprehended at 2020 hrs. 23 Dec. 43. (Absent 6 days 21 hrs. 50 mins.)

A-55897 Pte. Evans, M.I.

(c) AWL from 2230 hrs. 4 Dec. 43. Apprehended at 1515 hrs. 20 Dec. 43. (Absent 15 days 16 hrs. 45 mins.)

D-116180 Gnr. Lowell, F.D.

(d) AWL from 2130 hrs. 1 Dec. 43. (22nd day) Still Absent.

B-9652 Gnr. Grobb, R.A.

(e) AWL from 1300 hrs. 1 Dec. 43. (22nd day) Still Absent.

K-76107 Pte. Ross, J.G.

(f) AWL from 1200 hrs. 15 Dec. 43. (8th day) Still Absent.

D-83 A/L/Cpl. Laflamme, M.

(g) AWL from 2230 hrs. 15 Dec. 43. (8th day) Still Absent.

H-76097 Gnr. Imbeau, A.T.
M-63127 Pte. Wright, H.M.

(h) AWL from 2230 hrs. 16 Dec. 43. (8th day) Still Absent.

B-66053 Rfm. Clark, H.A.

(i) AWL from 1800 hrs. 21 Dec. 43. (1st day) Still Absent.

G-4270 Gnr. Doak, W.M.
A-6066 Pte. Mitchell, A.A.
B-74732 Pte. McBride, W.

(j) AWL from 2230 hrs. 21 Dec. 43. (1st day) Still Absent.

P-77687 Gnr. Crosby, W.A.

(k) AWL from 0700 hrs. 27 Dec. 43. (1st day) Still Absent.

K-76149 Gnr. Cameron, D.R.

(l) AWL from 2230 hrs. 23 Dec. 43. (1st day) Still Absent.

H-62756 Gnr. Metwick, M.

(m) AWL from 1200 hrs. 16 Dec. 43. (8th day) Still Absent.

D-76316 Tpr. Moreau, H.J.

(n) AWL from 1200 hrs. 13 Dec. 43. (8th day) Still Absent.

B-9062 Gnr. Byrne, F.M.

(o) AWL from 1330 hrs. 23 Dec. 43. (1st day) Still Absent.

K-63062 Pte. Greenwell, E.A.

5. PUNISHMENTS

(a) On 16 Dec. 43. Tried by Field General Court Martial.
CHARGE I Sec. 40 A.A.
FINDINGS Guilty.
SENTENCE 45 Days Detention.
CONFIRMATION Findings and sentence confirmed by P.R. Shields, Brig., Comd. "B" Group CRU on 24 Dec. 43.
CLOSE ARREST Placed in Close Arrest from 0900 hrs. 1 Oct. 43. to 0900 hrs. 16 Dec. 43. (76 days)
FORFEITURE Forfeits 45 days pay F.R. & I 149(1)(b)
Forfeits 76 days pay F.R. & I 149(1)(c)
Total Forfeiture 121 days pay.
Placed under stoppage of pay in the amount of £8.0.0 under F.R. & I 158(2)
Total stoppages of pay £8.0.0.

H-41467 Pte. Cann, N.A.
K-98257 Pte. LesStrange, G.

(b) On 24 Dec. 43. awarded 15 days F.P. for an offence WOAS under A.A. Sec. 15(1) AWL from 0600 hrs. 13 Dec. 43. to 1515 hrs. 20 Dec. 43. (Absent 7 days 9 hrs 15 mins.) Forfeits 8 days pay F.R. & I 149(1)(a) Forfeits 15 days pay F.R. & I 149(2) Total Forfeiture 23 days pay and to pay cost of apprehension in the amount of £1.18.4. under F.R. & I 172(8).

B-22928 Spr. Nogas, B.W.

(c) On 24 Dec. 43. awarded 28 days F.P. for an offence WOAS under A.A. Sec. 15(1) AWL from 2230 hrs. 4 Dec. 43. to 1515 hrs. 20 Dec. 43. (Absent 15 days 16 hrs. 45 mins.) Forfeits 16 days pay F.R. & I 149(1)(a) Forfeits 28 days pay F.R. & I 149(2) Total Forfeiture 44 days pay and to pay cost of apprehension in the amount of £1.18.4. under F.R. & I 172(8)

D-116180 Gnr. Lowell, F.D.

(d) On 24 Dec. 43. awarded 14 days F.P. for an offence WOAS under A.A. Sec. 15(1) AWL from 2230 hrs. 16 Dec. 43. to 2020 hrs. 23 Dec. 43. (Absent 6 days 21 hrs. 50 mins.) Forfeits 7 days pay F.R. & I 149(1)(a) Forfeits 14 days pay F.R. & I 149(2) Total Forfeiture 21 days pay.

A-55897 Pte. Evans, M.I.

(e) On 21 Dec. 43. awarded 3 days C.B. and a Forfeiture of 1 days pay for an offence WOAS under A.A. Sec. 15(1) AWL from 2359 hrs. 19 Dec. 43. to 1200 hrs. 20 Dec. 43. (Absent 12 hrs. 1 min) Forfeits 1 days pay F.R. & I 149(1)(a) Forfeits 1 days pay F.R. & I 149(2) Total Forfeiture 2 days pay.

C-4270 Gnr. Doak, W.M.

(f) On 14 Dec. 43. Admonished for an offence WOAS under A.A. Sec. 15(1) AWL from 1200 hrs. 6 Dec. 43. to 1530 hrs. 13 Dec. 43. (Absent 7 days 3 hrs. 30 mins.) Forfeits 6 days pay F.R. & I 149(1)(a) Total Forfeiture 6 days pay.

B-74386 A/L/Cpl. Ashton, J.A.

(g) AMENDMENT Pt. II Order #27 Sec. "B" para 11(f) d/21 Dec. 43. Insofar as it concerns the u/m is hereby "CANCELLED".

B-74386 A/L/Cpl. Ashton, J.A.

(h) AMENDMENT Pt. II Order #21 Sec. "B" para 11(d) d/9 Nov. 43. Insofar as it concerns the u/m is amended to read "Total Forfeiture 7 days pay."

C-37417 Pte. Barnaby, J.P.E.

5. PUNISHMENTS (CONT'D)

(i) AMENDMENT Pt. II Order #26 Sec. "B" para 11(j) d/14 Dec. 43. insofar as it concerns the u/m is amended to read "Pt. II Order #25 Sec. "B" para 11(m) d/7 Dec. 43."

C-37417 Pte. Barnaby, J.P.E.

6. REMISSION OF SENTENCE

(a) Released from Cdn. Detn. Barracks w.e.f. 23 Dec. 43. and granted 6 days remission of sentence under "Rules for Military Prisons and Detn. Barracks."

C-37417 Pte. Barnaby, J.P.E.
A-21626 Pte. McKay, J.P.

7. NEXT OF KIN

(a) F-87660 Gnr. Taylor, R.A.

TO: John William Taylor (Grandfather)
Stellarton, Pictou Co.,
Nova Scotia.

8. CHANGE OF ADDRESS - NEXT OF KIN

(a) A-82006 A/Sgt. Newman, J.C.

TO: Mrs. Alice Mary Newman (Wife)
590 Grant St.,
Woodstock, Ontario.

9. STRENGTH DECREASE

(a) SOS 10 Cdn. Trg. Coy. (PE) on posting to No. 3 CACRU w.e.f. 26 Dec. 43. (Auth. 406/Mil. Help/1 (SCA) d/3 Dec. 43.)

K-36142 Tpr. Size, F. "Mil. Help"

(b) SOS 10 Cdn. Trg. Coy. on posting to No. 2 CARU w.e.f. 28 Dec. 43. (Awarded six (6) Months Detention w.e.f. 29 Nov. 43.)

C-9766 Gnr. Bombace, F.A.

(c) SOS 10 Cdn. Trg. Coy. on posting to No. 2 CIRU w.e.f. 26 Dec. 43. (Awarded 45 days Detention w.e.f. 16 Dec. 43.)

H-41467 Rfm. Cann, N.A.

(d) SOS 10 Cdn. Trg. Coy. on posting to No. 1 CIRU w.e.f. 28 Dec. 43. (Awarded 45 days Detention w.e.f. 16 Dec. 43.)

K-98257 Pte. LeoStrange, G.

(e) SOS 10 Cdn. Trg. Coy. on posting to No. 5 CIRU w.e.f. 26 Dec. 43. (Auth. 406/5 Inf RU/1 (SCA) d/26 Dec. 43.)

H-20547 Pte. Smith, A.R.

(f) SOS as a Deserter w.e.f. 22 Dec. 43., having been declared illegally absent by a Court of Inquiry from 2130 hrs. 1 Dec. 43. Deficiencies of kit to the value of $37.71.

B-9652 Gnr. Grobb, R.A.

9. STRENGTH DECREASE (CONT'D)

(g) SOS as a Deserter w.e.f. 22 Dec. 43., having been declared illegally absent by a Court of Inquiry from 1300 hrs. 1 Dec. 43. Deficiencies of kit to the value of $19.18.

K-76107 Pte. Ross, J.G.

(J.J.P. Armstrong) Major,
Officer Commanding,
10 CANADIAN TRAINING COMPANY.

1401.

Apprehended by P.C. 317 Preston 'Hill'

CERTIFICATE IN ACCORDANCE WITH SECTION
163 (1) (m) OF THE ARMY ACT

I certify that the person whose description is given below was arrested at CLARK ST. HOSTEL NOTTINGHAM
at 6.15 P.M. hours on the 24 day of JAN. 1944.

Regimental particulars of the soldier referred to above.

No. G 42940
Rank. Gunner
Name. WESTON DOAK
Unit. 10 CANADIAN TRAINING Coy
FRIMLEY
N. HALDERSHOT

Description.

Age. 19 5/4
Height.
Complexion. fair
Hair. brown
Eyes. blue
Marks.

In Hospital Arrested 24.12.43

Signature of Officer in Charge of police station where the above-named person was taken to be placed in custody on arrest.

[illegible]
(In charge of Guildhall (Nottingham) Police Station).

Exhibit 'B'
Sworn by Capt
27 Jan 44.

401

23 JAN 44

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. C 421 0 Rank Gnr. Name Hoak, W Unit 10 C Pc

The following expenses were incurred in apprehending and returning the M/N Soldier to his ~~Unit from~~ London from Nottingham

Date	Particulars (Supportive)	Amount £	s	d
25 Jan 44	Escorts return fare from LONDON To Nottingham		11	5
	Prisoners single fare to LONDON From Nottingham		9	6
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares		2	8
	Total £	1	4	7

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Exhibit "C"
J. O'Reilly Capt.
27 Jan 44

L. S. Brayson Capt.
Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-5-43
40/P & S/483

LIST OF APPENDICES

Appendix "A" - Certified copy of Part II Order No 98 dated 28 Dec 43 stating that the accused was AWL from 10 Cdn Training Coy from 1600 hrs 21 Dec 43.

Appendix "B" - Certificate in accordance with A.A. 163(1)(m) stating that the accused was arrested at Nottingham at 0615 hrs 24 Jan 44.

Appendix "C" - Expense voucher showing cost of apprehension and return in the sum of £1-4-7.

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P. 14(B)

I, G.4270 Gunner Doak, W.M., of No.1 Canadian Artillery Reinforcement Unit, desire to have Capt. T.J. Kearns to represent me at my trial by Court Martial.

.....

G.4270 Gnr. Doak, W.M.

307

4 Feb 44.

This is to certify that I have today received a copy of Charge Sheet and Summary of Evidence for my trial by Court Martial.

101

.....

G.4270 Gnr. DOAK, W.M.

SUMMARY OF EVIDENCE in the case of No. G.4270 Gunner Weston Melford DOAK, R.C.A., on the strength of No.1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS for the prosecution

I, Capt. F.H. Kelley, on strength of No.1 Canadian Artillery Reinforcement Unit, do hereby produce the following documents relating to the accused and attached hereto:

Appendix "A" is a certified copy of Pt II Order No 98 dated 28 Dec 43 stating that the accused was AWL from 10 Cdn Training Coy from 1800 hrs 21 Dec 43.

Appendix "B" is a certificate in accordance with A.A.163(1)(m) stating that the accused was arrested at Nottingham at 0615 hrs 24 Jan 44.

Appendix "C" is an expense voucher showing cost of apprehension and return in the sum of £1-4-7.

F.H. Kelley

.....
(F.H. Kelley) Capt.,
Officer detailed to take the Summary of Evidence.

The accused was cautioned as follows: Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on Oath and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C)(D)(E)(F) ~~and 105~~ have been complied with.

F.H. Kelley

.....
(F.H. Kelley) Capt.,
Officer Detailed to take the Summary of Evidence.

Bordon, Hants,
28 January, 1944.

A
381

M.F.M. 6
(A.F. B.122)
40/P & /5136 (2563)

No. G4970 Name DOAK, W.M. | Sqn., Battery, or Company | Corps RCA | Date of enlistment 17Jun40 | G.C. Belgm | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 17 Dec 40 : Date of last entry Nil : Cases of drunkenness Nil:									
Field	18 Aug 41	Gnr		AA Sec 15(1) AWL Absent from 1330 hrs 18 Aug 41 until 2100 hrs 18 Aug 41 (Absent 7 hrs 30 mins).	BSM McPhie Sjt Boal, D.G.	Fined 7 days pay AA 46(2)(d)	19Aug41	F.P. Todd Lt.Col.	Ffts 1 days pay FR&I 149(1)(a)
Field	14Oct 41	Gnr		AA Sec 15(1) AWL from 1315 hrs 14 Oct 41 until 0730 hrs 16 Oct 41 (Absent 1 day 8 hrs 15 mins)	Bdr Wood, K.E.	Fined 3 days pay FR&I 149(2)	16Oct41	H.R. Tyner Lt.Col.	Ffts 2 days pay FR&I 149(1)(a)
Field	15Dec 41	Gnr		AA Sec 15(1) AWL from 0600 hrs 14 Dec 41 until 1420 hrs 14 Dec 41 (Absent 8 hrs 20 mins).	BSM McPhie	Ffts 4 days pay FR&I 149(2)	16Dec41	H.J.Hicks Capt	Ffts 1 days pay FR&I

8277

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14Mar 42	Gnr		AA Sec 40 Conduct,etc. Failing to perfomr duty as telephone operator correctly. AA Sec 10(4)	Gnr Fenwick, J.	14 days C.B.	14Mar42	PAS Todd Lt.Col.	
							27Mar42	Ffts 14 dys pay FR&I149 (2)	
Field	25May 42	Gnr		AA 15(1) AWL from 0530 hrs to 0545 hrs 25May42 (Absent 15mins)	BSM Wibe,A. J.	Ffts 3 days pay FR&I 149(2)	27May42	E.W.Stewart-Jones Major	
Field	26Jun 42	Gnr		AA 15(1) AWL from 1530 hrs to 1620 hrs 26Jun43 (Absent 50mins)	Capt S.D.H. Reid	7 days C.B.	27Jun42	E.W.Stewart Jones Major	
Field	27Jun 42	Gnr		AA 15(1) AWL from 1330 hrs 27Jun 42 until 1210 hrs 13 Jul 42. (Absent 16 days 22 hrs 40 mins)	Bdr Hart,GM L/Bdr Lalonde	60 days Detention	25Jul42	F.G.C.M.	Ffts 60 dys pay FR&I 149(1)(b)
Field	5Dec 42	Gnr	1.	(1) AA 19 Drunkenness (2) AA 15(1) AWL from 1500 hrs until 2115 hrs 5 Dec 42 (Absent 6 hours 15 mins).	L/Bdr Embury L/Sjt Agnew	10 days F.P.	7Dec42	PAS Todd	Ffts 1 days pay FR&I 149(1)(a) Ffts 10 days pay FR&I 149(1)(b)

No. G4270 Name DOAK, W.M. Sqn., Battery, or Company — Corps RCA — Date of enlistment 17Jun40 — G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F. B.122) 40/P & /8130 (2065)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	15Apr 43	Gnr.		AA Sec 40 Conduct, etc. Found in barrack room when his duty required him to be in class.	CSM Neal	7 days C.B.	16Apr43	C.C.Wood Capt.	
Field	12Jul 43	Gnr.		AA 15(1) AWL from 0800 hrs 12Jul 43 until 1535 hrs 12 Jul 43. (Absent 7 hrs 35 mins).	Documentary	7 days C.B.	13Jul43	F.B.Conrad Lt. Col.	Ffts 1 days pay FRAI 149(1)(a)
Field	28Aug	Gnr.		AA 40 Conduct, etc. Left a route march without permission and was found in a tearoom.	L/Sjt Griffiths Bdr Thursby	7 dys C.B.	28Aug43	C.M.Drury Major	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12Sep 43	Gnr	1st	AA Sec 15(1) AWL from 0930 hrs 12 Sep 43 until 2200 hrs 12 Sep 43. Absent 12 hrs 30 mins.	Bdr Smith Lt Hucheon	28 days forf of pay under FR&I 149(P)	21Sep43	W.E.Floury Lt.Col.	Ffts 5 days pay FR&I 149(1)(a)
			2nd	AA Sec 15(1) AWL from 1330 hrs 13 Sep43 until 1915 hrs 16 Sep43. Absent 3 days 5 hrs 45 mins.	RSM Wibe BdrDunsmore Bdr Newman Documentary	Placed under stoppages of pay in the amount of £/10			
Field	15Nov 43	Gnr.		AA Sec 15(1) WOAS AWL from 1330 hrs 15Nov43 to 1100 hrs 22Nov43. Absent 6 days 21 hrs 30 mins).	Documentary	12 days F.P. ffts 12 days pay FR&I 149 (1)(b) Ffts 7 days pay FR&I 149(1)(a)	26Nov43	J.S.F.Armstrong Major	

No. G4270 Name DOAK, W.M. Sqn., Battery, or Company Corps RCA Date of enlistment 17-6-40 G.C. Badges Service or Proficiency Pay

M.F.M. 6
(A.F. B.122)
40/P & /8138 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11-12-43	Gnr.		AA Sec 15(1) WOAS AWL from 2230 hrs 11 Dec 43 to 2300 hrs 12 Dec 43 (Absent 1 day 30 mins).	Cpl Gibb	5 days C.B. 2 days pay FR&I 149(1)(a)	13-12-43	Capt.J.L. Morgan	
Field	11-12-43	Gnr.		AA Sec 15(1) AWL from 2230 hrs 11-12-43 to 2145 hrs 12-12-43 (Absent 23 hrs 15 mins).	Documentary	5 days C.B. Ffte 1 days pay FR&I 149(1)(a) Ffte 1 days pay FR&I 149(2)	15-12-43	J.S.P. Armstrong Major	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of Award or of order dispensing with trial	By whom awarded	Remarks
Field		Gnr		AA Sec 15(1) WOAS AWL from 2359 hrs 13Dec43 until 1200 hrs 20Dec 43. Absent 12 hrs 1 min.		3 days C.B.	21Dec43		Ffts 1 days pay FR&I 149(1)(a) Ffts 149(2) 1 days pay Total Forf 2 days pay
						8-1-44.			

Certified true copy: Officer having custody of original document: L.B. Skinner
(L.B. SKINNER) Capt. & Adjt.,
"Q" Training Wing, No.1 CARU.

3 C 1944

707

Army Form B.296.

Statement as to Character and Particulars of Service of Accused.

G.4270 Gnr. DOAK, W.M. of the No.1 Canadian Artillery Reinf Unit.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For AA Sec 15(1)	7 times	13 times.
For AA Sec 40	2 times	3 times.
For AA Sec 10(4)	times	1 times.
For AA Sec 19	times	1 times.

Ex-B. 1921

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

(S. R. PLEETUCK) Capt.,
Records Officer,
No.1 C.A.R.U.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of February 1942.

Description of Court by which tried, or by whom all Officer or disposing of the charge or dispensing with Trial	Date and place of Trial or summary award, or of Order dispensing with Trial	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
		charges upon which convicted, or in respect of which Trial was dispensed with.	

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial or summary award or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge. or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of February 1944.

(S.A. ROEBUCK) Capt.,
Records Officer,
No.1 C.A.R.U.

Army Form B.296.

Statement as to Character and Particulars of Service of Accused.

G.4270 Gnr. DCAF, W.M. of the No.1 Canadian Artillery Reinf Unit.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

Army Form 664. A.F. 1935.

*Use numbers, Arabic system, should correspond with the number of Entries in the Conduct sheets, permission being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is not drawn under the section for discontinuous good conduct separately and dated.

		*Within last 12 months.	*Since Enlistment.
For	AA Sec 15(1)	7 times	13 times.
For	AA Sec 40	2 times	3 times
For	AA Sec 10(4)	times	1 times.
For	AA Sec 19	times	1 times.

~~NOTHING OF RECORD OF CONDUCT OR SERVICE~~ NIL

NIL

~~NOTHING RECORDED IN CONDUCT~~ NIL

~~NOTHING RECORDED IN CONDUCT~~ NIL

NIL

Ex B 1501

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

W. GREENWOOD, KILMER, PARR. W. 2, 1.44. 31—6004.

3. [redacted]

[redacted]

4 The accused has been in confinement, awaiting trial on the present charges for [redacted] 0 days in Civil Custody,
and 75 days in Military Custody.
Total 75 days.
Of which [redacted] 0 days were spent in hospital.

5 The present age of the accused according to his [redacted] attestation paper is 22 yrs 7 mons 9 days

6 The date of his [redacted] attestation specified in his attestation paper is 17 Jun 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs 7 mons 18 days

8 The accused is entitled to deferred pay or gratuity in respect of 3 yrs 7 mons 18days years' service.

9 The accused is entitled to reckon 3 yrs 7 mons 18 days years' service for the purpose of determining his pension, &c.

10 The accused is in possession of or entitled to, no military decoration or military reward [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name G.4270 Gnr. DOAK, W.N. of the No.1 Canadian Artillery Reinforcement Unit.

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or disposing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
F.G.C.M.	Field 25 Jul 42	AA Sec 15(1)	60 days Detention	No remission shown

(Continued overleaf.

JJJ-137

SPR DOAN #2

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 41 A A	not Guilty	not Guilty	
2nd AA 40 ALTERNATIVE	not Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

R ~~As pronounced, under sentences~~ (or ~~beginning on (date)~~). (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 21 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To forfeit all ordinary pay for a period of forty-five (45) days.

(Sgd) ..... 21 Apl 44 (Sgd) [signature] Lt-Col

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(7). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1) JFS

(1. AA 57A. Delete if not use.)

(Sgd) J.E. Sager

Date 26 Apr 44 Commanding (J. E. SAGER) Brig. Comd "F" Gp, CRU. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C11478 Spr Doan, H.L.	26 Apr 44	H.B. BRYANT, Major RCE Officer Commanding 7 Can Construction Coy RCE

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ IN AE 140 JJJ-139

FIELD GENERAL COURT-MARTIAL (CFAO6 (To Hdq of AFA3) 45/P & R/1608 : 2804)

Convened by Order of Brigadier J.E. Sager Comd "F" Gp, CRU dated 20 Apr 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C11478	Spr	Harley Leon	Doan	7 CCC RCE

PROCEEDINGS REVIEWED 9 May 44

[signature] Lt Col

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

R Held in the Fd in (country) England on (date(s)) 20 th and 21 Apl 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

R A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs as how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

R A2. The President initials first letter before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

R A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1600 hours trial commences.

R A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

R A5. President to accused : ~~Do you object to~~ to ~~as interpreter ? Ans :~~

R ~~The Interpreter is sworn.~~(1) Do you object to [illegible] as shorthand writer ? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

R A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt-col	DL	REDMAN	HQ CRU
Member	Capt	JH	GALBRAITH	1 CSRU
Member	Lt	JA	CHILDS	1 CSRU
~~Judge Advocate~~				
Prosecutor	Lt	G	O'HANLON	1 CSRU
Defending Offr	Lt	JRC	DOWDELL	2 CGPC

R Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

R A8. The accused before arraignment make(s) ~~(has)~~ (a) plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (GE), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in All rank and name of the accused making the plea.)

R A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

R A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(E), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B3 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO-SIR (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE ATT
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not ~~establish a prima facie case against~~ the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans NO-SIR Do you intend to call witnesses on your behalf ?
Ans YES-SIR Are they witnesses as to character only ? Ans YES-SIR
(1. *RP* [redacted] 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 (ns 2, 9.)*

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE character should, if in his interest, be given before the finding. *See RP 46(A) fn 1, 86(C).* Note the further opportunity in para E1 ATT of Record Form E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 2nd charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO-SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 255 or MFB 295.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans By a Staff Officer NOTE-ATT (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA if any.(2)
(1. *When several accused tried separately see RP 30(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, IEC, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas AO 309, 2323, MML p 80, 737-738. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(E), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, C11478 Spr Harley Leon DOAN, on the strength of 7 CCC, RCE, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
AA Sec 41

WOAS COMMITTING A CIVIL OFFENCE THAT IS TO SAY BEING PRESENT AT AN UNLAWFUL GAMING PARTY FOR THE PURPOSE OF TAKING PART IN A GAME OF CHANCE FOR MONEY CONTRARY TO THE PROVISIONS OF REG 42 C.A. (I) OF DEFENCE (GEN) REGS 1939.

in that he

at Bordon, Hants, at or near King George V Gardens, at or about 1900 hrs on 31 Mar 44 was present at an unlawful gaming party, taking part in a game of chance for money

SECOND CHARGE
ALTERNATIVE
AA Sec 40

WOAS CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Bordon Camp at or about 1900 hrs on 31 Mar 44, did improperly gamble with dice for money with other soldiers of the Canadian Army Overseas.

Andrew Spy Capt R.C.E.

In the Field
20 Apr 44

(A. Spy)Capt
A/OC 7 CCC

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

J.E. Lager

In the Field
20 Apr 44

(J.E. Lager)Brigadier
Commander "F" Gp CRU

FIELD GENERAL COURT-MARTIAL

CFA66 (In lieu of AFA3)
40/P&S/1697 (2058)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-11478	Spr		Harley Leon	Doan	7 CCC RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on 20 Apr 44 (date) endorsed by me, "~~or by proof of any fact or facts~~," To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~).
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~The Court to consist of not less Offrs to form the Court, of a PD Offr as President, for the reasons I have attached hereto~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~The officer to take Advice from the Offr mentioned hereunder~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt.-Col.	D. L. Redman		Hq CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
A	Capt	from	1 CSRU
A	Lieut	from	1 CERU

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
A	Capt	from	3 CACRU

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in			
England (Country.)	J. C. Page (Signed personally. RP 105 fn 2.)		Brigadier (Rank.)
Date 20 Apr 44	Commanding	(J. C. PAGE) Brigadier Hqrs Group, CRU.	Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.R. (Can) para 550.

I certify that I have this morning examined NO. C114778

Spr (rank) DORAN H.G. (name) and in my opinion he is fit to undergo trial by Court Martial.

Station Borden, Kent

Date 20 April 44

(Sgd) R. Gillespie Capt
(Medical Officer)

Evidence in the
Case of

C.11478 Spr DOAN HL 7 CCC RCE

-PROSECUTION-

D-3 First Witness
C.25712 Cpl ESCOTT, TC, 9 Pro Coy, having been duly sworn, states:

I recognize the accused. On the night of 31 Mar 44 at approx 5 mins to 7 I arrived at this Camp in Bordon. After being there for approx 3-4 mins I heard a whistle blow and at the same time the remaining pro came into the camp, and as they came in the men that were around the tables tried to break away. Before the whistle blew I saw a number of men playing dice. I did not see anything else on the table. I apprehended one and then I left him and apprehended another one. The accused is the first one I apprehended. Before the whistle blew I saw the accused standing next to a Cpl of the RCA. This big Cpl held out a £ note over the table to be covered by any of the men that were around the table. The £ note was to be covered by an man or men who wanted to. The accused was one of the men who would cover it. I did see money in the accused's hand once, the amount I could not say. It was folding money - paper money that is to say. He was standing to my left about 3 feet away. I never noticed him do anything with the money which was in his hands. His right hand was towards the table on the right. I saw the money in it. The accused after he was apprehended was turned over to the other pro and marched about 20 or 25 feet away to be put in line and then taken to the Orderly Room of No 9 Pro Coy. The game which I saw appeared to be an ordinary crap game. I saw dice on the first table, also a black cup, from which the dice were being rolled onto the table.

CROSS-EXAMINED BY THE DEFENDING OFFR

Q. Cpl how were you dressed when you first came upon this gambling place?
A. Coveralls over the top of my battledress, Sir. There was no insignia of rank or unit on this. I was at the table 3-4 mins before the whistle blew.

Q. Did you place any bets yourself before that time?
A. No, Sir. We were under orders not to break up the gambling. We were to approach the gambling place inconspiciously as possible dressed as we were and to try to pick out the leaders of the table concerned. Spr Doan was at the first table, the table I was at. Dice were definitely on that table. I did not see Spr Doan at any time roll the dice. He may have placed bets but I did not see him.

NO RE-EXAMINATION.

QUESTIONS BY THE COURT:

Q. Did you see the dice being rolled?
A. Yes, Sir, but I could not say as to who was the leader. I was making for the big Cpl in the RCA to arrest him, but he got away from me and I took Doan. In my opinion this RCA Cpl might have been the leader in the game at this table. He looked like the boss to me. He did more talking around the table than anyone else, but it might have been just his size that accounts for that.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

THE WITNESS WITHDRAWS.

Second Witness

U.1543 Sjt GOULD WR, 9 Pro Coy, having been duly sworn, states:

I recognize the accused. I also recognize the table and the other two tables. When I reported to King George V Gardens with the party of 6 men on 31 Mar 44 I saw these three tables. This table (pointing to one) had the men around it.

TABLE MARKED EXHIBIT 1 BY THE COURT.

THE OTHER TWO TABLES WERE MARKED EXHIBITS 2 AND 3 BY THE COURT.

(Witness continues)

I then dropped to the background and watched the arrival of the raiding party. It was at this time that I saw Cpl Escott & Dorn and Cpl Briend holding men at this No 1 table. There was a set of dice on No 1 table. I picked them up and gave them to Cpl Degrow. In my presence he marked the dice. These are the pair of dice in question. You will note pin scratches through 3 dots on the 6 on each of the dice.

DICE MARKED EXHIBIT 4 BY THE COURT.

(Witness continues)

After we had apprehended the men we took them back to No 9 Pro Coy. I reported to my CO immediately and each and every exhibit was turned over to him and marked accordingly. The men were placed in the Orderly Room. The conversation that took place, he was brought in to the COs office where Pte Gerigs was at the typewriter, myself and Cpl Coock and the accused were in the room. I cautioned the accused about the form ~~xxx~~ I had in my hand and read him the following cmution "I have been warned that I am not obliged to say anything unless I wish to do so, but that anything I now say will be taken down in writing and may be given in evidence. To show that I understand the above warning I make this statement voluntarily and sign my name herewith". He did not say he would not give a statement. He made a statement. He was under no obligation to do so, Sir. He already informed to that effect. He gave a statement verbally and I repeated it word for word to Gerige who typed it on the form.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q. After he made this statement was it read over to him?
A. Yes.

Q. You suggested all the way through what he should say?
A. No, I did not word his statement for him, Sir. He was quite at liberty to say what he wished. He gave the information voluntarily. He had been under arrest for 1½ to 2 hrs.

Q. You were really putting the words into his mouth though?
A. I think not. I read it merely as it is to be read on the paper which is the only way you can read it. He was not obliged to answer yes or no.

Q. Was he handcuffed?
A. No, Sir, not to my knowledge.

NO RE-EXAMINATION.

NO QUESTIONS BY THE COURT

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(8).

THE WITNESS WITHDRAWS.

The accused, C.11478, Spr DOAN HL, 7 CCC RCE, being duly sworn on the trial within a trial, gives the following with respect to the admission of the statement:

EXAMINED BY THE DEFENDING OFFICER:

Q. Were you in the custody of the 9 Pro Coy at Cdn Pro HQ on the night of 31 Mar 44?

A. Yes, Sir, and I was asked to make a statement. I had been in custody an hour at least before I made the statement. We were in one room and I was asked to make a statement by a Sjt. The Sjt who has just given evidence before me just now. I had been in the custody of the pro then for over an hour and I did not know whether I was going to be a free man or where I was going to be, and I just thought I was obeying an order.

NO CROSS-EXAMINATION.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

THE WITNESS WITHDRAWS.

~~Third Witness for the Prosecution~~

B.32708 Pte GERIGS, T, 4 VRD, CCOD, having been duly sworn, states:

I was in the custody of 9 Pro Coy at their HQ on the night of 31 Mar 44. I was typing there, Sir. I recognize the accused. I was typing the statement made by the accused. I heard conversation between the accused and Sjt Gould to the effect that there was a statement to be made and typed out. The Sjt in charge of the pro was telling him what to say.

Q. Tell us how he was telling him what to say?

A. Sir, I can't remember everything that happened, I can't remember. I remember that Sir that the Sjt was talking to him for a long time.

Q. When the Sjt told Doan to make a statement was it given as an order or as a request?

A. It sounded like an order, Sir.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP83(B).

THE WITNESS WITHDRAWS.

SUBMISSION BY THE DEFENDING OFFICER

The submission is that the statement made by Spr Doan is not admissible in evidence. The reason I give for that is that the statement was not free and voluntary. First of all Spr Doan had been in military custody for more than an hour, he had been in military custody for from one to two hours. During all that time he had been acting under ~~xxxxxxxxxx~~ strict orders of pro personnel who were his superior in rank. According to Sjt Gould's own evidence he stated that he told Doan he wanted him to make a statement. Doan himself has said he felt that he had to obey. The next witness Gnr Gerig stated that Sjt Gould's words to Doan sounded as an order to him, and there is evidence that the form of the question does suggest to the listener that it is an order more or less, so that I don't think Doan did give that statement in a free and voluntary manner.

PROSECUTOR'S REPLY TO THE SUBMISSION OF THE DEFENDING OFFR.

About the excessive length of time that too place between the arrest of the accused and the taking down of his statement - I would submit that on a large scale raid such as this with the organization and transport covering all the events that such a time that did elapse was not sufficient to show any plan to intimidate the accused. As far as the statement of Sjt Gould, his method of administering the warning was unfortunate but as his giving of evidence showed before the Court it was done through ignorance and not through any desire or attempt to force a confession. I submit to the Court that the signed statement by the accused should be admitted in evidence.

THE COURT ADJOURNED AT 1800 HRS 20 APR 44 TO REASSMELBLE 0930 HRS 21 APR 44.

A MEDICAL CERTIFICATE WAS PRODUCED.

THE COURT IS CLOSED TO CONSIDER THE SUBMISSION OF THE DEFENDING OFFICER.

THE COURT REOPENED AND THE PRESIDENT ANNOUNCED THAT THE COURT WOULD ADMIT THE STATEMENT.

2nd Witness for the Prosecution

U.1543 Sjt GOULD WR, 9 Pro Coy, being recalled and on his former oath is examined by the Prosecutor:

Q. Sjt Gould have you got the statement made by the accused?
A. Yes, Sir. This is the statement which I took from the accused. The two signature on the statement are those of the accused - I saw him sign them. (witness reads statement)

STATEMENT MARKED EXHIBIT 5 BY THE COURT.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q. When is the first time you saw Spr Doan?
A. At pro HQ at Milford.

~~THE PRESIDENT AT THIS POINT DIRECTED THAT THE STATEMENT BY THE WITNESS BE STRUCK OFF THE RECORD.~~

NO RE-EXAMINATION.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

WITNESS WITHDRAWS.

4th Witness for the Prosecution

B.97637 Cpl BEROW, MC, 9 Cdn Pro Coy, having been duly sworn, states:

I know nothing about this case of Spr Doan. We arrived at King George V Gardens at Bordon, where there were 2 tables in operation, and I stopped at the first table and watched a game in progress for approx 5 mins and then moved to another position father around the table. They were rolling dice from a rubber cup. This is the cup I picked up myself off the ground and I put my initials on it.

CUP MARKED EXHIBIT 6, BY THE COURT.

(Witness continues)
There was money on the table and some of the players had money in their hand. When there was a blast of the whistle and the players scattered from the table. From what I saw of the playing I believe it was a game of crap.

NO CROSS-EXAMINATION.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

THE WITNESS WITHDRAWS.

Fifth Witness for the Prosecution

Capt FH HAY, Royal Winnipeg Rifles, having been duly sworn, states:

I am the S/Captain of "F" Gp CRU stationed at Bordon. I produce as evidence an Ordnance Survey Map marked Aldershot Command Trg Areas in Great Britain. This War Dept Map is stippled in red and shows that the area in which King George V Gdns is situated is approx below the words on the map "BORDON CAMP". The railroads within the area are operated by the War Dept. The military have a phone communication in this area. There are many barracks within this area. The date on this map is 1931 and is the last map that has been issued and I procured these maps from the DCRE and are the last maps that are issued at this date. I don't know if there is an Alershot Commend at this time. It shows the area in which King George V Gdns are situated. The map I might add is numbere No 50/16 SE, 1/25000 and 50/14 NE designated Aldershot Command Trg Areas. It also bears another number the Map number, No. 3906.

MAP MARKED EXHIBIT 7 BY THE COURT.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

THE WITNESS WITHDRAWS.

Sixth Witness for the Prosecution

Lt RI LUKER, 9 Cdn Pro Coy.

THE DEFENDING OFFR SAID THAT HE OBJECTED TO THE CALLING OF THIS WITNESS BECAUSE HIS EVIDENCE IS GOING TO BE TO THE EFFECT HE RECEIVED CERTAIN MONIES FROM SPT DOAN AT PRO HQ, AND SUBMITTED THAT THIS EVIDENCE IS NOT RELATIVE TO THE CHARGES AGAINST SPR DOANE AS THE MONEY MAY HAVE BEEN OBTAINED BY HIM FROM MANY DIFFERENT SOURCES.

THE COURT RULED THAT THE EVIDENCE OF LT RI LUKER WOULD NOT BE ADMITTED.

THE PROSECUTION IS CLOSED

D-S

-D E F E N C E-

First Witness

Mr. Louis NORRIS (Civilian), having been duly sworn, states:

I am the caretaker and gardner of King George V Gardens in Bordon Camp. These Gardens are open to the public. I cannot order anyone off after they are there and behaving themselves. The Bordon District Committee pays my wages, Col Daunt at Frensham is my employer, Commanding Longmorr and Bordon Sub-Area.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

WITNESS WITHDRAWS.

Second Witness

D.6032 Pte DAVIS J, 119 LAD (Att CTS) having been duly sworn, states:

Q. Wer you at King George V Gardens on the evening of 31 Mar 44?
A. Yes.

THE PRESIDENT AT THIS POINT STATED TO THE WITNESS THAT HE WAS NOT COMPELLED TO SAY ANYTHING WHICH MIGHT INCRIMINATE HIM OR LAY HIM OPEN TO A CHARGE OR PUNISHMENT.

THE DEFENDING OFFICER THEN TOLD THE WITNESS THAT IF HE DID NOT SAY ANYTHING TODAY THAT HE DID NOT SAY YESTERDAY HE WOULD NOT BE IN DANGER.

(Examination continues)

Q. Was there any crown and anchor game being played that night?
A. No, Sir, just a game of crap, played with 2 dice.

Q. Did you see Spr Doan there that night?
A. I can't recall seeing him personnally. There did not seem to be anybody there either who was making a rakeoff out of it.

NO CROSS-EXAMINATION.

NO QUESTIONS BY THE COURT.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

THE WITNESS WITHDRAWS.

THE DEFENCE IS CLOSED

DEFENDING OFFICER ADDRESSES THE COURT ON THE FINDING

I don't intend to be length at all, Sir, and will be very very concise. On the first charge I submit that that charge failed. The onus according to the civil act is on the accused and there are certain presumptions. There has been no one who organized the game to make a gain. As to the second charge there is evidence of the accused's own that he was gambling. Whether or not that area which Mr Norris stated is a barrack area or a contonment is a question. He stated that he had no authority to order public off that property any more than he did a soldier. We have evidence of one pro who said he was acting under orders. I think it is very dangerous to permit this type of evidence to go on. This strikes at the whole roots of British justice. In any case Escott said all that he had seen Doan do was hold money near the table.

REPLY BY THE PROSECUTOR

The accused was present at a game of chance at which there were more than ten people present. The game was taking place on property which is administered by the War Department and is within a stone's throw of his own unit lines. He was by his own statement, participating in the game, and by the evidence of Cpl Escott did have money in his hand. Whether under Sec 42 of the Defence Regs he can be legally be found guilty I leave to the Court, but I do believe that under the alternative charge of Sec 40 of the Army Act a prime facie case has been established.

THE COURT IS CLOSED FOR A FINDING.

E-3

PLEA IN MITIGATION

I don't wish to call any character witnesses as the accused has not been with this unit only a matter of weeks. He has been in the Army

4½ yrs with only one entry on his conduct sheet and that entry was caused through his trying to help a fellow soldier one night, with the result that the police took him in with the friend. As to the merits, this second charge is one which might have been brought against 30 people that night. He is unfortunate in not being able to run fast enough. Why they picked on just 6 persons I don't know, but in any event, it does not seem to be a very serious offence. I would like the Court to take this into consideration when passing sentence.

Ex 6

CANADIAN PROVOST CORPS

[illegible] 21 Mar 44.

SUBJECT - Gambling Gordon Area

STATEMENT OF Reg't. No. C.11470 Pte. Doan H.L.

of #7 CPC. R.C.E. Taken At.

I have been warned that I am not obliged to say anything unless I wish to do so, but that anything I now say will be taken down in writing and may be given in evidence.

To show that I understand the above warning, I make this statement voluntarily and sign my name herewith.

H.L. Doan

WITNESS

I left barracks at 1000 hrs. and went over to where they were shooting craps. I stood watching the game for a while then I had a roll on the dice. The stakes were as you like to bet. I started off with a ten shilling bet and the bet was covered by somebody. I made a few more bets and got a clear on my right covered practically all the bets I made. Finally I took the dice and they went to another man. Somebody else started to roll and I covered the bet. For about fifteen or 20 minutes after this the dice went from one man to another and did not come back to me. Everybody participated including myself and a provost Cpl. caught hold of my arm and arrested me when I was approximately 50 yds. distant from the table, subsequently I was brought to No.7 Provost under close arrest.

I have read over this statement and certified it a true copy of my statement, for the time I have been asked to account for.

H.L. Doan

My

SUMMARY OF EVIDENCE

In the case of C-11478 Sapper Harley Leon DOAN, on strength of 7 Canadian Construction Company, Royal Canadian Engineers.

By direction of the Commanding Officer, this Summary is taken on Oath.

FIRST WITNESS Prosecution — C-25712 Cpl Escott, T.G., No 9 Cdn Provost Coy, having been duly sworn, states:-

I am C 25712 Cpl Escott, T.G. No 9 Cdn Provost Coy. At approximately 1900 hrs 31 Mar 44, accompanied by L/Cpl Kinsman, I approached and watched a gambling game in progress in proximity to King George V Gardens in the BORDON Area. There were more than ten present at the game. Sapper Doan, the accused, appeared to be the leader at this table. He had a considerable amount of money, in pound notes, in his hand, and was making large bets. When the whistle blew Spr Doan attempted to run away. I ran after him and placed him under close arrest. He was taken to No. 9 Provost Coy Orderly Room, and subsequently removed to 6 CIRU Guard Room, pending the arrival of an escort from his unit.

T.G. Escott Cpl.

C-25712 T.G. Escott, Cpl.

The accused declines to cross-examine the witness.

SECOND WITNESS Prosecution — F-30461 L/Cpl Kinsman, E.E., No 9 Cdn Provost Coy, having been duly sworn, states:-

I am L/Cpl Kinsman, 9 Provost Coy, and at 1900 hrs 31 Mar 44 I accompanied Cpl Escott to a gambling game at BORDON. We stood around the table for a minute or two and I recognized Spr Doan betting on the dice and as a whistle blew Spr Doan, along with the rest around the table, started to run away. I didn't see much more of him until he was in the line up.

E E Kinsman

F-30461 E.E. Kinsman, L/Cpl.

The accused declines to cross-examine the Witness.

The accused was cautioned as follows:-
"Do you wish to make any statement or give evidence on Oath? You are not obliged to say anything or to give any evidence but whatever you say or any evidence you may give will be taken down in writing and may be given in evidence."

The accused reserves his defence.

Certified that all the provisions of Rp 4 (c)(d)(e)(f) and (g) have been complied with in connection with the foregoing Summary of Evidence consisting of this page. Taken down by me in the presence and hearing of the accused at BORDON, Hants, on the 4 Apr 1944.

J O'Hanlon

J. O'Hanlon, Lieut RCE
Officer detailed to take Summary of Evidence.

BORDON, Hants
4 Apr 44.

SUPPLEMENTARY SUMMARY OF EVIDENCE

A Supplementary Summary of Evidence in the Case of C 11478 Sapper Harley Leon DOAN, on strength of 7 Canadian Construction Company, Royal Engineers, consisting of two pages.

By direction of the Commanding Officer, the evidence is taken on Oath.

THIRD WITNESS
Prosecution

U1543 Sgt. Gould W.R. No.9 Cdn.Provost Coy.,having been duly sworn,states;-

"I am U1543 Sgt. Gould W.R. of No.9 Cdn.Provost Coy. On the 31 Mar 44 I took the following statement from C-11478 Pte.DOAN H.L. of 7 Cdn.Const.Coy. R.C.E. after he had been duly warned and understood the warning administered.
I left barracks at 1800hrs.and went over to where they were shooting crap. I stood watching the games for a while and then had a few rolls on the dice. The stakes were as you wished to bet. I started off with a ten shilling bet, and the bet was covered by somebody. I made a few more bets and some chap on my right covered practically all the bets that I made. Finally I lost the dice and they went to another man. Somebody else started to roll and I covered the bet. For about fifteen minutes after this the dice went from one man to another and had not come back to me. Everbody scattered including myself and a Provost Cpl.caught hold of my arm and arrested me when I was approximately 60 yards distant from the table, subsequently I was brought to No.9 Cdn.Provost under close arrest.

I have read over this statement and certified it a true copy of my activities, for the time I have been asked to account for."

Signed H.L.Doan

U1543 Sgt. Gould W.R.
No.9 Cdn.Provost Coy.

The accused declines to cross-examine the Witness.

FOURTH WITNESS
Prosecution

Lieut. R.I.Luker No.9 Cdn.Provost Coy. having been duly sworn,states;-

I am Lieut.R.I.Luker No.9 Cdn.Provost Coy. On the 31 Mar 44 at H.Q. No.9 Cdn.Provost Coy. at approximately 2000hrs. I received from C-11478 Pte.DOAN H.L. the sum of £37-14-2 and (Ten Dollars) in Canadian Currency for which he was given a receipt.

Lieut R.I.Luker
No.9 Cdn.Provost Coy.

The accused declines to cross-examine the Witness.

The accused was cautioned as follows:

"Do you wish to make any statement or give evidence on Oath? You are not obliged to say anything or to give any evidence, but whatever you say or any evidence you may give will be taken down in writing and may be given in evidence."

The accused reserves his defence.

Certified that the provisions of RP 4 (c) d(d) (e) (f) and (g) have been complied with in connection with the foregoing Supplementary Summary of Evidence consisting of two pages, taken down by me in the presence and hearing of the accused at BORDON Hants on the 14 Apr 44.

G. O'Hanlon

G. O'Hanlon, Lieut RCE
Officer detailed to take
Supplementary Summary of Evidence.

BORDON, Hants,
14 Apr 44.

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2968)

No. C-11478 Name DOAN, H.L. | Sqn., Battery, or Company | Corps RCE | Date of enlistment 9 Sep 1939 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet 31 Aug 1940 | No. and date of last drunk (1) 11 Aug 40 | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. H.B. Stuart, Major RCE

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original destroyed 31 Aug 42 (2 Years Service No entries CARO 2084)					
FIELD	14 Feb 43	Pte		AA 40. Did obstruct Military Policeman in the execution of his duty.	L/Cpl Kemp L/Cpl Parent	14 days C.B.	16 Feb 43	R. Buckner, Major.	

CERTIFIED TRUE COPY OF ORIGINAL IN MY POSSESSION.

E. Sparling, Adjt 7 Cdn Constr Coy RCE. 11 Apr 44

The Officer having Custody of the Regimental Books.

(P.T.O.)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C 11478	Sapper	DOAN, H.L.	7 Cdn Construction Coy RCE

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	Sec 40 Army Act	One times.
For	Sec 19 Army Act	One times.
For		times.
For		times.

Date of first entry in Field Conduct Sheet 31 Aug 40

Date of last entry in Field Conduct Sheet 14 Feb 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. N/A

*Strike out if not applicable.

*3. The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 21 days in military custody, *i.e.*, Nil days in open arrest, 21 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 44 years 8 months

6. The date of his attestation [illegible] is 9 Sep 39

7. The service which the accused is allowed to reckon is 4 years 7 months

[State the military decorations (if any) held by accused.

8. The accused is in possession of CVSM & Clasp, 1 CMRU DO 198, 4/24 Jan 44.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	N/A	
In the war substantive rank of	N/A	
In the acting rank of	N/A	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

[51114] W1.24775/665 100,000 4/42 A. & E. W. Ltd. Gp.698
[52459] W1.29024/1873 50,000 9/42 " " Forms/B.296(W).wt/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		No previous conviction by Court Martial or Civil Court.		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~xxx~~ 25th day of Apr 44

Andrew Sky Capt.

ANDREW SKY, Capt. RCE,
A/OC, 7 Cdn Construction Coy RCE

HY13H.

Lyr. Doane, H.E.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-94946 ~~Cpl~~ Spr (L/Cpl) Doane. H.E. 1 Cdn Mech Egpt Coy RCE

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~det.~~ beginning on (date) ~~—~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 180 days.

(Sgd) Gordon N Jarvis Capt — Judge-Advocate, if any. — 17 Feb 45 — Date awarded. — (Sgd) W.J. Stewart Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date 21 Feb 45 (Sgd) A.E. Cunningham Lieut-Col Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 17(D) fn a, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 22A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED.

~~I direct that the accused be not required to serve or undergo any punishment awarded.~~ (1. AA 57A. Delete if not used.)

(Sgd) (J.H.R. Gough) Brig

Date 18 Feb 45 — Commanding A Tps Area First Cdn Army — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
B 94846 Spr (L/Cpl) Doane H.E	21 Feb 1945	W.J. Stewart Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4Y-134

MEDFIN 3 APR 1945 JAG BRANCH CMHQ

FIELD GENERAL COURT-MARTIAL

CPA606 (To 1161 of AFA31) 40-1-P.M.R./1698 (40-701)

4388

Convened by Order of Brig J.R.R. Gough Comd A Tps Area dated 15 Feb 45

ACCUSED.

Unit of accused First Cdn Army

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R	(b) Apptmt	A/Apptmt	Full Christian Names.	Surname.	Unit.
B-94946				Harry Earl	Doane	1 Cdn Mech Egpt Coy RCE

PROCEEDINGS REVIEWED — REVIEWING OFFICER, JAG BRANCH, CMHQ — 3 Apr 45

PROCEEDINGS OF TRIAL.

Held in (place) (country) Holland on (date(s)) 17 Feb 45 20 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 33105

A1. The President, Members, ~~waiting Mbrs~~, JA, ~~Shdt and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 758. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~&~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~&~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~&~~ brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~&~~ fit to undergo trial by court-martial. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For offrs ~~&~~ KR Can 561(1). Delete, if not applicable.

A5. President to accused: Do you object to ~~&~~ as interpreter? Ans

The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 72, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W.J. Stewart	36 Cdn Army Tps Coy RCASC
Member	Capt	J.C. Gamey	36 Cdn Army Tps Coy RCASC
Member	Lt	R.K. Sullivan	HQ RCASC First Cdn Army Tps
Judge-Advocate	Capt	J.N. Jarvis	HQ AT Tps Area First Cdn Army
Prosecutor	Capt	W.S. Foxcroft	1 Cdn Mech Egpt Coy RCE
Defending Offr	Capt	H.J. Wise	1 Cdn Mech Egpt Coy RCE

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) Q. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 80 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment make(s) (no) ~~&~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 36, 25(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to Rof cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~&~~ arraigned ~~separately~~ ~~&~~ on all charges in the charge sheet.(1) The accused does ~~&~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is ready to~~ ~~&~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B + E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The ~~President~~ JA, ~~then~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *paras* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO SIR (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 3 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, see Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 'A', initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under* (*b*) *such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*). *1/4, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 73 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para* D8.
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. Cf AA* 48(*c*). *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1. 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(*2*) (*b*), *RP* 85, 120(*A*). 2. *AA* 54(*2*), *RP* 45, 117. *This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and them to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *AFB* 252 *or AFB* 296. 2. *MFM* 8. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s) and in mitigation of punishment ?(1) Ans yes sir, by my defending officer.
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court may permit accused or his witnesses to prove on oath anything there or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*2*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP* 43. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 208, 330, 363-366. *Overseas RO* 859, 2323. *As to sentences assigned for civil offences by the law of England see AA* 41(3), *MML p* 130. *Where accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.94846 Spr. (L/Cpl.) Harry Earl DOANE, of 1 Cdn Mech Eqpt Coy, RCE, a soldier of the Canadian Army Overseas,

is charged with

FIRST CHARGE
AA Sec 40

When on Active Service, conduct to the prejudice of good order and military discipline,

in that he

in the Field, between 1730 hrs 11 Feb 45 and 0100 hrs 12 Feb 45, improperly, and without authority, took and used Cdn Mil Vehicle, a Chev HUP No. CZ.4211297, for his private use, resulting in damage to the said vehicle in the amount of $433.59

(S.W.Schortinghuis) Major, RCE.
Officer Commanding,
1 Cdn Mech Eqpt Coy, RCE.

In the Field
13 Feb 45.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
15 Feb 45

(J.M.R.Gough) Brig
Comd A Tps Area First Cdn Army

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-94846	Spr	L/Cpl	Harry Earl	DOANE	1 Cdn Mech Eqpt Coy RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 Feb 45 endorsed by me, ~~[illegible]~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~[illegible]~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	W.J.Stewart	Tps	36 Cdn Army Comp Coy RCASC

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	G.C.Gamey		36 Cdn Army Tps Comp Coy RCASC
Lt	R.K.Sullivan		HQ RCASC First Cdn Army

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	G.H.Jermyn		HQ A Tps Area First Cdn Army

On Active Service in the Fd

in Belgium
(Country.)

(Signed personally. RP 105 fn 2.)

Brig
(Rank.)

Date 15 Feb 45

(J.B.R.Gough)
Commanding A Tps Area First Cdn Army
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (PAMS (1st Div) of AFA3) 60-P & S/1697 (400)

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Con 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Con) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(C)), any objections (*RP* 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply *so far as* practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 60(C), 87(C), 92(C) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 1/6)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(B)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(C).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(C), 92(C) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(C), 92(C) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*). *KR Con* 562(a).)

(vii) Summing up by *JA*, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or *JA*, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or *JA*, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can* 557.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy in lieu of original see KR Can* 560. *As to certified copies of regimental books see AA* 163 (1) (*g*) (A).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after statement of sentence awarded. (*AA* 53(3), *RP* 118(*C*), *MML* p 709.)

4. The President or *JA*, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICER'S CERTIFICATE

I certify that: B.94846 L/Cpl. Doane, H.E., of 1 Cdn Mech Eqpt Coy, RCE. is fit to undergo trial by Court-Martial.

17 Feb 45

Alex Kenny Lt-Col
(Signature of Medical Officer)

In plea of Mitigation of sentence I would like to bring out the following points in connection with the case of L/Cpl Doane.

When L/Cpl Doane found that he was involved in an accident he did not abandon his vehicle but stayed at the scene of the accident to see if as much assistance as possible. He then made his way back to Regiment at the fastest way possible and reported to the orderly N Co.

There is no evidence of negligence on the part of L/Cpl Doane or that he drove the vehicle in a careless manner causing an accident. The only question is that he made an unauthorized journey.

There is the first serious charge against L/Cpl Doane. He was well thought of in his unit to the extent of being made an N.C.O.

L/Cpl

SUMMARY OF EVIDENCE

in the case of

B.94846 L/Cpl, Harry Earl DOANE of 1 Cdn Mechanical Equipment Coy., R.C.E., Canadian Army Overseas.

The Officer Commanding directs that the evidence be taken on oath.

FIRST WITNESS: M.7327 A/Sgt. McLAUGHLIN, R.A., 1 Cdn Mech Eqpt Coy, RCE, sworn, states:

At approx 1715 hrs, 11 Feb 45, I made out and signed Work Ticket No. 13 for Cdn Mil Vehicle, Chev. HUP No. CZ.4211297 for destination 3 Cdn Corps and Army Tps Sub-Park, RCOC, Tilburg. I instructed L/Cpl. Doane to drive this vehicle and in company with CSM Lightfoot, we proceeded to the Sub-Park. On getting out of the car, I ordered L/Cpl. Doane to drive the car straight back to Coy HQ and told him that we would walk back. L/Cpl. Doane drove off at approx 1730 hrs. I did not see L/Cpl. Doane again until shortly before parade at 0815 hrs, 12 Feb 45. I did not see the vehicle again until it was brought to Coy HQ during the afternoon of 12 Feb 45 in a badly damaged condition. I returned to Coy HQ at approx 2300 hrs 11 Feb 45. On my arrival there, I checked the vehicles and found that Chev HUP CZ.4211297 was missing. I checked with the guards to see if they knew where the vehicle was. They did not. I checked the quarters and found that L/Cpl. Doane was not present. I then informed the Orderly Corporal, M.7368 L/Cpl. Jenkinson, O.N. that L/Cpl. Doane was absent and told him to determine the time at which L/Cpl. Doane returned. I notified all guards that L/Cpl. Doane was absent and instructed them to inform L/Cpl. Doane that he was to report to the Orderly Room immediately upon his return.

L/Cpl. Doane was ordered to proceed directly to Coy HQ and was not authorized to proceed to any other place.

(R.A. McLAUGHLIN) A/Sgt, M.7327,
1 Cdn Mech Eqpt Coy, RCE.

The accused declines to cross examine the witness.

SECOND WITNESS: C.35578 A/CSM. LIGHTFOOT, E., 1 Cdn Mech Eqpt Coy, RCE. sworn, states:

About 1715 hrs, 11 Feb 45, in company with Sgt. McLaughlin, R.A. I was driven to 3 Cdn Corps and Army Tps Sub Park RCOC, Tilburg in Chev HUP No. CZ.4211297 by L/Cpl. Doane. On getting out of the car at our destination, Sgt. McLaughlin spoke to L/Cpl. Doane. I did not hear all that he said but I did hear Sgt. McLaughlin mention "camp" and "take it away". I also heard Sgt. McLaughlin tell L/Cpl. Doane that we would walk back to Coy HQ.

To Page Two

SECOND WITNESS: (cont)

On returning to Coy HQ at approx 2300 hrs, 11 Feb 45 in company with Sgt. McLaughlin, we found that Chev HUP CZ.4211297 was missing. Sgt. McLaughlin made a thorough check of the vehicles and quarters and was unable to find either the car of L/Cpl. Doane. I listed L/Cpl. Doane as absent at 2300 hrs 11 Feb 45.

L/Cpl. Doane was not authorized to proceed to any place other than our Coy HQ in Tilburg after we left the vehicle he was driving at 3 Cdn Corps and Army Tps Sub-Park, RCOC, Tilburg.

N. Lightfoot A/CSM

(N.LIGHTFOOT) A/CSM., C.35578,
1 Cdn Mech Eqpt Coy, RCE.

The accused declines to cross examine the witness.

THIRD WITNESS: Lieut. W.R. SADLER, 1 Cdn Mech Eqpt Coy., RCE, sworn, states:

At approx 0815 hrs 12 Feb 45, I was informed that Chev HUP CZ.4211297 had been involved in an accident about a mile south west of Wyneghem, Belgium, on Maple Leaf Down route. I gave instructions to have the vehicle recovered. I inspected the vehicle when it was brought in and found that it was beyond repair in Coy workshops. The vehicle was evacuated to 1 Cdn Army Tps Workshop, RCEME on 13 Feb 45.

(W.R.SADLER) Lieut, RCE,
1 Cdn Mech Eqpt Coy, RCE.

The accused declines to cross examine this witness.

FOURTH WITNESS: P.15413 A/Cpl. DANIELS, A.J., 1 Cdn Mech Eqpt Coy, RCE, sworn, states:

About 0900 hrs 12 Feb 45, I was instructed by Lieut. Sadler to proceed with a transporter to MR. J745966 to pick up Chev HUP CZ.4211297 which had been involved in an accident at that place. In company with F.91648 L/Cpl. Boutilier, J.B. I arrived at MR. J.745966 at approximately 1130 hrs 12 Feb 45. Chev HUP CZ.4211297 was on the left hand side of the road, when proceeding south, about 100 yds north of where the accident had occurred. It had evidently been mobed to this position by someone in order to clear the tram line. Workmen were repairing the tracks and a damaged power line standard on the tram line. As I drove up to the vehicle, a REME recovery vehicle was preparing to take the damaged Chev away. They moved it down the road for us so that we were able to winch it on to the transporter. When the vehicle was loaded we returned directly to our Coy HQ in Tilburg.

To Page Three.

FOURTH WITNESS: (cont)

Chev HUP CZ.4211297 was badly damaged. The engine was broken from its mountings, radiator was broken, drive shaft was broken, front springs were broken, body was badly bent with top pushed in and doors sprung, chassis frame was badly sprung.

The place where I picked up Chev HUP CZ.4211297, MR. J745966, is approximately one mile south west of Wyneghem on Route Maple Leaf. It is between 40 - 45 miles from our Coy HQ. It is not on the route from 3 Can Corps and Army Tps Sub Park RCOC, Tilburg to our Coy HQ, which is also in Tilburg.

(A.J. Daniels) Cpl., P.15413,
1 Cdn Mech Eqpt Coy, RCE.

The accused declines to cross examine this witness.

FIFTH WITNESS: Lieut. W.D. MacLEAN, 1 Cdn Army Tps Wksp, RCEME.

Document purporting to be a signed statement of the evidence of Lieut. W.D. MacLean, 1 Cdn Army Tps Wksp, RCEME, was read over to the accused, marked Exhibit "A" and attached hereto.

I certify that in my opinion, the attendance of Lieut. W.D. MacLean, 1 Cdn Army Tps Wksp, RCEME is, owing to exigencies of the Service, not readily procurable.

(J.S. ELLIOTT) Capt., RCE.,
Officer taking Summary

SIXTH WITNESS: J.J. DIERCKX, 22 Eigenaarstraat, Turnhout, Belgium.

Document purporting to be a certified true copy held in possession of the Officer Commanding, 1 Cdn Mech Eqpt Coy, RCE of the signed statement of the evidence of J.J. Dierckx, 22 Eigenaarstraat, Turnhout, Belgium, was read over to the accused and marked Exhibit "B" and attached hereto.

I certify that in my opinion, owing to the expense and loss of time involved, the attendace of this witness cannot be readily procured.

(J.S. Elliott) Capt., RCE,
Officer taking Summary.

The accused was warned as follows:

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you may say or any evidence you give will be taken down in writing, and may be given in evidence.

The Accused: I desire to make a sworn statement.

The accused, B.94846 L/Cpl. Doane, Harry, Earl, 1 Cdn Mech Eqpt Coy, RCE, sworn, states:

At approx 1715 hrs, 11 Feb 45, I came in the gate at Coy HQ and met Sgt. McLaughlin and CSM Lightfoot. Sgt. McLaughlin handed me the AB 412 for Chev HUP CZ.4211297 and asked me to drive the CSM and himself. I delivered them at their directions to a place in Tilburg. I do not know exactly where it was. Upon leaving the vehicle, Sgt. McLaughlin said, "She is all yours. Get going." These are the only words I heard Sgt. McLaughlin say. I drove to a wider part of the street and turned around. I proceeded on route Maple Leaf Down towards Antwerp. It had been raining and was drizzling at the time. The road was slippery. Upon coming to a left curve in the road about a mile south-west of Wyneghem on Maple Leaf Down the vehicle skidded off the road on to the double tram line on the right hand side of the road and came to rest against a steel power line standard. The damage to the vehicle was slight, so I re-started the motor and tried to drive off the rails. It was not possible as the car was wedged against the steel power line standard. At this point I noticed a tram train coming from Antwerp at a fairly high rate of speed, about 30-40 mph, I would judge. I jumped out of the vehicle and ran down the rails toward the tram in an effort to stop it. The tram driver was unable to stop and the tram collided with the vehicle, carrying it for about 30-40 yards to the next power line standard where it, the vehicle, came to rest between the standard and the tram. I ran around to the front of the tram and found the tram driver's window broken completely. Thinking that there might be someone injured, I entered the tram by the door. There was no one injured. In company with the tram driver, I went back to the vehicle and found that the trolley line was down and it had come in contact with the vehicle and had set the undercarriage on fire. We put the fire out. I stayed with the tram for about three hours. No military police were available or came along. The tram driver said that I might as well go and that they would lift the vehicle off the road when they could get a crane there. I left and hitch-hiked my way back to Coy HQ and reported my return to L/Cpl. Jenkinson at approx 0100 hrs, 12 Feb 45.

H E Doane

(H.E. DOANE) L/Cpl., B.94846,
1 Cdn Mech Eqpt Coy, RCE.

I certify that B.P. 4 has been complied with. Taken by me in the Field in the presence and hearing of the accused this Thirteenth day of February 1945.

(J.B.ELLIOTT) Capt., RCE.
1 Cdn Mech Eqpt Coy, RCE.

EXHIBIT "A"

FIFTH WITNESS: Lieut. W.D. MacLEAN, 1 Cdn Army Tps Wksp, RCEME, states:

On 13 Feb 45, Chev HUP CZ.4211297 was evacuated to this Workshop by 1 Cdn Mech Eqpt Coy, RCE. Speedometer mileage reading at time of evacuation was 9292 miles. The vehicle was inspected and condemned as W Crock.

Cost of damage to vehicle is estimated at $433.59.

Signed. W.D. MacLean, Lieut.,
1 Cdn Army Tps Wksp RCEME.

This is Exhibit "A" referred to in the Summary of Evidence in the case of B.94846 Spr. (L/Cpl.) Harry Earl Doane, of 1 Cdn Mech Eqpt Coy, RCE, taken before me this thirteenth day of February 1945.

(J.S.Elliott) Capt., RCE.
Officer taking Summary.

EXHIBIT "B"

SIXTH WITNESS: J.J. DIERCKX, 22 Eigenaarstraat, Turnhout, Belgium, states:

I, JJ. Dierckx, am a motorman with NATIONALE MAATSCHAPPIJ VAN BUURTSPOORWEGEN on run between Turnhout and Antwerp. On Sunday, 11 Feb 45 at approx 1900 hrs, I was proceeding from ANTWERP to TURNHOUT and I was approx one kilometre west of Wyneghem. The track is very winding at this point and as I came around a sharp corner at approx 40 km per hour and there was a vehicle across the track. I did not see him until I was about 15 metres from him because he did not have any lights. I could not stop and ran into the vehicle. The damage to my tram consisted of three broken windows and a hole through the front of the car. Nobody was hurt.

Signed. J.J. Dierckx,

The above is a certified true copy of the statement signed by J.J. Dierckx, now held in my possession.

(S.W.Schortinghuis) Major, RCE,
Officer Commanding,
1 Cdn Mech Eqpt Coy, RCE.

This is Exhibit "B" referred to in the Summary of Evidence in the case of B.94846 Spr. (L/Cpl.) Harry Earl Deane, of 1 Cdn Mech Eqpt Coy, RCE, taken before me this thirteenth day of February 1945.

(J.S. Elliott) Capt., RCE.
Officer taking Summary.

Ex "A"

Summary of Evidence —
in Re case of B/78476 L/Cpl Harry Earl
DOANE, 1 Cdn Mech Egpt Coy RCE, Canadian
Army Overseas.

The Officer Commanding directs that No evidence
be taken on oath.

First Witness.

M/327, A/Sgt, Mc Laughlin R.A., 1 Cdn
Mech Egpt Coy RCE, sworn, states: —

At approx 17.5 hrs 11 Feb 45, I made out and signed
Work Ticket No 13 for Cdn Mil. Vehicle, Chas. HC1P
CL42112977 for destination 3 Cdn Corps and Army
Tps Sub Park RCOC, Tilburg. I instructed L/Cpl
Doane to drive his vehicle and in company with
Cdn Lightfoot, we proceeded to the sub park. On
getting out of the car, I ordered L/Cpl Doane to drive
the car straight back to Coy HQ and told him
that we would walk back. L/Cpl Doane drove
off at approx 1730 hrs. I did not see L/Cpl Doane again
until shortly before parade at 08.15 hrs 12 Feb 45.
I did not see the vehicle again until it was brought
to Coy HQ during the afternoon of 12 Feb 45 in a
badly damaged condition.

I returned to Coy HQ at approx 2300 hrs 11 Feb 45. On my arrival here, I checked the vehicles and found that Chev 4 x 4 CL 421297 was missing. I checked with the guards to see if they knew where the vehicle was. They did not. I checked the quarters and found that L/Cpl Doane was not present. I then informed the Orderly Corporal, M 7305 L/Cpl Jenkinson O.R. that L/Cpl Doane was absent and told him to determine the time at which L/Cpl Doane returned. I notified all guards that L/Cpl Doane was absent and instructed them to inform L/Cpl Doane that he was to report to the Orderly Room immediately upon his return.

L/Cpl Doane was ordered to proceed directly to Coy HQ and was not authorized to proceed to any other place.

The accused declines to cross examine this witness

Richard Langdon

SECOND WITNESS

C 35078 A/CSM LIGHTFOOT, N. 1 Cdn Mech Eqpt Coy RCOC, sworn, states:-

About 1715 hrs 11 Feb 45, in company with Sgt Mc Laughlin, R. I was driven to 3 Cdn Corps Compound Army Pos Sub Park RCOC, Dilburg in Chev 4x4 P No. CZ 4211297 Coy L/Cpl Doane. On getting out of the car at our destination, Sgt Mc Laughlin spoke to L/Cpl Doane. I did not hear all that he said but I did hear Sgt Mc Laughlin mention "camp" and "take it away". I also heard Sgt Mc Laughlin tell L/Cpl Doane that we would walk back to Coy H.Q.

On returning to Coy H.Q. at approx 2300 hrs 11 Feb 45, in company with Sgt Mc Laughlin, we found that Chev 4x4 CZ 4211297 was missing. Sgt Mc Laughlin made a thorough check of the vehicles and quarters and was unable to find either the car or L/Cpl Doane. I listed L/Cpl Doane as absent at 2300 hrs 11 Feb 45.

L/Cpl Doane was not authorized to proceed to any place other than our Coy HQ in Dilburg after we left the vehicle he was driving at 3 Cdn Corps and Army Pos Sub Pk RCOC Dilburg.

SECOND WITNESS - C 35578 A/Cdm LIGHTFOOT, N.
1 Cdo Med Eqpt Coy RCE, sworn.

Continued

The Accused declines to cross examine
his witness

A/Lt/Col Cdm

THIRD WITNESS - Lieut W. R. Saddler, 1 Cdo Med Eqpt Coy RCE, sworn, states:- At approx 0810 hrs 12 Feb 45 I was informed that Cdo WSP CZ4211277 had been involved in an accident about a mile south west of Wyneghem, Belgium, on Maple Leaf Down route. I gave instructions to have the vehicle recovered. I inspected the vehicle when it was brought in and found that it was beyond repair in Coy workshops. The vehicle was evacuated to 1 Cdo Army Tps Workshop RCEME on 13 Feb 45.

The Accused declines to cross examine this witness.

W R Saddler Lt

FOLIO V WITNESS - P15413 A/Cpl Daniels A.J. 1 Coln

Mech Eqpt Coy R.C.E., sworn, states:-

About 0900 hrs 12 Feb 45, I was instructed by Lieut Sadler to proceed ~~to MR~~ with a transporter to MR J745966 to pick up Chev 4WD CZ4211297 which had been involved in an accident at that place. In company with F 91648 A/Cpl Bouthilier J.B. I arrived at MR J745966 at approximately 1130 hrs 12 Feb 45. Chev 4WD CZ4211297 was on the left hand side of the road, ~~facing~~ proceeding south, about 100 yds north of where the accident had occured. It had evidently been moved to this position by someone in order to clear the tram line. Workmen were repairing the tracks and a damaged power line standard on the tram line. As I drove up to the vehicle, a REME recovery vehicle was preparing to take the damaged Chev away. They moved it down the road for us so that we were able to winch it on to the transporter. When the vehicle was loaded we returned directly to our Coy H.Q. in Tilburg.

Chev 4WD CZ4211297 was badly damaged. The engine was broken from its mountings, radiator was broken, drive shaft was broken, front springs were broken, body was badly bent with top punked in and doors sprung, chassis frame was badly sprung.

The place where I picked up Chev 4WD CZ4211297, MR J745966, is approximately one mile south west of Wyneghem on Route Maple Leaf. It is between

FOURTH WITNESS. cont'd

40 - 45 miles from our Coy H.Q. It is not on the route from 3 Edn Corps and Army Tps Sub Park RCOC Dilbury to our Coy H.Q. which is also in Dilburg.

Cpl. A J Dennis.

The accused declines to cross examine this witness.

FIFTH WITNESS - Lieut W. D. MacLean, 1 Cdn Army Tps Whsp, RCEME.

Document purporting to be a signed Statement of the evidence of Lieut W. D. MacLean, 1 Cdn Army Tps Whsp RCEME, was read over to the accused, marked Exhibit "A" and attached hereto.

I certify that, in my opinion, the attendance of Lieut W. D. MacLean, 1 Cdn Army Tps Whsp RCEME is, owing to exigencies of the service, not readily procurable.

A. Elliott Capt.
Officer taking Summary

SIXTH WITNESS. J.J. DIERCKX, 22 EIGENAAR STRAAT TURNHOUT BELGIUM.

Document purporting to be a certified true copy, held in possession of the Officer Commanding, 1 Cdn Mech Engr Coy RCE of the signed statement of the evidence of J.J. Dierckx, 22 Eigenaar Straat, Turnhout, Belgium, was read over to the accused and marked Exhibit "D" and attached hereto.

I certify that in my opinion, owing to the expense and loss of time involved, the attendance of this witness cannot be readily procured.

R. Elliott Capt
Officer taking Summary.

The accused was warned as follows —

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you may say or any evidence you give will be taken down in writing, and may be given in evidence.

The Accused: I desire to make a sworn statement.

The Accused, B91846 L/Cpl DOANE, Harry, Enl, 1 Cdn Mech Egpt Coy RCE, sworn, states:-

At approx 1715 hrs 11 Feb 45. I came in the gate at Coy HQ and met Sgt McLaughlin and ASM Lightfoot. Sgt McLaughlin handed me No 13-412 for Chev 15 CZ 42:297 and asked me to drive No ASM and himself. I delivered them at their directions to a place in Tilburg. I do not know exactly where it was. Upon leaving the vehicle Sgt McLaughlin said:- "He is all yours. Get going." These are the only words I heard Sgt McLaughlin say. I drove to a wider part of the street and turned around. I proceeded on route Maple

Leaf Down towards Antwerp. It had been raining and was drizzling at the time. The road was slippery. Upon coming to a left curve in the road about a mile south-west of Wyneghem on Maple Leaf Down. The vehicle skidded off the road on to the double tram line on the right hand side of the road and came to rest against a steel power line standard. The damage to the vehicle was slight, so I re-started the motor and tried to drive off the rails. It was not possible as the car was wedged against the steel power line standard. At this point I noticed a tram tram coming from Antwerp at a fairly high rate of speed, about 30-40 mph I should judge. I jumped out of the vehicle and ran down the rails toward the tram in an effort to stop it. The tram driver was unable to stop and the tram collided with the vehicle, carrying it for about 30-40 yards to the next power line standard where it, the vehicle, came to rest between the tram and the standard. I ran around to the front of the tram and found the tram driver's window broken completely. Thinking that there might be someone injured. I entered the tram by the door. There was no one injured. In company with the tram driver I went back to the vehicle and found that the

Tolby line was down and that it had come in contact with the vehicle and had set the undercarriage on fire. We put the fire out. I stayed with the tram for about three hours. No military police were available or came along. The tram driver said that I might as well go and that they would lift the vehicle off the road when they could get a crane here. I left and hitch-hiked my way back to Coy H.Q. and reported my return to L/Cpl Jamieson at approx 0100 hrs
12 Feb 45.

H. E. Doane

I certify that R.P.+ has been complied with.
Taken by me in the field in the presence and hearing of the accused this Thirteenth day of February, 1945.

J. Elliott Capt.

EXHIBIT "A".

FIFTH WITNESS - Lieut W.D. MacLean, 1 Cdn Army Tps Wksp RCEME, states :-

On 13 Feb 45, Chev 4x4 P C2+211297 was evacuated to this Workshop by 1 Cdn Mech Eqpt Coy RCC. Speedometer mileage reading at time of evacuation was 9292 miles. The vehicle was inspected and condemned as W Crock.

Cost of damage to vehicle is estimated at $433.59.

W.D. MacLean Lieut. RMC.

This is Exhibit "A" referred to in the summary of evidence in the case of 3948416 Spr (L/Cpl) Barry Earl Doane of 1 Cdn Mech Eqpt Coy RCC taken before me this Thirteenth day of February 1945.

J.E. Elliott Capt
Officer taking Summary.

EXHIBIT "B"

SIXTH WITNESS: J.J. DIERCKX, 22 Eigenaarstraat, Turnhout, Belgium, states:

I, JJ. Dierckx, am a motorman with NATIONALE MAATSCHAPPIJ VAN BUURTSPOORWEGEN on run between Turnhout and Antwerp. On Sunday, 11 Feb 45 at approx 1900 hrs, I was proceeding from ANTWERP to TURNHOUT and I was approx one kilometre west of Wyneghem. The track is very winding at this point and as I came around a sharp corner at approx 40 km per hour and there was a vehicle across the track. I did not see him until I was about 15 metres from him because he did not have any lights. I could not stop and ran into the vehicle. The damage to my tram consisted of three broken windows and a hole through the front of the car. Nobody was hurt.

Signed. J.J. Dierckx,

The above is a certified true copy of the statement signed by J.J. Dierckx, now held in my possession.

(S.W.Schortinghuis) Major, RCE,
Officer Commanding,
1 Cdn Mech Eqpt Coy, RCE.

This is Exhibit "B" referred to in the Summary of Evidence in the case of B.94846 Spr. (L/Cpl.) Harry Earl Deane, of 1 Cdn Mech Eqpt Coy, RCE, taken before me this thirteenth day of February 1945.

(W.B. Elliott) Capt., RCE.
Officer taking Summary.

Ex. B

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B.94846	L/Cpl.	DOANE, H.E.	1 Cdn Mech Eqpt Coy, RCE.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not assisted to the proceedings.

† See para. 607, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given for the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness, now the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		* Since Enlistment.	
For Absent without leave	1	times.	3	times.
For Leaving WD Veh unattended	nil	times.	2	times.
For Driving WD Veh s/o authority	nil	times.	1	times.
For Being out of bounds	nil	times.	1	times.
Improperly dressed	nil		1	
For Insubordination	nil	times.	1	times.

Number of instances of gallantry or distinguished conduct, Nil.

2. The accused has not been previously convicted, [illegible]

3. The accused is not under sentence at the present time, [illegible]

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and four (4) 5 days in military custody, making a total of four (4) 5 days, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 31 years

6. The date of his attestation specified in his record of service is 15 Jun 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is nil.

8. The accused is entitled to deferred pay or gratuity in respect of nil service.

9. The accused is entitled to reckon nil service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award [illegible]

[illegible]

(**51000) W1.24999/175a 51,000 10/43 A.& E.W.Ltd. Gp.698
(18000) W1.24999/1499 18,000 8/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ____ Rank ____ Name ____ of ____ Regiment (*or as the case may be*).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17 day of Feb

A Wms Capt. Adj.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of Lance Corporal Date of Promotion, 24 Sep 44

In the rank of n.a. 4½ months years,

In the rank of n.a. years,

In the rank of n.a. years,

(*Instructions.—If any matter in any of the above five columns appears to need explanation, it should be explained briefly in that column. Otherwise, except clear in the case of a trial by field general court-martial, the information required should be given in the following paragraph, inserted accordingly.*)

No B.94846 Name DOANE H.E. | Sqn, Battery, or Company | Corps RCE | Date of enlistment 15 Jun 40 | GC Badges | nil | Service and Proficiency Pay | "C"

Date of last entry in Company Conduct Sheet 1.10.40 | No and date of last drunk nil | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

OLD SHEET DESTROYED 25 JUN 42

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon	17.7.41	Spr		WOAS AWL 0200 hrs 17.7.41 to 1000 hrs 17.7.41. Abs. 8 hrs. AA 15 (1)	Doc. Cpl. Hunt	7 days CB	18.7.41	Lt-Col L.F. Barnes	For 1 days pay
Manston	6.9.41	Spr		WOAS AWL 0600hrs 6.9.41 to 0800 hrs 9.9.41. Abs. 3 days AA 15 (1)	I/S. Negus Cpl. Cagne	3 days pay FR&I 149	9.9.41	Major G. Campbell	Forf 3 days pay
Cove	14.12.41	Spr		AA 11 did leave a WD veh unattended & in a mobile condition. Was without a respirator	Cpl. Jamieson L/C. Barry CPC. 47 Coy	72 hrs det	17.12.41	Major E.C. Brown	Forf 3 days pay
Cove	22.6.42	Spr		AA SEC 40 Cond to the prej. driving a WD veh without proper authority	Doc	7 days CB	13.7.42	Col. G.H. Whyte	
Reading	19.8.42	Spr		WOAS contr SCO 562 of 1941 ie not in possession of a pass when outside his station area.	L/Cpl. S. Samways	3 days pay FR&I 149	4.9.42	Major C.M. Kindersley	

Reviewed in accordance with CARO 2084, 15 Jan 43. Signed ?? Keith, Lieut. for OC 11 Fd Coy, RCE.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	22.5.43	Spr		AA Sec 8 (2) insubordination - impeded a MP in the performance of his duty. AA Sec 40. Improperly dressed	Doc.	8days pay 14 days CB	26.5.43	Major C.M. Kindersley	
Field	7.9.43	Spr		AA 40 Cond to the prej etc - failed to carry out his duties by leaving his veh & entering the "Ship & Bell" coffee bar.	Lt.A Hanson	21 days pay	8.9.43	Major C.M. Kindersley	
Field	11.6.44	Spr		AA Sec 15 (1) AWL from 2300 hrs 11 Jun 44 to 0800 hrs 12 Jun 44 Absent 9 hrs.	Sgt. Crozier	For 3 days pay	12.6.44	Major SW Schortinghuis	For 1 days pay FRAI 149 (1)(a)

Certified a true and correct copy of the original now in my possession.

(W.W. Schortinghuis) Major, RCE.
Officer Commanding,
1 Cdn Mech Eqpt Coy, RCE.

I desire the services of Capt. H.G. Wroe, 1 Cdn Mech Eqpt Coy, RCE, in my defence, if he is available.

H.E. Doane

(H.E. DOANE) L/Cpl. B.94846,
1 Cdn Mech Eqpt Coy, RCE.

LIST OF WITNESSES

(a) For the Prosecution

1. M.7327 A/Sgt. McLaughlin, R.A. 1 Cdn Mech Eqpt Coy, RCE
2. C.35578 A/CSM. Lightfoot, N. 1 Cdn Mech Eqpt Coy, RCE
3. Lieut. W.R. Sadler, 1 Cdn Mech Eqpt Coy, RCE.
4. P.15413 A/Cpl. Daniels, A.J. 1 Cdn Mech Eqpt Coy, RCE
5. Lieut. W.D. MacLean, 1 Cdn A Tps Wksp, RCEME.
6. J.J. Dierckx, 22 EigenaarStraat, Turnhout, Belgium

(b) For the Defence

1. Nil.

3 E-12

Pte. Dobbie, A. J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K72680 Pte Alexander John DOBBIE, Linc & Welld R

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1) RPM

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for one (1) year.

(Sgd) " R P Milligan " Capt — Judge-Advocate, if any. 27 Mar 45 — Date awarded. (Sgd) " C B Robertson " Maj — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 1, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) JCJ

(1. AA 57A. Delete if not used.)

(Sgd) " J C Jefferson " Brig

Date 29 Mar 45 — Commanding 10 Cdn Inf Bde — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
K72680 Pte Dobbie A.J.	30 Mar 45	" R L Rogers " Capt Adjt Lincoln & Welland Regt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

5 E-12

FIELD GENERAL COURT-MARTIAL

CP/A86 (To Sheet of AFA31) 40/P & R/1868 (40000) 4/38B

Convened by Order of Brig J C Jefferson Comd 10 C.I.B. dated 25 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K72680	Pte	~~Rfn~~	Alexander John	DOBBIE	Linc & Welld R

CERTIFIED TRUE COPY
Legal Staff
19/4/45
18th Bde HQ 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date) 27 Mar 45 RPM

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 27/26

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(/) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3) RPM

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences. RPM

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) RPM

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~be interpreter I Ans~~ RPM

~~The Interpreter is sworn.~~(1) Do you object to ~~as shorthand writer I Ans~~
~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	C B Robertson	Alq R
Member	Lieut	L O Grose	A & S H of C
Member	Lieut	W C Alward	10 Cdn Indp MG Coy
Judge-Advocate	Capt	R P Milligan	HQ 4 Cdn Armd Div
Prosecutor	Capt	W H Gow	Linc & Welld R
Defending Offr	Capt	G T Moore	Linc & Welld R

Questions by President: Is the Prosecutor a lawyer? Ans. No Is the Defending Offr a lawyer? Ans. No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Div p 3.)

A8. The accused _____ before arraignment makes(a) (has) (✓) plea RPM

_____ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. RPM

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is sworn and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B RPM

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 3. *2. MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Not Guilty (5)
(*1. RP* 37(*B*). *2. RP* 37(*D*) *fn* 6. *3. RP* 35(*B*) *fn* 5 *para* 3. *MML p* 54 *para* 47. *4. See para* E3 *of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex B, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 93(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP* 115. *2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP* 114, 115, 135. *For procedure see Notes on back of Convening Order. Cf* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E3 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*b*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 43, 117(*A*). *See Notes in Part I of Schedule. 2. RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(*3*) (*d*), *RP* 45, 120(*A*). *2. AA* 54(*3*), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes Witness as to character only
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 27(*C*) *fn* 4, 46 *fn* 7. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)
(*1. MFB* 353 *or AFB* 296. *2. MFM* 6. *3. RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes by Pte Officer (2)
(*1. RP* 37(*C*), 46(*D*). *2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything he or previously stated which would affect the amount of punishment. RP* 27(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(*6*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. Where several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas AO* 309, 2323, *MML p* 60, 752-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 98(2), *KR Can* 564. *2. RP* 50. *As to release from arrest for Confirming Offr see KR Can* 367. *As to assembly and dispersal of record after trial see insstrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused K72680 Private Alexander John DOBBIE, Lincoln & Welland Regiment, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE - WHEN ON ACTIVE SERVICE, ABSENCE WITHOUT LEAVE
(Sec 15 (1)AA)

in that he

in the field absented himself without leav from 1200 hrs 2 Mar 45 until 1000 hr 21 Mar 45, absent 18 days 22 hr

" R C Coleman "

(R C Coleman) Lt-Col
Comd Linc & Welld R

Field
23 Mar 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

" J C Jefferson "

(J C Jefferson) Brig
Comd 10 Cdn Inf Bde

In the Field
25 Mar 45

" C B Robertson " Maj

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 67(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K72680	Pte		Alexander John	DOBBIE	Linc & Welld R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 25 MAR 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ". JCJ

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.) JCJ
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached~~ hereto. JCJ
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Maj	C B Robertson		Alq R

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Lt	L O Grose		A & S H of C
Lt	W C Alward		10 Cdn Indep MG Coy

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	A V Soley		HQ 10 Cdn Inf Bde

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	R P Milligan		4 Cdn Armd Div

On Active Service in the Fd

in HOLLAND (Country.)

" J C Jefferson " (Signed personally. RP 105 fn 2.) Brig (Rank.)

Date 25 Mar 45

Commanding 10 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (PARA 1(b) (viii) OF AFAO 40/39 & 67/1947 (Amdt))

" C B Robertson " Maj

CBR

MEDICAL OFFICER'S CERTIFICATE

(KR(Can)Para 557)

I certify that I have this day examined K72680 Pte DOBBIE A J of Lincoln & Welland R and in my opinion he is fit/unfit to undergo trial by Court Martial.

Station Field

Date 27 Mar 45

" J H Molloy " Capt RCAMC
Medical Officer

Unit

CHARACTER WITNESS STATEMENT FOR K76280 PTE A J DOBBIE

by A106030 A/Cpl KEOUGH W. W.

On returning to my Unit from Hospital and taking over my section I found a number of new faces, one of them being Pte Dobbie. After knowing Pte Dobbie for a short time we became quite good friends. I have been in action several times with Pte Dobbie, and found him to be a very efficient and courageous character. He was always very cool and used his head to the best advantage at all times. When ever he was detailed for a job it was always carried out promptly and no questions asked. He was very highly thought of by all the men in the section. When things were quiet or we were out of the line Pte Dobbie always wrote hom at every available opportunity. I have never at any time seen or heard Pte Dobbie do anything that would disgrace himself or his Regt. I beg of you to give Pte Dobbie another chance and I know he will make good.

RP 83 (b) complied with.

" W W Keough "

(A-106030 A/Cpl Keough W.W.)

Character Witness.

~~C.O.C.~~ 3.

PLEA OF MITIGATION IN THE CASE OF C.B.R.

K72680 Pte ALEXANDER JOHN DOBBIE by DEFENDING OFFICER

Pte Dobbie joined the Forestry Corp on 12 Sept 40, at the age of eighteen years. He served in Canada with his Unit and proceeded overseas on the 20 Apr 41. He continued training U.K., until he landed in France with his Unit on the 26 July 44. He fought with the Unit until Sept 44. At this time the Inf re-inforcements situation was very acute. Pte Dobbie of his own accord volunteered to join the C.I.C. he was detained for a period of three weeks at 2 C.B.R.G., waiting to join the Lincoln & Welland Regt, on the 4 Nov 44, he joined his Regt in the line. He fought continually with his unit until 2 Mar 45. During this period of time Pte Dobbie proved his capability as a leader in battle and was promoted to a L/Cpl 8 Feb 45. I wish to bring to the attention of the Court that Pte Dobbie has served in the army for four years and seven months. During this period of time he has had only one petty crime. I trust the Court will note that for three solid years this man has had no crime. It is Pte Dobbie's one desire to be able to return to action with his unit of which he is so proud. I feel confident that the Court when considering the sentence to be imposed upon this man will also bear in mind the excellent effort that has been put forth by Pte Dobbie for his King and Country.

" G T Moore " Capt

(Capt G T Moore)

DEFENDING OFFICER

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K72680	Pte	DOBBIE A J	Lincoln & Welland Regt.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be altered to the prejudice of the accused. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For _____ _____ times.

For _____ _____ times.

For _____ _____ times.

For _____ _____ times.

Date of first entry in Field Conduct Sheet _____

Date of last entry in Field Conduct Sheet _____

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. ~~[illegible]~~ RLR

~~[illegible]~~ RLR ~~[illegible]~~ RLR

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for 7 days in military custody, *i.e.*, _____ days in open arrest, 7 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 24

6. The date of his attestation is 12 Sep 40

RLR ~~enlistment~~

7. The service which the accused is allowed to reckon is 4 yrs 6 mo

8. The accused is in possession of CVSM and clasp

Enter the military decorations (if any) held by accused.

9. ~~[illegible]~~ RLR

~~[illegible]~~ RLR *Date of Promotion.*

~~[illegible]~~ RLR

~~[illegible]~~ RLR

~~[illegible]~~ RLR

INSTRUCTION.—*If any matter as to any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

E L C

C B R

(72684) Wt.42128-6389 45,000 11/43 A.& E.W.,Ltd. Gp.685 Forms/T.2 0/Wad/4

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		The accused has not had any previous trials or convictions by Court Martial.		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 27 day of Mar 45

" R L Rogers " Capt

No K72680 Name DOBBIE A J | Sqn, Battery, or Company | Corps CIC | Date of enlistment 12 Sep 40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/186 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Caste of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Lovat No 1	14 Feb 43	Pte		WOAS Absent from Mil training parade for 2 hours.		3 days pay AA 46(2)d	16 Feb 42	Maj. D W Hodsdon	

"CERTIFIED TRUE COPY TAKEN FROM REGIMENTAL RECORDS

" R L Rogers " Capt
(R L Rogers) Capt-Adjt
Lincoln & Welland Regt.,
Officer having custody of original document.

(PTO)

SUMMARY OF EVIDENCE

In the case of K72680 Private Alexander John DOBBIE, Lincoln & Welland Regiment, a soldier of the Canadian Army Overseas charged with:

(1) When on Active Service Absence Without Leave

The CO directs that evidence be taken on oath.

FIRST WITNESS B118463 L/Sgt Cooke R.G. "A" Coy, Linc & Welld R, sworn states:

"I am B118463 L/Sgt Cooke R G, No 7 Pl Sgt, "A" Coy, Linc & Welld Regt. At 1200 hr on the 2 Mar 45 I checked my platoon on meal parade and found Pte Dobbie could not be found. I reported his absence to my Platoon Commander."

" R G Cooke "

Signature of Witness.

SECOND WITNESS B70494 A/CSM Burmaster G A, sworn, states

" I am B70494 A/CSM Burmaster GA, A/CSM "A" Coy, Linc & Welld Regt On the 21 Mar 45 at 1000 hrs K72680 Pte Dobbie A J came into my orderly room and reported he was returning from A"L. I placed him under close arrest and put him in the guard-house."

" G A Burmaster "

Signature of Witness

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused: "I do not wish to make a statement at this time."

" Alex J Dobbie "

Signature of Accused.

The accused declined to call witnesses in his own behalf.

I certify that RP 4 (d)(e)(f)(g) have been complied with.

Taken by me in the field in the presence and hearing of the accused this 22 day of March 1945.

" W H Gow " Capt

Signature of Officer taking Summary

CERTIFIED TRUE COPY

" R L Rogers " Capt

(R L Rogers) Capt
Lincoln & Welland Regt

LIST OF EXHIBITS

NIL

I wish to have an Officer to defend me at my forthcoming Field General Court Martial.

" Alex J Dobbie "

K72680 Pte DOBBIE A.J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K72680 Pte Alexander John Robbie, Lincoln & Welland R

Charge. (Insert " alternative " where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 752, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one (1) year.

(Sgd) D Minard Capt 27 Mar 45 (Sgd) [illegible] Lieut-Colonel, Maj
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57. RP 37(D) fn 6, 46(A), 51-56, 120. MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157. MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53. MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not detained to undergo detention (garrison) until further ordered.~~ (1)
(1. AA 57A. Delete if not used.)

(Sgd) J C Jefferson Brig
Date 29 Mar 45. Commanding 10 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
K72680 Pte Robbie A	30 Mar 45	Arthur E Cass Capt., Adjt., Lincoln & Welland Regt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ ON AD 160 5E-12

CMHQ (in lieu of AFA21) 40/P & S/1608 (4/38)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Brig J C Jefferson Comd 10 Cdn Inf Bde dated 27 Mar 45

2 APR 1945 G.W.H.Q. 1945

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K72680	Pte	Alexander John	Robbie	Lincoln & Welland R

PROCEEDINGS REVIEWED

Lieut de Bde Capt
2 Apres

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Held in the Fd in (country) Holland on (date(s)) 27 Mar 45

PROCEEDINGS REVIEWED 13 Apr 45 Cdn Sec GHQ 2 Base AEF

1 Apr 45 21 Army Gp

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(A) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is openol. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans .....
The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans Nil (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major C B Robertson, Alg R
Member	Lieut K C Grose, H Q C Fd of C
Member	Lieut W C Edwards, 10 Cdn Inf Bde
Judge-Advocate	Capt A P Thompson, 21 Army Gp
Prosecutor	Capt W H Dew, Lincoln & Welland R
Defending Offr	Capt V T Moore, Lincoln & Welland R

Questions by President: Is the Prosecutor a lawyer? Ans Nil Is the Defending Offr a lawyer? Ans Nil (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Col p 2.)

Nil The accused ..... before arraignment makes(s) (no) ~~X~~ plea. (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to FoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 22, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AB 160
Vol 10/34

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E.
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statements. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. B, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ..... Do you intend to call witnesses on your behalf ? Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP 115.* 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf RP 95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1. 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*K*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 34(2) (*d*), *RP* 45, 120(*A*). 2. *AA* 34(3), *RP* 45, *117. This alternative pronouncement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Yes witness as to Character only (2)
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy [*signature*] of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (*g*) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)
(1. *MFE 355 or MFB 296.* 2. *MFM 6.* 3. *RP* 46, *KR Can 558. If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes by My Officer. (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*6*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas AO* 309, 2323, *MML p* 80, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused H72600 Private Alexander John DOBBIE,
Lincoln & Welland Regiment, a soldier of the Canadian
Army Overseas is charged with:

FIRST CHARGE
(Sec 15 (1) AA)

WENT ON ACTIVE SERVICE, ABSENT WITHOUT LEAVE

in that he in the field absented himself without leave
from 1200 hr 2 Mar 45 until 1000 hr 21 Mar 45, absent
18 days 22 hr.

Field
23 Mar 45

To be tried by Field General Court Martial.

(J C Jefferson)Brig
Comd 10 Cdn Inf Bde

In the Field
25 Mar 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly, see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K72680	Pte		Alexander John	DOBBIE	Linc & WeldR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 25 Mar 45 endorsed by me, ~~[illegible]~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[illegible]~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj (Rank.)	C B ROBERTSON (Must be named. RP 106.)	Alq R (Unit.)

MEMBERS.

Lt	L C GROSE	A & S H of C
Lt (Rank.)	W C ALKARD (Named or detailed. RP 106.)	10 Cdn Indep MG Coy (Unit.)

WAITING MEMBER.

Capt (Rank.)	A V SOLEY (Named or detailed, if any. RP 106.)	HQ 10 Cdn Inf Bde (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	R P MILLIGAN (Must be named, if any. RP 106.)	4 Cdn Armd Div (Unit.)

On Active Service in the Fd

in HOLLAND (Country.)

[signature] (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Dat 25 Mar 45

Commanding 10 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFA 96. (In lieu of CFA 3) 40/F & S/1647 (E) 42)

(See overleaf for oaths and notes for use on trial.)

CRR

MED OFFRS CERTIFICATE
KR (Can) para 557

I certify that I have this day examined No. K72680 Pte DOBBIE A J
of Lincoln & Welland R and in my opinion he is fit to
undergo trial by court-martial.

J H M [illegible] Capt RCAMC
(J.O.)

Stn Field
Date 27 Mar 45

E 4.

CHARACTER WITNESS STATEMENT For K-72680. PTE. A.J.DOBBIE

By - A-106030. A/CPL. KEOUGH,W.W.

On returning to my Unit from Hospital and taking over my section I found a number of new faces, one of them being Pte Dobbie. After knowing Pte Dobbie for a short time we became quite good friends, I have been in action several times with Pte Dobbie, and found him to be a very efficient and courageous character. He was always very cool and used his head to the best advantage at all times. When ever he was detailed for a job it was always carried out promptly and no questions asked. He was very highly thought of by all the men in the section. When things were quiet or we were out of the line Pte Dobbie always wrote home at every available opportunity. I have never at any time seen or heard Pte Dobbie do anything that would disgrace himself or his Regt. I beg of you to give Pte Dobbie another chance and I know he will make good.

K.P. & 3 Bl Complts units

.....W.W.Keough
(A-106030 A/Cpl Keough,W.W.)
Character Witness.

PLEA OF MITIGATION IN THE CASE OF -

K-72680 Pte ALEXANDER JOHN DOBBIE By DEFENDING OFFICER

Pte Dobbie joined the Forestry Corp on 12 Sept 40, at the age of eighteen years. He served in Canada with his Unit and proceeded overseas on the 20 Apr 41. He continued training in U.K., until he landed in France with his Unit on the 26 July 44. He fought with the Unit until Sept 44. At this time the Inf re-inforcements situation was very acute. Pte Dobbie of his own accord volunteered to join the C.I.C., he was detained for a period of three weeks at 2 C.B.R.G., waiting to join the Lincoln & Welland Regt. On the 4 Nov 44, he joined his Regt in the line. He fought continually with his Unit uhtil 2 Mar 45. During this period of time Pte Dobbie proved his capability as a leader in battle and was promoted to a L/Cpl 8 Feb 45. I wish to bring to the attention of the Court that Pte Dobbie has served in the army for four years and seven months. During this period of time he has had only one petty crime. I trust the Court will note that for three solid years this man has had no crime. It is Pte Dobbie's one desire to be able to return to action with his Unit of which he is so proud. I feel confident that the Court when considering the sentence to be imposed upon this man will also bear in mind the excellent effort that has been put forth by Pte Dobbie for his King and Country.

G.T. Moore Capt.
(Capt. G.T.Moore)
DEFENDING OFFICER.

Ex B

Summary of Evidence

In the case of K. 72680 Pte Dobbie alexander john Lincs + Welld Regt a soldier of the Canadian Army overseas charged with

Wilfully on active service absence without leave

The CO directs that evidence be taken on oath

First witness. B-118463 L/Sgt Cooke R.F. "A" coy Lincs + Welld Regt sworn states.

I am B-118463 L/Sgt Cooke R.F. No 7 pl Sgt. "A" coy Lincs + Welld Regt. at 1200 hrs on the 2 Mar 45 I checked my platoon on meal parade and found Pte Dobbie absent I checked the platoon area but Pte Dobbie could not be found I reported his absence to my Platoon Commander.

R.F. Cooke
signature of witness

Second witness B-70494 A/CSM Burmaster K.F. sworn states

I am B-70494 A/CSM Burmaster K.F. A/CSM "A" coy Lincs + Welld Regt. on the 21 Mar 45 at 1400 hrs K-72680 Pte Dobbie A.J. came into my orderly room and reported he was returning from A.W.L. I placed him under close arrest and put him in the guard-house.

K.F. Burmaster
signature of witness

The accused was warned as follows

Do you wish to make any statement or to give any evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused "I do not wish to make a statement at this time

Alex J. Dobbie
signature of accused

The accused declined to call witness on his own behalf

I certify that RP 4 (2)(3)(4)(5)(6) have been complied with

Taken by me in the field in the presence and hearing of the accused this 22 day of March 45

[redacted] Capt

signature of officer taking summary.

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
L72680	Pte	DOBBIE A.F.	Lincoln & Welland Regt.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	times	1 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct. Nil

or

There are no entries in the conduct sheets of the accused. Nil

2. ~~The accused has not been previously convicted.~~ Nil

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. *or* The accused at the present time is under sentence for Nil beginning on the Nil

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 7 days in military custody, making a total of 7 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 24

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is Nil 12 May 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs. 6 mo

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs. 6 mo service.

9. The accused is entitled to reckon 4 yrs. 6 mo service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). 1914-18 and 1939

11. (*If the accused is a warrant officer.*) The accused being a ~~non-commissioned~~ warrant officer last held the regimental rank of Nil

12. (*In the case of an officer.*) The accused holds in the army the rank Nil dated , and in his regiment (*or corps or department*) the rank of Nil dated

Ex C
cash

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. [illegible] Rank Pte Name [illegible] of [illegible] Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		The accused has not had any previous trials or convictions by Court Martial		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this [illegible] day of Dec 45

[illegible]

18. The accused has served as a non-commissioned officer continuously, without reduction, for the period (date)

To the rank of [illegible]

To the rank of [illegible]

To the rank of [illegible]

(Instructions—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

MFM 6
(AFB 122)
40/7485/136 (3458)

No K72680 Name [illegible] Sqn, Battery, or Company [illegible] Corps [illegible] Date of enlistment 12 Jan 40 GC Badges [illegible] Service or Proficiency Pay [illegible]

Date of last entry in Company Conduct Sheet [illegible] No and date of last drunk [illegible] Period not reckoning towards freedom from extra fine [illegible] Sheet No [illegible] Signature OC Company, etc [illegible] Character [illegible]

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Levat No 1	14 Feb 42			WOA absent from ATI training parade for 2 hours		3 days pay	16 Feb 42	W W Hodson Sqn Ldr	
				Awarded 3 days pay					
				Lincoln & Welland Regt.					
				Officer having authority for original treatment.					
E/ M.									

(FTO)

SUMMARY OF EVIDENCE

In the case of Y72600 Private Alexander John DOBBIE, Lincoln & Welland Regiment, a soldier of the Canadian Army Overseas charged with:

(a) When on Active Service Absence without Leave

The CO directs that evidence be taken on oath.

B110453 L/Bdr Cooke A G, "A" Coy, Line & Welle R, sworn, states:

"I am B110453 L/Bdr Cooke A G, No 7 Pl Sgt, "A" Coy, Line & Welle Regt. At 1230 hr on the 2 Mar 45 I checked my platoon on meal parade and found Pte Dobbie absent. I checked the platoon given but Pte Dobbie could not be found. I reported his absence to my Platoon Commander."

A G Cooke
Signature of Witness.

B70424 A/CSM Bannister S A, sworn, states:

"I am B70424 A/CSM Bannister S A, A/Sqmr "A" Coy, Line & Welld Regt On the 21 Mar 45 at 1000 hrs Y72600 Pte Dobbie A J came into my orderly room and reported he was returning from AWL. I placed him under close arrest and put him in the guard-house."

S A Bannister
Signature of Witness

The accused was warned as follows:

"You are not obliged to say anything or give any evidence upon oath, but you are obliged to say anything or give evidence which you wish to do so, but whatever you do say or any evidence you give will be taken down in writing and may be given in evidence."

The accused: "I do not wish to make a statement at this time."

Alex J Dobbie
Signature of Accused

The accused declined to call witnesses in his own behalf.

I certify that RP 4 (a) (e) (f) (g) have been complied with.

Taken by me in the right in the presence and hearing of the accused this 22 day of March 45.

W H Cox Capt
Signature of Officer taking Summary.

Commanding Officer

(A E Brown) Capt, adjt
Lincoln & Welland Regt

LIST OF WITNESSES

[illegible]

[illegible]

22 Jan 45

I wish to have an officer to defend me at my forthcoming [illegible] Field General Court Martial.

Alex J. Kabakis

CC-108 (case #2)

GNR DOBBIE D.

See X-114 for 1st case

K-25538 Gnr Dobbie, Donald
2 CARU

CC-188

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY-NINTH day of MARCH, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[redacted]

*Omit if not applicable.

for the following reasons, namely:—]

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt-COL.	D.L. REDMAN, E.D.	H.Q. C.R.U.

Members.

Rank.	Name.	Regiment.
CAPTAIN	J.C. McDIARMID, RCA	1 CARU
LIEUT	D.G. McCORY, RCA	2 CARU
LIEUT.	E. SHOREY, RCA (Waiting Member)	1 CARU

*Must be signed personally by the Officer actually presiding at the time, and all alterations in the composition of the Court must be initialled by him.

*Signed [signature] Brigadier,
Commanding "C" Group, Cdn Rft Units.
Convening Officer.

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
K-25538 Gnr Dobbie, Donald (R.C.A.) 2 C.A.R.U.	FIRST CHARGE A.A. Sec. 8(2)	NOT GUILTY	GUILTY	Confirmed JS
	SECOND CHARGE A.A. Sec 10(3)	"	GUILTY	
	THIRD CHARGE A.A. Sec. 24(4)	"	GUILTY	
	FOURTH CHARGE A.A. Sec. 9(2)	"	GUILTY	
			SENTENCE To undergo detention for a period of one hundred and twenty days (120) and to be put under stoppages of pay until he has made good £0-12-6 a portion of the damage occasioned by the commission of the offense, See Charge Sheet attached.	1 Apr. 43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) — Answer — no"

(Signed) J. Stewart Brigadier, (Signed) [illegible]
Commanding "C" Group, Cdn Rft Units.
Confirming Officer (d) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

CHARGE SHEET

No K 25538 Gnr DOBBIE, Donald, Royal Canadian Artillery, a soldier on the strength of "F" Bty, "Q" Wing No 2 Cdn Arty Rft Unit, Cdn Army(Overseas), is charged with-

FIRST CHARGE Using insubordinate language to his superior officer,

in that he,

A.A. Sec. 8 (2)

While on Active Service, at approximately 2100 hrs on the 21st of March '43, after having been placed in the Guard Room cell said to Sjt Watt of the Regimental Police, "You are all a no good bunch of buggars" or words to that effect.

SECOND CHARGE Resisting an escort whose duty it was to have him in charge,

in that he,

A.A. Sec. 10 (3)

While on Active Service, at Superior Camp, Ludshott, Hants, at approximately 2100 hrs on the 21st day of March '43, while under escort of the Regimental Police, resisted the escort by struggling violently.

THIRD CHARGE Wilfully damaging Public Property,

A.A. Sec. 24 (4)

in that he,

While on Active Service, at approximately 2115 hrs on the 21st of March '43, did kick and damage the door of his cell, thereby causing damage to the amount of one pound, five shillings (£1-5-0).

FOURTH CHARGE Disobeying a lawful command given by his superior officer,

A.A. Sec. 9 (2)

in that he,

While on Active Service, at Superior Camp, Ludshott, Hants, at approximately 1500 hrs, on the 22nd of March '43, refused to work on the wood pile when ordered to do so by L/Sjt Watt of the Regimental Police, Superior Camp.

Signed at Superior Camp,
Ludshott, Hants, this
27 March 43

(Mackenzie Waters) Col., R.C.A.
Commanding Officer
No 2 Cdn Arty Rft Unit
Cdn Army (Overseas)

To be tried by Field General Court Martial.

Brigadier,
Commanding "C" Group, Cdn Reinforcement Units
(Convening Officer)

Bordon, Hants.
29 Mar 43.

2 CARU Form No 92

MEDICAL CERTIFICATE

I certify that I have this day examined No. K 25798 GNR DOBBIE, D and find him fit to undergo F.G.C.M.

Dated at Jasper Camp. 31 MAR 43

Medical Officer
No 2 Cdn Arty Rft Unit
Cdn Army (Overseas)

TRANSCRIPT OF EVIDENCE

in the case of K-25538 Gnr Dobbie, Donald, No 2 CARU. held at Quebec Barracks, Bordon, Hants, on the 1st day of April, 1943.

The Order convening the court, the charge sheet, the summary of evidence and the medical certificate are laid before the court.
The court satisfy themselves as provided by Rs.P. 22 and 23.
The accused is brought before the court.
Prosecutor:- Lieut R.J. Guy, 2 C.A.R.U.
Defending Officer:- Captain J.T. Litster 2 C.A.R.U.
At 1330 hours the trial commences.
The order convening the court is read, signed by the president, and attached to the Proceedings.
The names of the President and members of the court are read over in the hearing of the accused, and they severally answered their names with the exception of Lieut D.G. McCory, and Lieut E. Shorey (Waiting Member) took his place.
Do you object to be tried by me as president, or by any of the officers whose names you have heard read over?
A. No sir.
The President and Members are duly sworn.
PRESIDENT:- LT.-COL. D.L. REDMAN, V.D., H.Q. C.R.U.
MEMBERS:- CAPTAIN J.C. McDIARMID 1 C.A.R.U.
LIEUT E. SHOREY 1 C.A.R.U.
The following officers under instruction are duly sworn:-
Lieut J.L. Millar, 2 C.A.R.U.
Lieut B.J.P. Whatley, 2 C.A.R.U.
Do you object to U-1681 Cpl Thomas, E.J. acting as shorthand writer?
A. No sir.
The shorthand writer is duly sworn.
The charge sheet is signed by the President, and annexed to the proceedings.
The accused is arraigned upon the charges in the abovementioned charge sheet and pleads NOT GUILTY to all the charges against him.
R.P.39(A) complied with.

1ST WITNESS FOR THE PROSECUTION: M-3656 L/Sjt Watt, H.J. Regtl Police, 2 CARU, sworn, is examined by the prosecutor:-
Q.1 This 1st charge is one of using threatening language to a superior officer. Will you tell us what occurred in the guard room of No 2 CARU on 21 Mar 43 in this connection?
A.1 On 21 March after having placed the two Dobbie brothers under close arrest they caused quite a commotion in the guard room. One Gnr Donald Dobbie - whom I see and recognize - made certain remarks that we were "all a bunch of bastards and no bloody good", relating to the Regtl Police of 2 CARU.
Q.2 Were those particular remarks addressed to you Sjt Watt?
A.2 Yes sir, they were.
Q.3 Where was Gnr Dobbie when these remarks were made?
A.3 He was in the cell in the guard room.
Q.4 And where were you?
A.4 I was in the cell with Gnr Dobbie, the other brother (Douglas Dobbie), the regtl orderly offr - a Lieut - and there was one L/Bdr. McKay.

CROSS EXAMINED BY DEFENDING OFFICER:

Q.5 Why was Donald Dobbie in the guard room?
A.5 He was there because I put him there in disobeyance of an order given by me.
Q.6 You stated that all the swearing had been directed at you?
A.6 Yes sir, it had been directed at me.
Q.7 It could have been directed at anyone of the regtl police?
A.7 Well, I do not think everyone of the regtl police was in the cell at the time.

1ST WITNESS FOR THE PROSECUTION: Continues to be examined by the prosecutor:-
Q.8 Will you give evidence as to what you know regarding the 2nd charge?
A.8 At approx 2100 hrs 21 March 43 I ordered Gnr Donald Dobbie - whom I see and recognize - to go to the guard room with L/Bdr Burnett and he refused to do so. I then placed him under close arrest and had him taken to the guard room by L/Bdr Burnett. He fought with his escort, put up quite a struggle, and it took us 10 mins to take him to the guard room.

A.8 (Contd).
On arrival in the guard room he put up a further struggle and had to be forced into the cell.
Q.9 Will you tell the Court what you know about the 3rd charge?
A.9 At approximately the same time and date, after putting Gnr Dobbie to the cell I heard a violent kicking on the door and the panel of the door was kicked out. The door was quite badly damaged sir. Gnr Douglas Dobbie was also in the cell. The door was broken out from the inside and kicked into the hallway.
Q.10 Will you give evidence as to what happened re the 4th Charge?
A.10 At approx 1500 hrs 22 Mar 43 I was informed by L/Bdr Hooper, Regtl Police, 2 CARU, that Gnr Donald Dobbie refused to work. I went to Gnr Donald Dobbie and showed him the regulations whereby men undergoing detention could be worked and ordered him to go out and work on the wood pile - and this he refused to do. He stayed in the cell and wouldn't go out.
Q.11 What action did you take after that?
A.11 I had the charge laid and informed the Adjt.
Q.12 Did Gnr Dobbie appear to have been drinking on the night of 21 March?
A.12 Well I wouldn't say he didn't have a drink sir; but he wasn't drunk.

CROSS EXAMINED BY DEFENDING OFFICER:
Q.13 Prisoners awaiting Sentence are made to work are they?
A.13 Yes sir.
Q.14 Those awaiting Sentence?
A.14 Yes sir, I have authority here.
Q.15 When did the men go out to work? At 3 o'clock in the afternoon?
A.15 No sir. Donald Dobbie had been taken out at 1 o'clock and just decided to go on strike and was taken back to the guard room.
Q.16 How long had he been out?
A.16 About an hour.

2ND WITNESS FOR THE PROSECUTION: C-1143 L/Bdr BURNETT, A.C., Regtl Police, 2 C.A.R.U., sworn, is examined by the prosecutor:-
Q.17 Will you tell the Court what you know about an incident that occurred on 21 Mar 43 in the NAAFI concerning Gnr Dobbie?
A.17 At approx 2100 hrs 21 Mar 43 I was in the NAAFI when L/Sjt Watt ordered me to take Gnr Donald Dobbie to the guard room.
Q.18 You see and recognise Gnr Donald Dobbie?
A.18 Yes sir. Gnr Dobbie refused to go. L/Sjt Watt then placed him under close arrest and he still refused to go and I took him out by force.
Q.19 What did he do?
A.19 He resisted.
Q.20 How?
A.20 He started shuffling around.
Q.21 What else?
A.21 Just shuffling around - that's all.
Q.22 What happened when you got to the guard room in connection with this charge?
A.22 He wouldn't go into the cell.
Q.23 What did you have to do?
A.23 Put him in by force.
Q.24 Did you gain any impression as to whether or not Gnr Donald Dobbie had been drinking?
A.24 I couldn't say sir.

CROSS EXAMINED BY DEFENDING OFFICER:
Q.25 Where was Gnr Donald Dobbie when you arrested him?
A.25 In the NAAFI.
Q.26 Had you seen him there before?
A.26 No sir.
Q.27 Do you know whether he was drinking there or not?
A.27 I didn't see him drinking.
Q.28 How long had you been there?
A.29 About 10 mins sir.
Q.30 How much force did you have to use to get him out of the canteen?
A.30 Well I had to take hold of the collar of his tunic and drive him out.
Q.31 You eventually got him up to the guard room and put him in the cell?
A.31 Yes sir.
Q.32 Who assisted you?
A.32 I think it was L/Sjt Watt.

Q.33 You couldn't say for sure?
A.33 No sir.
Q.34 Did you actually have your hands on Gnr Dobbie when you put him in the cell?
A.34 Yes sir.

3RD WITNESS FOR THE PROSECUTION: B-6215 L/Bdr DOWNING, R. 2 C.A.R.U., sworn, is examined by the prosecutor:-
Q.35 Gnr Donald Dobbie has been charged with resisting an escort. Will you tell what you know about this particular incident?
A.35 A man started arguing, it was the accused whom I recognise. He started arguing with the Sjt and started using very threatening language against L/Bdr Burnett. At the time the man was going to "beat L/Bdr Burnett's brains out" or words to that effect; but he eventually quieted down and was taken to the guard room.
Q.36 Did the accused go peacefully?
A.36 No, he was struggling.
Q.37 Did Donald Dobbie appear to be drinking?
A.37 No sir.

CROSS EXAMINED BY THE DEFENDING OFFICER:
Q.38 How long had you been in the NAAFI Canteen?
A.38 About 15 mins.
Q.39 How far away were you from the incident?
A.39 About 3 ft.
Q.40 You had no actual physical contact with the accused?
A.40 No sir.

4TH WITNESS FOR THE PROSECUTION: L-18266 L/Bdr McKAY C.M. Regtl Police, 2 CARU, sworn, is examined by the prosecutor:-
Q.41 What do you know about certain incidents on 21 March regarding Gnr Dobbie?
A.41 Well sir, I walked into the canteen at approx 2100 hrs and I saw Gnr Dobbie struggling with his escort, that's all sir.
Q.42 There is a further charge of willful damage to a cell door?
A.42 After the Dobbie brothers had been placed in the cell, we started to walk outside, when suddenly we heard the door being kicked and found a panel had been kicked outside into the hall.
Q.43 Was Douglas Dobbie acting violently that night?
A.43 Yes sir.
Q.44 In what manner?
A.44 Well sir he resisted before he was placed in the cell.
Q.45 How?
A.45 At first sir he tried to go out the guard room door and just before he was put in the cell he started struggling, then shortly after that the door was kicked in.

THE DEFENDING OFFICER DECLINES TO CROSS EXAMINE THIS WITNESS.

5TH WITNESS FOR THE PROSECUTION: Mr W.G. BRADING, Haslemere Rd., Liphook, Hants., (Civ Clerk of WAS, working at Superior Camp, Ludshott), sworn, is examined by the prosecutor:-
Q.46 Will you tell the court about a certain damaged door in the guard room at 2 CARU?
A.46 I was called to the guard room on March 23rd to view a cell door that was damaged.
Q.46 And what did you estimate that damage to be?
A.46 £1-5-0d.
Q.47 Did you look around the guard room when you were there?
A.47 I did not notice any damage to other doors.
Q.48 How long have you been with the REs?
A.48 About 2½ yrs.
Q.49 And have you had experience in valuing damage?
A.49 Yes.

The President advised the accused under Note 2, RP.40

1ST WITNESS FOR THE DEFENCE: The accused, sworn, states:-
My brother and I were sitting in the NAAFI at about 6 o'clock on the night of 21 March. Well, about 8-30 p.m. I told my brother he had better go up and make his bed so he went over to the hut so far as I know.

Well, a little later in the NAAFI I saw a L/Bdr take hold of some fellow just by theNAAFI cigarette counter. I saw the Bdr go into the back of the NAAFI so I followed to see what the trouble was. Sjt Watt was standing there when the Bdr told him that he caught a fellow stealing money from behind the counter. Sjt Watt asked the Bdr if he could recognize the person and the Bdr said no he couldn't recognise him and he didn't know his name. Then Sjt Watt asked me what the hell I was doing in behind the counter. I told him that I was just trying to find out what the trouble was. So Sjt Watt told me to get the hell [illegible] out and he pushed me. I told Sjt Watt to take his hands off me as he was asking for trouble. So he just told me to get out. Well just before I was going out I happened to hear one of the RPs, Gnr Steele, tell Sjt Watt that he thought it was one of the Dobbies that took the money. Then I turned round and I said, "It couldn't have been my brother because he is over in his hut." Well then Sjt Watt started to push me around again and I told him to keep his hands off me. Then L/Bdr Burnett said I pushed him. But I didn't lay a hand on him. L/Bdr Burnett smaked me on the nose with his fist, and then he grabbed me by the back of my collar and as he was dragging me outside the NAAFI he hit my head on the door; but he finally got me outside. I asked him what was what. He said I was under close arrest for stealing money. So I went with the Bdr to the guard room and when I got to the guard room L/Bdr Burnett let me go as I asked him if I could turn my pass into the Sjt of the Guard that night. Well, at the time I was in the guard room my brother was there as well. I asked the Sjt of the Guard if I could sign the book, as we were told we had to sign in and out for our passes. The Sjt refused to let me sign the book. Then Sjt Watt asked me to go into my cell, so I told Sjt Watt I would go into my cell as soon as I had signed my name in that book. But before I had a chance to sign the book, Sjt Watt grabbed me by my left arm and Gnr Steele of the Regtl Police grabbed me by my hair and pulled my head away back, and Sjt Watt said he would "smash my bloody face in."

I saw my brother, sir, in the guard room. I heard somebody tell him he was under close arrest, so I saw my brother make for the door. I saw a Bdr grab my brother as he was going out towards the door and then just before Sjt Watt came and grabbed me I saw Bdr Lett and L/Bdr McKay hit my brother over the eye. Well then they finally put my brother into the cell where I was and then Bdr Brunett started to tell us that he would kick the "living shit" out of us. Then Sjt Watt finally closed the door and we were so mad when we were in that cell that we threatened to kill Sjt Watt and started to call them a "dirty bunch of bastards."

About 10 mins later Sjt Watt came back with a pair of handcuffs and put them on us and made us sleep together in one bed. On Monday we were in the cell all day and on Tuesday we were told that we were going out to work on the woodpile. I went out to work; but before I went the Sjt told us that we need not go out to work. But we did go out, and about an hour afterwards, well, I just said I wasn't going to work and the R.P. brought me back to the cell. Sjt Watt came in and asked me why I refused to go to work. I said to the Sjt, "I refuse to work for you" and the reason was the way they had treated us on Sunday night.

CROSS QUESTION BY THE PROSECUTOR:

Q.50 Who kicked the door out?
A.50 I don't know.
Q.51 Do you know how the door was broken?
A.51 No sir, all I heard was a crash.
Q.52 You said you were in the NAAFI from 6 to 6.30 approx. How many glasses of beer did you have?
A.52 Well, about 5 glasses of beer I believe; but we were drinking at Croydon before we got there.
Q.53 How much did you have to drink in Croydon?
A.53 About six pints.
Q.54 That make 11 a piece?
A.54 Yes sir.
Q.55 Your brother went to his hut. What makes you so certain about that?
A.55 I saw him go out of the NAAFI to go there.
Q.56 Why did the RP grab you in the NAAFI?
A.56 I do not know.
Q.57 Did he tell you go along with him?
A.57 No sir, he grabbed me and pushed me along.

Q.58 The reason that you say you refused to work on the wood pile was because Sjt Watt treated you wrongly?
A.58 Yes sir
Q.59 And that also the reason why you used bad language against the Sjt?
A.59 Yes sir.

CLOSING ADDRESS BY THE DEFENDING OFFICER:-

He might have expressed some of these words. The man had no crime against him - it was just the Sjt acting in an official capacity and thinking the other brother was possibly involved in this, immediately said: "Grab both the Dobbies" without any warning at all. He more or less just pounced upon Donald Dobbie, and it is only natural he would resent this and in using soldier's language expressed himself in this way.

On the 2nd charge - resisting an escort whose duty it was to have him in charge - I suppose it was L/Bdr Brunett's duty because he was ordered by Sjt Watt to do so.

Re the 3rd charge - wilfully damaging a cell door. The Prosecution has proved that a cell door was damaged to the extent of £1-5-0. They have not proved who damaged the door.

On the 4th and final charge - he disobeyed a lawful command given by a superior officer - arising out of the fact he was ordered to go out to the wood pile. The Court knows that Gnr Dobbie was actually out on the wood pile - he had been working there for an hour.

THE COURT IS CLOSED TO CONSIDER ITS FINDING.

Q:- (Pres to Prosecutor): Have you any evidence to produce as to the statement of character and particulars of service of the accused?
A:- I present herewith MFM.6 and MFB.355 with respect to the accused. The Defending Officer has perused the two documents, and he has advised me that he consents to their being admitted as true copies.
(RP.46(B) complied with).

PLEA IN MITIGATION OF PUNISHMENT BY THE DEFENDING OFFICER

The only thing I want to emphasise is his age. He has been held for some considerable time in the Reinf Unit awaiting his 19th birthday, and during this time - this waiting around - it is not very conducive to good soldiering; and he had to do batting and running around as an orderly to fill in time. Until he was 18½ yrs of age he could not start on basic training. Also, in view of the fact that they are twins, it is only the natural instinct to help each other out in trouble.

THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

SUMMARY OF EVIDENCE

in the case of

K 25538 Gnr DOBBIE Donald

a soldier on the strength of "F" Battery, "Q" Wing, No 2 Cdn Arty Rft Unit, Cdn Army, Overseas.

BY DIRECTION OF THE COMMANDING OFFICER THIS SUMMARY OF EVIDENCE IS TAKEN ON OATH

FIRST WITNESS For the Prosecution

B 6215 L/Bdr DOWNING R., an instructor on the strength of "E" Battery, "Q" Wing, No 2 Cdn Arty Rft Unit, being duly sworn, states:

"I am L/Bdr Downing R. On Sunday evening the 21st Mar 43 at approximately 2045 hrs I was sitting in the NAAFI Canteen eating with a Gnr Betke. I saw a man jump up and sit on the cigarette counter of the Canteen, and reach behind the counter and grab what I took to be a package of cigarettes. I jumped up and told him to put it back. The man had been drinking and had a glass of beer in one hand. He handed me a sum of money. I asked him for his pay book to obtain his name and number and he started struggling, breaking away and running out of the canteen. I took the money to one of the ladies in the rear of the canteen and reported the fact to the Sjt of the Regtl Police who was there at the time. The Sjt dashed out to see if he could catch the culprit and he was at the dooor opening on to the kitwhen of the canteen when another man appeared and started arguing and using threatening language to L/Bdr Burnett. The Sjt ordered L/Bdr Burnett to take the man to the Guard room. I was behind Bdr Burnett on getting up to the Guard room, and as he opened the door, the man I had struggled with in the canteen was in the guard room. L/Bdr Burnett informed the man he was under close arrest. The man tried to dash by and get out by the door but was stopped by Bdr Burnett. Struggling then ensued between both the prisoners and the escorting Regtl Police.

(Sgd).....
B 6215 L/Bdr Downing R

QUESTION BY THE ACCUSED: "Are you sure when I came into the kitchen I started arguing with the Regtl Police or did I ask you what happened ?"
ANSWER: "I don't recollect you asking me anything. The first I saw of you, you were arguing with the Regtl Police."
QUESTION: "When Sjt Watt asked you who the man was who stole the moneym what did you say ?"
ANSWER: "I said I don't know."

THE ACCUSED DECLINES TO FURTHER CROSS-EXAMINE THIS WITNESS

(Continued on Page 2)

SECOND WITNESS for the Prosecution

H 3656 L/Sjt WATT H J., a member of the Regtl Police, No 2 Cdn Arty Rft Unit, being duly sworn, states:

"I am L/Sjt Watt H J., of the Regtl Police, Superior Camp. At approximately 2100 hrs 21 Mar 43, L/Bdr Downing reported to me that he had seen a man who he recognized as one of the Dobbie brothers lean over the counter in the NAAFI and take something. He had approached this gunner and got a sum of money from him but the gunner escaped. I instructed my junior NCOs to have both Dobbie brothers taken to the guard room where L/Bdr Downing could identify the guilty party. Gnr Donald Dobbie was in the NAAFI kitchen when I went there and I ordered him to go to the guard room with L/Bdr Burnett and he refused to go. I then placed him under arrest and ordered L/Bdr Burnett to take him to the guard-room. He resisted violently and had to be dragged out of the building. On arriving at the guard room Gnr Douglas Dobbie was there in conversation with the Guard Comdr. I informed him he was under arrest. Immediately he tried to make a break for the door but was stopped by L/Bdr Burnett. When told to go into one of the cells both Gunners Dobbie refused to do so and put up quite a struggle before they were locked up, I was returning to the front of the Guard Rooom when the cell door was kicked and the panneling broken out. About this time the Orderly Officer arrived. We went back to the cell to try and quiet the Dobbie brothers down and they used insubordinate and threatening language to me, Gnr Donald Dobbie saying that werwere all a no good bunch of buggers and Douglas Dobbie saying that at the first opportunity he had he would shoot me. At approximately 1500 hrs on the 22nd Mar 43, I was informed by L/Bdr Hooper that Gnr Donald Dobbie would not work when detailed as a prisoner. I went to Gnr Donald Dobbie and showed him the rules concerning men in detention and explained the mistake he was making but he persisted in refusing to work. I then ordered him to work on the wood pile at No 4 kitchen and he refused to do so.

(Sgd).....Watt
M 3656 L/Sgt Watt HJ

QUESTION BY THE ACCUSED: "Why did you place me under close arrest when you knew the fellow who took the money escaped."
ANSWER: "When I had been told it was one of the Dobbie brothers I ordered both to be taken to the Guard Room for identification. When you refused to go I ordered you to be placed under close arrest."
QUESTION: "Who told you it was one of the Dobbie's ?"
ANSWER: "It was L/Bdr Downey to the best of my knowledge."
QUESTION : "Are you sure it was not Gnr Steele, who stood behind you ?"
ANSWER: "I would now swear that it was not Gnr Steele who told me."
QUESTION: "Did you say or do anything to me when I was placed under arrest."
ANSWER: "I ordered you to go to the Guard Room. You refused to do this and so I ordered you placed under close arrest. You resisted and force was necessary to remove you from the building.

THE ACCUSED DECLINES TO FURTHER CROSS-EXAMINE THIS WITNESS

(Cont on Page 3)

THIRD WITNESS for the Prosecution

C 1143 L/Bdr BURNETT AC., a member of the Regtl Police, "Q" Wing, No 2 Cdn Arty Rft Unit, being duly sworn, states:

"I am L/Bdr Burnett AC., of the Regtl Police. At approximately 2100 hrs 21 Mar 43, I was in the NAAFI when I was ordered by L/Sjt Watt to take Gnr Dobbie Donald to the Guard Room for identification. I asked Gnr Dobbie Donald to come with me. He said he wouldn't. L/Sjt Watt then placed him under close arrest and ordered me to take him to the Guard room. I then asked Gnr Dobbie Donald if he was going to come. He said "No" and I forced him to go to the Guard room and Sjt Watt told me to place his brother Gnr Dobbie Douglas under close arrest also if I saw him. When I arrived at the Guard room with Gnr Dobbie Donald, his brother, Gnr Dobbie Douglas, was there. I immediately told him he was under close arrest. He asked me what for and I told him over an incident that happened in the NAAFI. As I turned around to tell the other Regtl Police to put Gnr Dobbie Donald in a cell, Gnr Dobbie Douglas ran out of the door and I caught him. I then ordered both to go to the cell and they both resisted violently and a scuffle occurred ending up by putting them in the cell by force.

(Sgd) C 1143 L/Bdr Burnett AC

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS

FOURTH WITNESS for the Prosecution

L 12646 L/Sjt HIEBERT J., a soldier on the strength of "E" Battery, "Q" Wing, No 2 Cdn Arty Rft Unit, being duly sworn, states :

"I am L/Sjt Hiebert J. At 2101 hrs on the 21 Mar 43, one of the Dobbie boys came in the Guard Room where I was the Guard Commander. At that time I was initialling passes of men returning from pass, and initialled his pass. At 2103 hrs the Regtl Police brought in the other Gnr Dobbie and I was told they were both under close arrest and were to be locked up. When they were being locked up one attempted to get away and was brought back and the other one was struggling with the Regtl Police. They quieted them down and were put in the cell and L/Sjt Watt told me to put two men on guard in the passage way. I placed the two men on guard and although I saw nothing, I heard a lot of noise from their cell and I also heard the cell door being broken, and afterwards saw it was the door of the Dobbie brothers cell.

(Sgd) J. Hiebert
L 12646 L/Sjt Hiebert J

QUESTION BY THE ACCUSED: "When Bdr Burnett brought me up to the Guard room, did I ask the Bdr to let me turn my pass into you and let me sign my name in the book ?"
ANSWER: "Yes, you did"
QUESTION: "Do you think I was given a chance to go to the cell on my own after I turned my pass in ?"
ANSWER: "Yes, you had the opportunity to go by yourself."
QUESTION: "How did I refuse to go to the cell."
ANSWER: "I saw the R.P. forcing you."

THE ACCUSED DECLINES TO FURTHER CROSS-EXAMINE THIS WITNESS

(Continued on Page 4)

FIFTH WITNESS For the Prosecution

L 18266 L/Bdr McKAY GM, a member of the Regtl Police, Superior Camp, No 2 Cdn Arty Rft Unit, being duly sworn, states:

"I am L/Bdr McKay GM of the Regtl Police. On Sunday night, 21st Mar 43, I saw the accused, whom I now see and recognize, then. My attention was taken by Gnr Dobbie Douglas attempting to escape and Gnr Dobbie Donald was in the cell when Gnr Dobbie Doug was placed there. As we left the cell I heard the door being kicked and on returning I saw their cell door was broken.

Sgd. GM McKay
L 18266 L/Bdr McKay GM

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS

HAVING BEEN DULY CAUTION IN ACCORDANCE WITH RULES OF PROCEDURE (4)(e) THE ACCUSED RESERVES HIS DEFENSE.

CERTIFIED THAT RULES OF PROCEDURE 4 (c)(d)(e)(f) and (g) HAVE BEEN COMPLIED WITH.

TAKEN BY ME IN THE PRESENCE AND HEARING OF THE ACCUSED THIS 22 day of Mar 43

J D Macdonald Capt
(J D Macdonald) Capt RCA
OFFICER DETAILED TO TAKE THIS SUMMARY OF EVIDENCE

Please send copies to Monitor at the address below:

.....

.....

.....

M.F.R. 355
40/F & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K 25538	Gnr	DOBBIE Donald	No 2 C.A.R.U.

1. The following is a fair and true summary of the entries in the ~~Service and Casual~~ Regimental and Squadron, Battery JCH

~~Conduct sheets or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, JCH ~~Air Force Act~~ JCH of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	Sec 15 (1)	Four (4) times	Sec 40	Nine (9) times
For	Sec 32	One (1) times	Sec 9 (2)	Two (2) times
For	Sec 40 Sec 9 (2) Sec 10 (4)	Four (4) One (1) One (1) times	Sec 15 (1) Sec 22 Sec 10 (4)	Five (5) Two (2) Two (2) times
For	Sec 22	One (1) times	Sec 32	One (1) JCH

~~Number of instances of gallantry or distinguished conduct~~

~~or~~,

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~ JCH.

~~or~~,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ A.F.A. 78 Section 47 of the Army Act, and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement. JCH

3. The accused is not under sentence at the present time.

~~or~~,

~~The accused at the present time is under sentence for ... beginning on the ... day of~~ JCH.

4. The accused has been in confinement awaiting trial on the present charges, for — days in civil custody, and 11 — days in military custody, making a total of 11 — days in custody, of which — days were spent in hospital.

5. The present age of the accused according to his ~~record of service in~~ attestation paper is 19 $\frac{7}{365}$ ~~years~~ JCH

6. The date of his ~~commission~~ specified in his ~~record of service~~ attestation paper is 6 July 1940

7. The service which the accused is allowed to reckon towards discharge is 2 $\frac{244}{365}$

8. The accused is entitled to reckon 2 $\frac{244}{365}$ service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to)~~. State any air force military decoration or reward. JCH JCH

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of —

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit ~~dated~~, ~~and in his regiment (or corps), the rank of~~ ~~dated~~

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—~~

~~Date of promotion~~

~~In the rank of~~ ~~years.~~

~~In the rank of~~ ~~years.~~

~~In the rank of~~ ~~years.~~

JCH.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number R 25536 Rank Gnr

Name DOBBIE Donald of 2 C.A.R.U. Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Field-General Court Martial	8 Feb 43 Superior Camp, Ludshott, Hants	A.A. Sec 15(1) A.A. Sec 22	60 dys Detention	20 dys Released 13 Mar 43

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

R Kelly Capt
2 C Reserve

Signed this ~~27~~ 1st day of ~~May~~ April 43

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

M.F.M. 6
A.F.B. 177

No. K 25538 Name DOBBIE, DONALD Sqn., Battery, or Company 55th Hvy Bty R.C.A. Corps C.A.S.F. Date of enlistment 6-7-40 G.C. Badges NIL Service or Proficiency Pay NIL

Date of last entry in Company Conduct Sheet 29-5-41 No. and date of last drunk NIL Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Vernon	20-6-41	Pte		1. Conduct to the prejudice of good order in that he left camp contrary to camp orders.(Did not wear anklets when wearing battle dress) 2. Conduct to the prejudice of good order and military discipline in that he did not obey order of an NCO Sec. 40 A.A.	Sgt Simpson	3 Days C.B.	21-6-41	Lt J Fowle	
Bordon	7-11-41	Gnr		Conduct to the prejudice etc. Failing to march at attention A.A. Sec 40	BSM Crowshaw Sjt McLeod	2 Days C.B.	8 Nov 41	Major WF Blair	
Field	26 Dec 41	Gnr		Interfered with guard in persuance of his duties. (A.A. 40)	S/Sjt Drouin Bdr Stewart	Admonished	27 Dec 41	Major CG Wood	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon	27Feb 41	Gnr		Disobeying a lawful command given by a superior officer		14days pay	28Feb42	Entry from Documents ? Capt	
Field	16/9/ 42	Gnr		(I) WOAS absented himself without leave from 2230 hrs 16/9/42 until 2130hrs 20/9/42(absent 3 days 21hrs 30mins AA Sec15(1) (II) While a defaulter, breaking out of barracks Sec 40	L/Sgt Laflamme D Sgt Favreau G.S	7 days F.P	21/9/42	Lt Col W.A.Townsley.	
In-the-field	27/9/42	Gnr		W.O.A.S absented himself without leave from 2230 hrs 27/9/42 until 0600hrs 28/9/42(Absent 7hrs 30 mins) A.A.Sec 15(1)	Bdr Reddick R Bdr Barnett T	14days F.P 14days Pay	29/9/42	(W.A.Townsley) Lt.Col.	
Field	30/9/ 42	Gnr		A.A.Sec22WOAS escaping from confinement in that he at approximately 2030hrs 30/9/42 escaped from No1. Fd. Punishment Camp	Sgt Vautier S.A.	14 Days F.P. 14 Days Pay	13/10/42	(W.A.Townsley)	Lt.Col.

No. K.25530 Name Dobbie, Donald Sqn., Battery, or Company 55th Hvy Bty Corps Date of enlistment 6-7-40 G.C. Badges NIL Service or Proficiency Pay NIL

Date of last entry in Company Conduct Sheet — No. and date of last drunk: NIL — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc. — Character

M.F.M. 6 (A.F.B. 172) (11M—7-41 (1359-40) H.Q. 1775-39-1440)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ft. Brandon Barracks	16 KH 16-8-41	Gnr		1. Conduct to the prejudice of good order and Mil. Dicipline, in that he failed to comply with an order given by a superior officer (Sec. 40 A.A.)		Forfeit 3 days pay		G. English Lt. Col.	
				2. Breaking out of Barracks: while under open arrest, did leave camp area. ~~XXXX~~					
				3. (Sec. 10(4)					
				4. Absenting himself with out leave Abdent from 1230hrs to 1530hrs (Absent 3 hrs) (Sec 15 (1) A.A.					

(P.T.O.)

Place	Date of offence	Rank	Class of discharge	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Brandon	Embarkation leave granted from Rev 4-9-41 to Tattoo and Travel Warrant No 10-9-41 issued to Victoria B.C. with accordance of C.A.R.O #1118.								
Farnborough	12.6.42	Gnr		WOAS Conduct to the prejudice of g.c. and m.d. in that he on 12 June 42 when ordered to clean and press his uniform, used insulting & disrespectful language to his Superior Officer. A.A.Sec40.	Sgt Hibbert J A Bdr Rawson P W	7 days C.B	16.6.42	Capt.R.A. Adams	
Field	7/9/42	Gnr		W.O.A.S. Improperly dressed A.A.Sec 40	L/Cpl Wooden R.P. L/Cpl Isherwood J.P.#7Provost	7 days C.B.	15/9/42	(W.A.Townsley) Lt.Col	

M.F.M. 6
A F B 179
(7534M—7—41 (1219-26)
H.Q. 1772-39-1852

No. K.25538 Name Dobbie,D. Sqn., Battery, or Company — Corps R.C.A. — Date of enlistment 6 Jul 40 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 3 — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18 Nov 42	Gnr		A.A.Sec(10)(4) WOAS being a soldier breaks out of barracks after being quarantined in Hut 19. 16Nov 42. (2) WOAs Disobeyed a lawful command given to him by his Superior Officer.	BQMS Williams Sgt Jackson Documentary L/Sgt Rutsey	12 days F.P. 12 days Pay FR&I149(2)	25Nov 42	Lt-Col Thompson	
Field	16 Jan 43	Gnr		(1) A.A.Sec15(1)WOAS AWL from 0830hrs 16Jan 43 until apprehended at 0330hrs 22 Jan 43 (Absent 5 days 19 hrs)		28days F.P Forfeits 28 days pay FR&I 149(1)(b)	23Jan 43	Lt.Col. J.C.W. Thompson	Forfeits 6 days pay under FR&I 149(1)(a)
Field	22 Jan 43	Gnr		(2) A.A.Sec40 WOAS,Conduct to the Prej.etc.,in that when questioned by the CPC purported to have a pass knowing full well that he did not					

(P.T.O.)

M.F.M. 6
A.F.B. 177
17134—7-41 (1219-20)
H.Q. 1272-39-1612

No. K.25538 Name Dobbie,D. Sqn., Battery, or Company — Corps R.C.A. — Date of enlistment 6 Jul 40 — G.C. Badges — Service or Proficiency Pay

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 3 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18 Nov 42	Gnr		A.A.Sec(10)(4) WOAS being a soldier breaks out of barracks after being quarantined in Hut 19. 16Nov 42. (2) WOAs Disobeyed a lawful command given to him by his Superior Officer.	BQMS Williams Sgt Jackson Documentary L/Sgt Rutsey	12 days F.P. 12 days Pay FR&I149(2)	25Nov 42	Lt-Col Thompson	
Field	16 Jan 43	Gnr		(1) A.A.Sec15(1)WOAS AWL from 0830hrs 16Jan 43 until apprehended at 0330hrs 22 Jan 43 (Absent 5 days 19 hrs)		28days F.P Forfeits 28 days pay FR&I 149(1)(b)	23Jan 43	Lt.Col. J.G.W. Thompson	Forfeits 6 days pay under FR&I 149(1)(a)
Field	22 Jan 43	Gnr		(2) A.A.Sec40 WOAS,Conduct to the Prej.etc.,in that when questioned by the CPC purported to have a pass knowing full well that he did not					

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	23Jan 43	Gnr		(A.A.15(I))While undergoing F.P. Absented himself without leave from 1320hrs 23 Jan 43 until apprehended by Cdn Provost Corps in London at 2345hrs 25 Jan 43 (Absent 2 days 10hrs 25mins)		60 days detention	2 Feb43	F.G.C.M	Forfeits 3days pay FR. 60 " " " I. 8 " p " 149 34 days concurre. with prev.award D.O.22d/27 Jan43 37 days pay
		Sec.Chge		(A.A.Sec32)WOAS escaping from custody					

Certified true Copy.

J.H.A. Jewood Lt a/Adjt.
Trng. Wing. 2 CAPU

RELEASED FROM DETENTION BARRACKS H DOWN MAR 13 1943 SENTENCE HAVING EXPIRED. REMISSION EARNED UNDER "RULES FOR DETENTION BARRACKS AND MILITARY PRISONS: 20 DAYS

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings

I certify that the above Court assembled on the 1st day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~) The Shorthand Writer
*(4. The officers under instruction)

*Omit if not applicable. Yes

were duly sworn.

Signed this 1st day of April 19 43

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (f) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be sent committed to prison or detention barrack until further orders.~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 2 day of April 19 43

Confirming Officer. C. STEWART, Brigadier, Commanding 1st Corps, Con. Reinforcement Units.

Promulgated and extracts taken in the case of K-25536 Gnr Dobbie, Donald, 2 CARU.

(a) (Dated) 7 April 43 (Signed) C.E. Stewart BGen Col

C.O. 2 CARU.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

EE-26

GNR DOBBIE D

K-25537 Gnr Dobbie, Douglas
2 C.A.R.U.

EE-26

Correspondence to be FINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY-NINTH day of MARCH, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* [redacted]

*Omit if not applicable.

for the following reasons, namely :—]

Proceedings Assembly

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be stated. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LT-COL.	D.L. REDMAN, E.D.	N.S. C.R.U.

Members.

Rank.	Name.	Regiment.
CAPTAIN	J.C. McDIARMID, RCA	1 CARU
LIEUT.	D.G. McCORY, RCA	2 CARU
LIEUT.	E. SHORFY, RCA(Waiting Member)	1 CARU

*Must be signed personally by the Officer (usually on commencement of the case, and otherwise on the completion of the Court, &c., as prescribed by War

*Signed [signature] Brigadier,
Commanding "C" Group, Cdn Reinf Units,
Convening Officer.

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
K-25537 Gnr Dobbie, Douglas (R.C.A.) 2 CARU	CHARGE SHEET No.1			
	FIRST CHARGE A.A. Sec. 18(4)	Not guilty	Guilty	Confirmed
	SECOND CHARGE (Alternative) A.A. Sec. 40	"	not guilty	
	CHARGE SHEET No.2	"	Guilty	
	FIRST CHARGE A.A. Sec. 8(2)	"	"	
	SECOND CHARGE A.A. Sec. 10(3)	"	"	
	THIRD CHARGE A.A. Sec 24(4)	"	Sentence: To undergo Detention for a period of One Hundred and Twenty (120) Days and to be put under stoppages of pay until he has made good $70-12-6 a portion of the damage caused by the loss of the Wheels. See Charge Sheets 1 Sept 1942	

* Question to be asked of accused by the Judge Advocate (R. of P. 39 (1)) —
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer to be recorded on separate sheet if necessary) —

(Signed) [signature] Brigadier. (Signed) [signature] President.
Commanding "C" Group, Cdn Rft Units.
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B.

I certify that the above Court assembled on the 27 day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. Certificate of President as to proceedings

I also certify that :—

1. The members of the Court
2. The witnesses

*Omit if not applicable. *(3. ~~The Interpreter~~) The Shorthand writer
*(4. The officers under instruction)

were duly sworn.

Signed this 1st day of April 19 43

[signature]
President of the Court Martial.

C.

*See footnote (b) on page 782 M.M.L. 1929. I certify that the ~~terms~~ of *A.C.I. 570 of 1918 have been complied with. Certificate in case of death sentences.

Signed this day of 19

[signature]
President of the Court Martial.

D.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. Confirmation.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~

Signed this 6th day of April 1943.

[signature]
Confirming Officer.
J. C. STEWART, Brigadier,
Commanding "C" Group,
Cdn Reinforcement Units.

Promulgated and extracts taken in the case of K-25537 Gnr Dobbie, Douglas, 2CARU

(a) (Dated) 7 April 43 (Signed) [signature] Col
C.O. 2 CARU

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET NO. 1

No K-25537 Gunner DOBBIE, Douglas, Royal Canadian Artillery, a soldier on the strength of "g" Bty, "c" Wing No 2 Cdn Arty Rft Unit, Cdn Army (Overseas), is charged with, WHILE ON ACTIVE SERVICE,

FIRST CHARGE
A A Sec 18(c)

STEALING N.A.A.F.I. PROPERTY

in that he,

Did steal Four Pounds (£4-0-0), the property of the N.A.A.F.I. from the cash tin of the "Net" (Cigarette and Chocolate) Bar, in the N.A.A.F.I. canteen on Sunday evening the 21st day of March '43 at approximately 2040 hrs.

SECOND CHARGE
(ALTERNATIVE)
A A Sec 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

in that he,

Did attempt to steal Four Pounds (£4-0-0), the property of the N.A.A.F.I., from the cash tin of the "Net" (Cigarette and Chocolate) Bar, in the N.A.A.F.I. canteen on Sunday evening the 21st day of March '43 at approximately 2040 hrs.

Signed at Superior Camp,
Ludshott, Hants, this
27th day of March 1943.

(Mackenzie Waters) Lt., R.C.A.,
Commanding Officer,
No 2 Cdn Arty Rft Unit,
Cdn Army (Overseas).

To be tried by Field General Court Martial.

Brigadier,
Commanding "C" Group, Cdn Reinforcement Units.
(Convening Officer)

Bordon, Hants.
29 Mar 43.

CHARGE SHEET NO. 2

K-25537 Gunner DOBBIE, Douglas, Royal Canadian Artillery, a soldier on the strength of "F" Bty, "Q" Wing No. 2 Cdn Arty Rft Unit, Cdn Army (Overseas), is charged with, WHILE ON ACTIVE SERVICE,

FIRST CHARGE A.A. Sec 8(2)

USING THREATENING LANGUAGE TO A SUPERIOR OFFICER,

in that he,

at Superior Camp, Ludshott, Hants, on the 21st of March 1943, after having been locked in the Guard Room cell, said to Sjt Watt, of the Regimental Police, "I will kill you if I have to serve six months for it" or words to that effect.

SECOND CHARGE A.A. Sec 10(3)

RESISTING AN ESCORT WHOSE DUTY IT WAS TO HAVE HIM IN CHARGE,

in that he,

at Superior Camp, Ludshott, Hants, on the 21st of March 1943, while under escort of C-1143 L/Bdr Burnett, A.G., resisted the escort by violent struggling.

THIRD CHARGE A.A. Sec 24 (4)

WILFULLY DAMAGING PUBLIC PROPERTY,

in that he,

at approximately 2115 hrs on the 21st of March 1943, did kick and damage the door of his cell, thereby causing damage to the amount of One Pound Five Shillings (£1-5-0).

Signed at Superior Camp,
Ludshott, Hants, this
27th day of March 1943.

Mackenzie Waters

(Mackenzie Waters) Colonel,
Commanding Officer,
No. 2 Cdn Arty Rft Unit,
Cdn Army (Overseas).

To be tried by Field General Court Martial,

J. Stewart Brigadier,
Commanding "C" Group, Cdn Reinforcement Units.
(Convening Officer)

Bordon, Hants.
29 Mar 43.

2 CARU Form No 92

MEDICAL CE TIFICATE

I certify that I have this day examined No. K 255 37 Gnr DOBBIE D
and find h m fit to undergo F.C.C.M.

Dated at Jasper Camp. 31 MAR 43 1350hrs.

Medical Officer
No2 Cdn Arty Rft Unit
Cdn Army (Overseas)

TRANSCRIPT OF EVIDENCE

In the case of K-25537 Gnr Dobbie, Douglas , 2 C.A.R.U. held at Quebec Barracks, Bordon, Hants., on the 1st day of April, 1943.

The Order convening the court, the charge sheet, the summary of evidence and the medical certificate are laid before the court.
The Court satisfy themselves as provided by Rs.P. 22 and 23.
The Accused is brought before the Court.
Prosecutor:- Lieut R.J. Guy, 2 C.A.R.U.
Defending Officer:- Capt. J.T. Litster, 2 C.A.R.U.
At 1430 hours the trial commences.
The Order convening the court is read, signed by the President, and attached to the proceedings.
The names of the President and members of the court are read over in the hearing of the accused, and they severally answer to their names with the exception of Lieut D.G. McCory, and Lieut E. Shorey (Waiting Member) took his place.
Do you object to be tried by me as president, or by any of the officers whose names you have heard read over?
A. No sir.
The President and Members are duly sworn.
PRESIDENT:- LT.-COL. D.L. REDMAN, V.D., H.Q. C.R.U.
MEMBERS:- CAPTAIN J.C. McDIARMID 1 C.A.R.U.
LIEUT E. SHOREY 1 C.A.R.U.
The following officers under instruction are duly sworn:-
Lieut J.L. Millar, 2 C.A.R.U.
Lieut B.J.P. Whatley, 2 C.A.R.U.
Do you object to U-1661 Cpl Thomas, E.J. acting as shorthand writer?
A. No sir.
The shorthand writer is duly sworn.
The Charge Sheets are signed by the President, and annexed to the proceedings.
The accused is arraigned upon the charges in the abovementioned charge sheets and pleads NOT GUILTY to all the charges against him.
R.P.39(A) complied with.

1ST WITNESS FOR THE PROSECUTION:- B-6215 L/Bdr DOWNING R., 2 C.A.R.U., sworn, Is examined by the prosecutor:-
Q.1 What do you know about the charge against Gnr Dobbie which says that he stole money from the NAAFI?
A.1 I was in the NAAFI Canteen of Superior Camp and I saw a man jump over the cigarette counter and reach over and grab something. I asked him to return whatever he had taken. He got very nervous and handed me a bunch of £ notes. I asked him for his Pay Book. I went into the back of the NAAFI, in the kitchin, and gave the money to one of the ladies of the canteen.
Q.2 Have you seen that man since?
A.2 Yes sir, this is the man (pointing to the accused.)
Q.3 And how did the man act when he jumped over the counter?
A.3 He jumped over the counter and sort of leaned back and looked around to see if anyone was watching or not.
Q.4 How long had you been in the NAAFI?
A.4 Approx 10 mins.
Q.5 Had you been drinking?
A.5 No sir.
Q.6 How close were you to the man when you accused him?
A.6 I went right up to him.
Q.7 Did you identify the money or count it?
A.7 No sir, I didn't count it.
Q.8 Did the man who got over the counter appear to be drinking?
A.8 Yes sir, at the time he had a glass of beer in one hand

CROSS EXAMINED BY DEFENDING OFFICER:
Q.9 Did you see him take any money?
A.9 No sir, definitely not.

2ND WITNESS FOR THE PROSECUTION:- A-55800 Gnr Betke, E.H. 2 C.A.R.U., sworn, Is examined by the prosecutor:-
Q.10 Will you tell the court what you know about an incident in the NAAFI Canteen of Superior Camp on Sunday evening 21 March 1943?
A.10 On the evening of 21 March L/Bdr Downing and myself went to the Canteen and were sitting close to the cigarette counter. The accused, Gnr Dobbie, reached over the counter and took something from behind the counter and Bdr

Downing went over to him and he handed something to Bdr Downing, upon which Bdr Downing asked him for his name and number and he refused to give it him. He started to struggle and in the struggle the accused broke away and ran out of the NAAFI.
Q.11 Have you seen this man since?
A.11 Yes sir (pointing to the accused).
Q.12 How close were you to this man?
A.12 I would say about 8 ft.
Q.13 Did the man appear to be the worse for liquor?
A.13 I wouldn't say that he had had too much to drink; but he had been drinking.
Q.14 When he took something from behind the counter what did he do with it?
A.14 He placed it in his pocket.

CROSS EXAMINED BY THE DEFENDING OFFICER:
Q.15 Did you see what he put in his pocket?
A.15 No sir. He reached over; but I couldn't properly see that he took anything. He reached over the counter and then placed his hand in his pocket.
Q.16 How many people were in the NAAFI?
A.16 About 40 or more.
Q.17 How many at the counter?
A.17 About 7 I would say.
Q.18 The usual amt of confusion and noise?
A.18 No sir, it was quite being a Sunday evening.
Q.19 Did you hear every word Bdr Downing said to Gnr Dobbie?
A.19 No I can't say I did. After the accused broke away I didn't speak to him again that evening.
Q.20 Did you know which Dobbie it was?
A.20 No sir.

3RD WITNESS FOR THE PROSECUTION:- Mrs Doreen MUIR, member of staff of the NAAFI, Superior Camp, Ludshott, Hants., sworn, is examined by the prosecutor:-
Q.21 Will you tell the Court in your own words what you know of an incident that occurred on the night of 21st March.?
A.21 I was in charge of the counter from 5-30 to 9-30 pm that evening when Bdr Downing came into the kitchin and handed me some notes amounting to £4-0-0. I went back to the bar and found they had been taken. Before there was £4-10-0 and there was only one 10/- note left.
Q.22 That Bar was your responsibility?
A.22 Yes.
Q.23 And how were you sure that this had been taken from the Bar?
A.23 From the amt of stock we had sold that night.
Q.24 Had the cash box been there unprotected?
A.24 Yes.
Q.25 There was nothing to prevent anyone picking money out of it?
A.25 No. When the men carried an occasion urn from the kitchen into the canteen they would see the cash.
Q.26 Did Dobbie ever offer to carry the urn through?
A.26 I couldn't say.

End of Case for Charge Sheet No 1. The President advised the accused under Note 2, RP.40.

The Accused made the following statement under oath:-
On the 21 Mar 43 the only thing I can recall I was in the canteen and had been drinking all that day and I was drinking in the canteen from 6 o'clock till I went up to the guard room and turned in my pass. The only thing that I can recall is that someone said to me that I was under close arrest, so as I went to go out the door someone grabbed hold of me and the next thing I knew I was on the floor.

CROSS EXAMINED BY THE PROSECUTOR:
Q.27 You had been drinking a great deal had you?
A.27 Yes sir.
Q.28 So you wouldn't remember what happened in the canteen very clearly?
A.28 No sir.
Q.29 Why did you go up to the guard room?
A.29 I had to turn in my pass.

Q.30 You didn't remember what occurred in the canteen; but you did remember to turn in your pass?
A.30 No, my brother reminded me about the pass. I sort of came to in the guard room.

CLOSING ADDRESS BY THE DEFENDING OFFICER:
I do not think I need to address the court - the facts have been clearly brought out.

THE COURT IS CLOSED TO CONSIDER ITS FINDINGS
The court reopens and the trial of the accused on the charges in charge sheet No 2 commences.
The accused is arraigned upon the charges in charge sheet No 2 and pleads NOT GUILTY.
The president asked the question under RP.39A. The Defending Officer said he was prepared to proceed with trial.

1ST WITNESS FOR THE PROSECUTION: H-3656 L/Sjt WATT, H.J. Regtl Police, 2 C.A.R.U., sworn, is examined by the Prosecutor:-
Q.31 What do you know about the charge against Gnr Dobbie in using threatening language to a superior officer?
A.31 At approx 2100 hrs 21 Mar 43 I placed Gnr Douglas Dobbie under arrest and got him to the guard room of 2 CARU. He immediately tried to break away and succeeded in getting out of the guard room before L/Bdr Brunett caught up with him. He put up quite a violent struggle and we had some little job putting him into one of the cells where, in the presence of L/Bdr McKay and Lieut Toupin he threatened to shoot me.
Q.32 What were his words?
A.32 He did say that he would shoot me and that it wouldn't be very long before he did so. As accurate as I can remember he said that he would shoot me - that he was going to shoot me. I had him locked in the cell and as I made for the front of the guard room there was a violent kicking of the door and I found the door broken and damaged. It had been kicked out from the inside.
Q.33 Who was in the cell?
A.33 Both Gnr Dobbies: also Gnr Chamberlain - who was asleep.
Q.34 How do you know that?
A.34 I couldn't swear to that; but he was in the cell.
Q.35 Was the accused sober?
A.35 Yes sir.
Q.36 What evidence of drinking did you notice on him, if any?
A.36 None whatsoever.
THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE THIS WITNESS

2ND WITNESS FOR THE PROSECUTION: L-16266 L/Bdr McKAY, G.M. Regtl Police, 2 C.A.R.U., sworn, is examined by the Prosecutor:-
Q.37 Will you tell the court of certain incidents on the evening of the 21 March?
A.37 I walked in the guard room about 2100 hrs. Bdr Brunett turned his back and Gnr Dobbie made a dash for the door - Bdr Brunett caught him just outside the door and brought him back.
Q.38 Did you see him catch him?
A.38 Yes I did, sir. Bdr Brunett brought him back and I assisted him in putting Gnr Dobbie in the cell.
Q.39 Did you have any trouble?
A.39 We had a struggle Sir, and after we had put him in his cell and were making for the front of the guard room, we heard the door being kicked and found on returning that it had been broken open. We went into the cell and Gnr Dobbie said to Sjt Watt that he would kill him if he got the chance even if he had six months for it.
Q.40 When you put this prisoner in the cell was there already a prisoner there?
A.40 There were two already there.
Q.41 What is the name of the man you moved out?
A.41 Gnr Chamberlain, Sir.
Q.42 Was that before the door was broken?
A.42 Yes sir.
Q.43 Did the accused appear to have been drinking?
A.43 I didn't notice anything.
THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE THIS WITNESS.

3RD WITNESS FOR THE PROSECUTION: C-1143 L/Bdr BURNETT, A.C. Regtl Police, 2 C.A.R.U., sworn, is examined by the Prosecutor:-

Q.44 What do you know about Gnr Dobbie resisting an escort whose duty it was to have him in charge?

A.44 At 2110 hrs 21 March I arrived at the guard room. Gnr Douglas Dobbie was already there and I immediately told him he was under close arrest.

Q.45 Why?

A.45 For an incident that happened in the NAAFI. And then, when I turned my back, he opened the door and ran out. I ran out after him and caught him. He resisted and there was a struggle. He wouldn't go to the cell.

Q.46 You helped to put Gnr Dobbie in the cell?

A.46 Yes sir.

Q.47 Who was in the cell at the time?

A.47 Only his brother.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q.48 Where was Gnr Chamberlain?

A.48 He was put in another cell.

Q.49 After they were put in or before?

A.49 After they were put in.

Q.50 He had been taken out before Douglas Dobbie had been put in?

A.50 Yes sir.

Q.51 How large is the guard room?

A.51 About 20' x 12'.

Q.52 You came into physical contact with Dobbie after you placed him under arrest?

A.52 Yes Sir.

Q.53 You were the one that went outside after him?

A.53 Yes Sir.

Q.54 How did you stop him?

A.54 I caught him by the back of the tunic, Sir.

Q.55 Did he fall down?

A.55 No Sir.

Q.56 You didn't hit him?

A.56 No Sir.

Q.57 Did he appear to have been drinking?

A.57 I couldn't say that Sir.

4TH WITNESS FOR THE PROSECUTION: L-12646 L/Sjt Hiebert, J., 2 C.A.R.U., sworn, is examined by the Prosecutor:-

Q.58 Were you the guard commander on March 21st when certain incidents took place?

A.58 Yes Sir.

Q.59 Did you know what cell Gnr Chamberlain was occupying?

A.59 No sir, I couldn't swear to that.

Q.60 Did you see him that night?

A.60 No Sir.

Q.61 Was there any other man occupying the cell in which the Dobbies were subsequently placed?

A.61 Yes Sir, there was one other.

Q.62 Was this other man taken to the cell before the door was broken?

A.62 Yes Sir, I believe he was.

5TH WITNESS FOR THE PROSECUTION: Mr W.G. BRADING, Haslemere Rd., Liphook, Hants., (Civ Clerk of Wks, working at Superior Camp, Ludshott), sworn, is examined by the Prosecutor:-

Q.63 Will you tell the court about a certain damaged door in the guard room at 2 CARU?

A.63 I was called to the guard room on March 23rd to view a cell-door that was damaged.

Q.64 And what did you estimate that damage to be?

A.64 £1-5-0d.

Q.65 Did you look around the guard room when you were there?

A.65 I did not notice any damage to other doors.

Q.66 How long have you been with the REs?

A.66 About 2½ yrs.

Q.67 And have you had experience in valuing damage?

A.67 Yes.

CLOSING ADDRESS BY THE DEFENDING OFFICER:-

On the 1st Charge - threatening to kill Sjt Watt - there is nothing clear to show that in this threatening language he didn't threaten to "shoot" Sjt Watt. He could still shoot him without killing him.

On the 2nd Charge - resisting an escort; he was already in the guard-room, and so far as I can see there was no need to have an escort to take him to the guard-room as he was already there.

And as for this 3rd charge of damaging a door there is one story that there were 3 men in the guard-room, and even though it may have been only 2 there is no evidence that Gnr Douglas Dobbie kicked in that door.

THE COURT IS CLOSED TO CONSIDER ITS FINDING.

Q: (Pres to Prosecutor). Have you any evidence to produce as to the statement of character and particulars of service of the accused?
A: I present herewith MFM.6 and MFB.355 with respect to the accused. The Defending Offr has perused the two documents and he has advised me that he consents to their being admitted as true copies.
(RP.46(2) complied with).

PLEA IN MITIGATION OF PUNISHMENT BY THE DEFENDING OFFICER:-

The Court has already the plea of mitigation of the twin brother. They have been in the Army practically the same length of time and he has been kept in the RU for the same time. His crime sheet has only very minor entries on it - his record hasn't been so very bad. The trouble is, he had been drinking at Croydon and somehow came back here to finish off.

THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

SUMMARY OF EVIDENCE

in the case of

K 25537 Gnr DOBBIE Douglas, a soldier on the strength of "F" Battery, "Q" Wing, No 2 Cdn Arty Rft Unit, Cdn Army (Overseas).

BY DIRECTION OF THE COMMANDING OFFICER THIS SUMMARY OF EVIDENCE IS TAKEN ON OATH

FIRST WITNESS For the Prosecution

B 6215 L/Bdr DOWNING R., an instructor on the strength of "E" Bty., "Q" Wing, No 2 Cdn Arty Rft Unit., being duly sworn, states :

"I am L/Bdr Downing R. On Sunday evening, the 21st Mar 43, at approximately 2045 hrs I was sitting in the NAAFI Canteen eating with a Gnr Betke. I saw a man jump on and sit on the cigarette counter of the canteen, and reach behind the counter and grab what I took to be a package of cigarettes. I jumped up and told him to put it back. The man had been drinking and had a glass of beer in one hnad. He handed me a sum of money. I asked him for his pay book to obtain his name and number and he started struggling, breaking away and running out of the canteen. I took the money to one of the ladies in the rear of the canteen and reported the fact to the Serjeant of the Regtl Police who was there at the time. The Serjeant dashed out to see if he could catch the culprit, and he was at the door opening on to the kitchen of the canteen when another man appeared and started argueing and using threatening language to L/Bdr Burnett. The Serjeant ordered Bdr Burnett to take the man to the Guard Room. On getting up to the Guard Room I was behind Bdr Burnett and as he opened the door, the man I had struggled with in the canteen was in the guard room. L/Bdr Burnett informed the man he was under close arrest. The man tried to dash by and get out the door, but was stopped by Bdr Burnett. Struggling then ensued between both the prisoners and the escorting Regtl Police

. . . . R Downing . . . .
B 6215 L/Bdr Downing R

QUESTION BY THE ACCUSED: "When you came up to the Guard Room did you come up with Sjt Watt and Bdr Burnett ?"
ANSWER: "Yes, I did. I was directly behind them."
QUESTION: "Were they escorting me up there at the same time ?"
ANSWER: "From the NAAFI to the Guard Room there was only one Gnr Dobbie present."
QUESTION: "Was I in the Guard Room when they brought the other Gnr Dobbie in ?"
ANSWER: "I don't know, but there were two Gnrs Dobbie there when I entered the Guard Room.
QUESTION: "How do you know for sure sure that it wasn't the one they brought in with you who took the money."
ANSWER: "Because I knew definitely at the time in the canteen that the man who came into the kitchen was not the man I had struggled with."

THE ACCUSED DECLINES TO FURTHER CROSS EXAMINE THIS WITNESS

(Cont on Page Two)

SECOND WITNESS For the Prosecution

A 55800 Gnr BETKE E H., a soldier in the strength of "E" Battery, "Q" Wing, No 2 Cdn Arty Rft Unit, being duly sworn, states:

"I am Gnr Betke E H. Sunday evening, Bdr Downing and myself were sitting in the NAAFI Canteen. We were immediately in front of the cigarette counter and I saw the accused, whom I now see and recognize, reach over the counter and take something. He placed it in his pocket and Bdr Downing got up and went over to him and spoke to him. The accused reached in his pocket and passed something to the Bdr. Bdr Downing asked the accused for his name and number. The accused refused to give it to him, and started struggling and broke away and ran out of the Canteen.

E. H. Betke
.....
A 55800 Gnr Betke E H

QUESTION BY THE ACCUSED: "Are you sure that I refused to give him my name and number."
ANSWER: "Yes, positiively - he asked you a number of times."
QUESTION: "Are you sure that you weren't told by Bdr Downing that I refused to give my name and number, after it happened and you were talking about it."
ANSWER: "I heard Bdr Downing very distinctly as he was only eight (8) feet away."
QUESTION: "What time did the scene occur in the Canteen?"
ANSWER: "I should say about 2040 hrs."

THE ACCUSED DECLINES TO FURTHER CROSS-EXAMINE THIS WITNESS

THIRD WITNESS For the Prosecution

Mrs Doreen MOORE, a member on the staff of the NAAFI, Superior Camp, Ludshott, Hants., being duly sworn, states:

"I am in charge of the Net (Cigarette) Bar in the NAAFI from 5.30 p.m. to 9.30 p.m. I was there till about 9 pm on Sunday when I left to go into the kitchen. I had been away two minutes when Bdr Downing came into the kitchen and handed me four pounds)£4), which he stated had been taken from the Net Bar. I went back into the Net Bar to see if it had come from there and I saw that the cash tin was standing open and there was only a 10/- note left, whereas there was £4-10-0 in notes there when I left. I reported it to the charge hand. Gnr Dobbie, the brother of this man (indicating Gnr Dobbie Doug) followed Bdr Downing in and then Sjt Watt appeared and called in the other Regtl Police and they took Gnr Dobbie away.

D. B. Moore
.....
Sgd - Mrs D Moore

QUESTION BY THE ACCUSED - "Are you sure you were there at 9 pm?"
ANSWER: "Yes, I was there at 9 pm."
QUESTION: "Did you ask the Bdr if he recognized the man who gave him the money."
ANSWER: "That I can't remember."
THE ACCUSED DECLINES TO FURTHER CROSS-EXAMINE THIS WITNESS.

(Continued on Page 3)

FOURTH WITNESS for the Prosecution

H 3656 L/Sjt WATT H J., a member of the Regtl Police, No 2 Cdn Arty Rft Unit, being duly sworn, states :

"I am L/Sjt Watt H J., of the Regtl Police, Superior Camp. At approximately 2100 hrs 21 Mar 43 L/Bdr Downing reported to me that he had seen a man, who he recognized as one of the Dobbie bros lean over the counter in the NAAFI and take something. He had approached this gnr and got a sum of money from him, but the gnr escaped. I instructed my junior NCOs to have both Dobbie brothers taken to the guard room where L/Bdr Downing could identify the guilty party. Gnr Donald Dobbie was in the NAAFI kitchen when I want there and I ordered him to go to the Guard room with L/Bdr Burnett and he refused to go. I then placed him under arrest and ordered L/Bdr Burnett to take him to the Guard room. He resisted violently and had to be dragged out of the building. On arriving at the Guard room, Gnr Douglas Dobbie was there in conversation with the Guard Cmdr. I informed him he was under arrest. Immediately he tried to make a break for the door, but was stopped by L/Bdr Burnett. When told to go into one of the cells both Gnrs Dobbie refused to do so and put up quite a struggle before they were locked up. I was returning to the front of the Guard Room when the cell door was kicked and the panneling broken out. About this time the Orderly Officer arrived. We went back to the cell to try and quiet the Dobbie brothers down and they used insubordinate and threatening language at me, Gnr Donald Dobbie saying that we were all a no good bunch of buggers and Douglas Dobbie saying that at the first opportunity he would shoot me. At approximately 1500 hrs on the 22 Mar 43, I was informed by L/Bdr Hooper that Gnr Donald Dobbie would not do the work he was detailed to do as a prisoner. I went to Gnr Donald Dobbie and showed him the rules concerning men in detention and explained the mistake he was making but he persisted in refusing to work. I then ordered him to work on the wood pile at No 4 kitchen and he refused to do so.

(Sgd) H Watt
H 3656 L/Sjt Watt H J

QUESTION BY THE ACCUSED: "Are you sure that the Bdr who reported to you that money was stolen from the NAAFI counter recognized me as one of the Dobbie Brothers ?

ANSWER: "Yes, he told me he recognized him as one of the Dobbie brothers, but was not sure which one."

QUESTION: "Are you sure you were not at the rear cell of the Guard Room locking Gnr Dobbie Don away while the fight was on in the Guard room with Bdr Burnett and me."

A NSWER: "After I placed you under arrest and ordered you taken to the cell a struggle ensued. I took Gnr Dobbie Don to a cell at the back of the Guard Room when you were still struggling with Bdr Burnett in the front of the building.

THE ACCUSED DECLINES TO FURTHER CROSS-EXAMINE THIS WITNESS

(Continued on Page 4)

FIFTH WITNESS For the Prosecution

C 1143 L/Bdr BURNETT A C, a member of the Regtl Police, "Q" Wing, No 2 Cdn Arty Rft Unit, being duly sworn, states:

"I am L/Bdr Burnett of the Regtl Police. At approximately 2100 hrs 21 Mar 43, I was in the NAAFI when I was ordered by L/Sjt Watt to take Gnr Dobbie Donald to the Guard Room for identification. I asked Gnr Dobbie Don to come with me. He said he wouldn't. L/Sjt Watt then placed him under close arrest and ordered me to take him to the Guard room. I then asked Gnr Dobbie Don if he was going to come. He said no and I forced him to go to the guard room and Sjt Watt told me to place his brother Gnr Dobbie Doug under close arrest also if I saw him. When I arrived at the Guard Room with Gnr Dobbie Don, his brother Gnr Dobbie Doug, was there. I immediately told him he was under close arrest. He asked me what for and I told him over an incident that happened in the NAAFI. As I turned around to tell the other R.Ps to put Gnr Dobbie Don in a cell, Gnr Dobbie Doug ran out of the door and I caught him. I then ordered both to go to the cell and they both resisted violently and a scuffle occurred ending up by putting them in the cell by force.

(Sgd) .....
C 1143 L/Bdr Burnett A C

QUESTION BY THE ACCUSED: "Are you sure that I ran out of the door ?"

ANSWER: "Yes, immediately my back was turned, you ran out through the door and I caught you on the cement walk."

QUESTION: "Are you sure it wasn't when I turned around that I was grabbed"

ANSWER: "No, you ran out of the door."

THE ACCUSED DECLINES TO FURTHER CROSS-EXAMINE THIS WITNESS.

SIXTH WITNESS For the Prosecution

L 12646 L/Sjt HIEBERT J, a soldier on the strength of "E" Battery, "Q" Wing, No 2 Cdn Arty Rft Unit, being duly sworn, states :

"I am L/Sjt Hiebert J. At 2101 hrs on the 21 Mar 43 one of the Dobbie boys came in the Guard room where I was the Guard Commander. At that time I was initialling passes of men returning from pass, and initialled his pass. At 2103 hrs the R.Ps. brought in the other Gnr Dobbie and I was told they were both under close arrest and were to be locked up. When they were being locked up one attempted to get away and was brought back and the other one was struggling with the R.Ps. They quieted them down and they were put in the cell and L/Sjt Watt told me to put two men on guard in the passage-way. I placed the two men on guard and although I saw nothing I heard a lot of noise from their cells and I also heard the cell door being broken, and afterwards saw it was the door of the Dobbie Brothers cell.

.....
(Sgd) L 12646 L/Sjt Hiebert J

QUESTION BY THE ACCUSED: "Can you recognize me as the first man who came in with his pass ?

ANSWER: "No, I couldn't, because I never looked up."

(Continued on Page 5)

SIXTH WITNESS For the Prosecution (cont)

QUESTIONS BY THE ACCUSED (Cont): "When I was in the Guard Room turning in my pass, didn't you arrest me ?"

ANSWER: "There was no need for it - your pass was in order."

THE ACCUSED DECLINES TO FURTHER CROSS-EXAMINE THIS WITNESS

SEVENTH WITNESS For the Prosecution

L 18266 L/Bdr McKAY G M., a member of the Regtl Police "Q" Wing, No 2 Cdn Arty Rft Unit, being duly sworn, states:

"I am L/Bdr McKay of the Regtl Police. On Sunday night 21 Mar 43, I walked into the Guard Rooom and saw both Gnr Dobbie Doug and Dobbie Don there. I saw Gnr Dobbie Doug, who I now see and recognize, make a dash for the door and saw L/Bdr Burnett catch him just outside the Guard Room door. L/Bdr Burnett brought him back and when they were being taken to a cell a struggle ensued and I assisted in putting them in a cell at the rear of the Guard room. After they were locked in the cell and we were returning to the Guard room I heard the cell door being kicked in and saw that their cell door was broken. We went back into the cell and the accused in the ensuing talk threatened Sjt Watt by saying "I will kill you if I have to serve six months for it" or words to that effect.

(Sgd) G M McKay .....
L 18266 L/Bdr McKay GM

QUESTION BY THE ACCUSED: "Are you sure that Bdr Burnett caught me outside the Guard room?"

ANSWER: "Yes, he caught you just outside the door."

QUESTION: "Are you sure there was nothing said to me to cause me to say what I did say to Sjt Watt ?"

ANSWER: "No, I'M not sure there was anything to cause you to make that statement."

THE ACCUSED DECLINES TO FURTHER CROSS-EXAMINE THIS WITNESS

Having been duly cautioned in accordance wiTH Rules of Procedure (4)(e) the accused reserves his defense. Certified that Rules of Procedure 4(c)(d)(e)(f) & (g) have been complied with.

Taken by me in the presence and hearing of the accused this 23rd day of Mar 43

(Sgd) J D Macdonald Capt.
(J D Macdonald) Capt., R C A
OFFICER DETAILED TO TAKE THIS SUMMARY OF EVIDENCE

I wish to have Capt. J G LITSTER R C A assigned to defend me at my forthcoming Court Martial.

Sgd Douglas Dobbie

K 25537 Gnr DOBBIE DOUGLAS

M.F.B. 355
22M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K 25537	Gnr	DOBBIE Douglas	2 C.A.R.U.

1. The following is a fair and true summary of the entries in the ~~Service and Casual~~ Regimental and Squadron, Battery ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with. JCH JCH

	Within last 12 months		Since enlistment or appointment	
For	Sec 15(1)	One (1) times	Sec 15(1)	Two (2) times
	Sec 8 (2)	One (1) times	Sec 19	One (1) times
For	Sec 9 (2)	One (1) times	Sec 10(4)	One (1) times
For	Sec 10(4)	One (1) times	Sec 9 (2)	One (1) times
For		times	Sec 8 (2)	One (1) times
For		times		

~~Number of instances of gallantry or distinguished conduct~~ JCH.

—

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

—

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act~~ ~~A.F.A. 78~~ JCH.
~~Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule~~ JCH
~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

—

~~The accused at the present time is under sentence to~~ ~~beginning on the~~ JCH.
~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for — days in civil custody, and 11 = days in ~~Air Force~~ military custody, making a total of 11 = days in custody, JCH.
of which — days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 19 $\frac{7}{365}$ yrs

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 6 July 1940

7. The service which the accused is allowed to reckon towards discharge is 2 $\frac{264}{365}$ yrs

8. The accused is entitled to reckon 2 $\frac{264}{365}$ service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~or has been~~ JCH
~~in possession of or entitled to~~. ~~State any air force decoration or reward~~ JCH
~~military~~.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of —

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force ~~unit~~ JCH.

~~dated~~ ~~, and in his regiment (or corps), the rank of~~ JCH.

~~dated~~ .

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date:~~ JCH.

~~Date of promotion~~ JCH

~~In the rank of~~ ~~years.~~

~~In the rank of~~ ~~years.~~

~~In the rank of~~ ~~years.~~ JCH.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

~~Air Force~~ JCH.

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number Rank Unit Regiment

Name of

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

R K Alderton Capt
J L Ramsay
a CARO

Signed day of

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

No. K 25537 Name Dobbie, Doug Sqn., Battery, or Company 3RD MED BTY R.C.A. Corps Date of enlistment 6/7/40 G.C. Badges Service or Proficiency Pay M.F.M. 6

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Record Examined R.O.393					
Belmont Fort	17/4 41	Gnr		Sec.15(1)AA WOAS AWL from 1545 hrs until 0400hrs 19/4/41 (Absent 1day 12hrs 15mins).	Sgt Pattinson L/Sgt Fane Sgt Simpson	7 days C.B. Admonished	19/4/41 17/6/41	Lieut Buller Lt-Col Sutton	Forfs 2 days pay FR&I149(a)
Vernon	14/6 41	Gnr	1	Sec 19 AA WOAS "DRUNKENESS"					
Field	18Nov 42	Gnr		A.A.Sec10(4)WOAS Being a soldier breaks out of barracks after being Quarantined in Hut 19. 16 Nov 42 (2) WOAS Disobeyed a lawful command given to him by his Sucerior Officer	BQMS Williams Sgt Jackson Documentary	7 days F.P 7 days pay FR&I149(2)	25Nov 42	Lt-Col Thompson	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7 Dec 42			A.A.Sec8(2) WOAS insobordination in that he said to BQMS Williams "You NCOs are throwing too much weight around" or words to that effect	L/Bdr Delaney BQMS Williams	7 days F.P. 7 days pay FR&L 149 (2)	8Dec 42	Lt-Col JCW Thompson	Total forfeiture 7 days pay.
Field	17 Jan 43	"		A.A.Sec 15(1) WOAS AWL in that he did not appear on Protestant Church Parade at 0925 hrs 17 Jan 43	L/Sgt Rutsey HJF	2 days C.B.	18 Jan 43	Major Andrew	

Certified true Copy

J Hazlewood Lt A/Adjt

"Q" Trng. Wing. 2 C.A.R.U.

X-114

Gnr. DOBBIE D.

Correspondence to be PINNED here.

R-25536 Gnr. Dobbie, Donald
No. 2 C.A.R.U. X-114

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this SECOND day of FEBRUARY, 1943. — Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint :—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely :—]

* Omit if not applicable.

Proceedings Returned

10 Feb 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be stated. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LIEUT-COLONEL	D.I. MEDRAN	CAIG. HIGHRS.

Members.

Rank.	Name.	Regiment.
CAPTAIN	E.E. MacDONALD, R.C.A.	2 C.A.R.U.
LIEUT.	G.R.T. McKAY, R.C.A.	2 C.A.R.U.
LIEUT.	J.S. BYERS, R.C.A. (Artillery Member)	2 C.A.R.U.

*Signed [signature] BRIGADIER

Commanding "C" GROUP, CDN. REINF. UNITS.
Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

RECEIVED 9 FEB 1943 No. 2 C.A.R.U.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
K-25538 PTE. DOBBIE, DONALD (R.C.A.) 2 C.A.R.U.	FIRST CHARGE A.A. Sec. 15(1)	Guilty	Guilty	
	SECOND CHARGE A.A. Sec. 22	Guilty	Guilty Sentence to undergo detention for a period of Sixty (60) days 4th Feb. 1943	Confirmed
See Charge Sheet attached.				

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) Brigadier (Signed)
Commanding 2nd Gp., Can. Reinf. Units.
Convening Officer (*c*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings

I certify that the above Court assembled on the 4th day of February 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~
4. *The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 4th day of February 19 43

President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (b) on page 782 M.M.L. 1929.

I certify that ~~the terms of *A.C.I. 570 of 1918 have been~~ complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~

Signed this 5th day of February 19 43.

Confirming Officer.

Promulgated and extracts taken in the case of K-25538 Pte Dobbie, D. A. R.C.

(*a*) (Dated) 8th February 1943 (Signed) Major & Adjt 2 Can. Gp.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

K 25538 Gunner DOBBIE, Donald, on the strength of "F" Battery, "Q" Wing, No 2 Cdn Arty Reinf Unit, a soldier in the Canadian Army, Overseas, is charged with-

FIRST CHARGE
ARMY ACT
SEC 15 (1)

While on Active Service, absence without leave,

in that he

While undergoing Field Punishment at Superior Camp, Ludshott, Hants, absented himself without leave from 1320 hours 23 Jan 43, until apprehended by the Canadian Provost Corps in London at 2345 hours 25 Jan 43

Absent 2 days, 10 hours, 25 minutes.

SECOND CHARGE
ARMY ACT
SEC 22

While on Active Service, escaping from custody,

in that he

At approximately 0600 hours 26 Jan 43, did escape from the detention cells, No 6 Cdn Provost Coy, London.

Signed at Superior Camp,
Ludshott, Hants, this
twenty-eighth day of
January, 1943

(C.E. dePencier) Lt. Col., R.C.A.
A/Commanding Officer,
No 2 Cdn Arty Reinf Unit,
Cdn Army Overseas.

To be tried by Field General Court Martial

Brigadier,
Commanding 4th Group, Cdn. Reinf. Units.

Bordon, Hants.
2nd February 1943.

2CAHU Form #92

MEDICAL CERTIFICATE

4 FEB 1943

I certify that I have this day examined No. K15538 DOBBIE D.

and find him free from infectious or contageous diseases, and fit to undergo ~~detention~~ Trial by F.G.C.M. the opn has an injury of the left which is improving, but he still should not shave.

Dated at ~~Quebec Garrison~~ Superior Camp.

J. W. Watson Capt.
(Medical Officer)
No. 2 Cdn. Arty. Holding Unit
Canadian Army (Overseas)

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT SUPERIOR CAMP, LUDSHOTT, HANTS.
ON THE 4th DAY OF FEBRUARY 1943

The accused..K.25536 Gnr. DOBBIE D. ..... Unit. 2 C.A.A.U. .....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 & 23.

The accused is brought before the Court.
The Medical Certificate is presented to the Court.
The order convening the Court is read by the President and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President LT.-COL. D.L. HEDMAN, V.D. Unit H.Q. C.A.A.U. .....

Members CAPT. E.V. MACDONALD ..... Unit. 2 C.A.A.U. .....

LIEUT. G.H.F. MCKAY ..... Unit. 3 C.A.A.U. .....

The officers under instruction are duly sworn:-

(Not Officers Duty) ..... Unit. .....

..... Unit. .....

Prosecutor. LIEUT. F.D. MACDONALD Unit. R.C.A.O.C. .....

Defending Officer. LIEUT. W.A. FARRELL Unit. R.C.A.O.C. .....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B)
The Summary of Evidence is read.
The Prosecutor is sworn and produces MFB 355 ~~MFB 662~~ and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

~~(a) makes a statement in mitigation of punishment~~
~~(b) ~~
~~(c) ~~
~~(d) addresses the Court by his Defending Officer~~

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Plea in mitigation of punishment by the Defending Officer attached hereto.

(OVER)

Mr President and members of the Court —

Gnr. Dobbie has pleaded guilty as charged so there is nothing to be said there. However before sentence is passed there are a few things which I as his defending officer would like to say in his favor.

Gnr Dobbie has not been an ideal soldier by any means but one must consider the type of misdemeanors he has committed. These have all been minor offences committed more through youthful thoughtlessness than through any malicious intent. There is nothing mean or vicious about any of these offences.

Consider Gnr. Dobbie's age. He is now eighteen years old, will be nineteen in March. He enlisted in the Canadian Army 6th July 1940. at the age of sixteen. and came to England & in October 1941 about sixteen months ago. He arrived here as a driver and was with a regiment as a driver but when his true age was discovered, his driving permit was cancelled and he was sent back to this Reinforcement unit about eleven months ago.

Since that time he has done nothing but fatigues lighting fires, cleaning huts, etc [illegible] no steady employment in which he could take any interest or

felt that he was doing himself or the army any good. Is it any wonder that a boy his age would get sick of it and go A.W.O.L.?

Finally while he was undergoing field punishment he saw an opportunity to escape. He had sufficient money so he took this chance ~~and~~ with no thought of the consequences. He met an acquaintance in London who was also A.W.O.L. and the two of them were apprehended by the Cdn. Provost in London. After being locked up they were taunted by their guards who among other things said that here was one guard house they would not break out of, so at the first opportunity they broke out again. more to show the inefficiency of the ~~from~~ London Provost than any thing else.

In conclusion, gentleman let me again point out that all these escapades are ~~more~~ youthful thoughtlessness and carelessness of consequences for hasty action. I am sure that Snr Dobbie if given proper guidance and useful employment would become the very good soldier he is capable of being. I thank you.

MM

M.F.B. 355
40/F & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K 25538	Gunner	DOBBIE, Donald	No. 2 C.A.R.U.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ ~~Conduct sheets~~ ~~or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For A.A. Sec 40	Four (4) times	Nine (9) times
For A.A. Sec 9 (2)	Two (2) times	Two (2) times
For A.A. Sec 15 (1)	Three (3) times	Four (4) times
For A.A. Sec 22	One (1) times	One (1) times
For A.A. Sec 10 (4)	One (1) times	Two (2) times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act~~ ~~A.F.A. 76~~ ~~Section 47 of the Army Act and dispensations with trial under A.A. 55 are set out on the following sheet(s) annexed to this statement.~~

3. ~~The accused is not under sentence at the present time.~~

or,

The accused at the present time is under sentence for 28 daysFF beginning on the twenty-third day of January 43

4. The accused has been in confinement awaiting trial on the present charges, for No days in civil custody, and 49 days in military custody, making a total of 49 days in custody, of which No days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 18 yrs 10 mos

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper 6 Jul 40

7. The service which the accused is allowed to reckon towards discharge is 2 206/365 yrs

8. The accused is entitled to reckon 2 206/365 yrs service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~[or is in possession of or entitled to]~~. ~~State any air force decoration or reward~~ ~~military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ ~~Permanent Force~~ ~~unit~~ ~~, dated~~ ~~, and in his regiment (or corps) the rank of~~ ~~, dated~~ .

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—~~

~~Date of promotion.~~

~~In the rank of~~ ~~years.~~

~~In the rank of~~ ~~years.~~

~~In the rank of~~ ~~years.~~

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force / Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name K 25538 Gnr DOBBIE, DonAld of No 2 Cdn Arty Reinf Unit Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4 day of February 43

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. 25538 Gr. Dobbie D.

Officers Under Instruction

Lieut.	J. M. Dennis 2 CARD.	Lieut.	L. B. Fuller 2 CARD
Lieut.	J. Hutchinson "	"	A. D. Hume "
"	W. R. Sangster "	"	I. E. Cameron "
"	W. D. Gray "	"	T. M. Fielding "
"	R. H. Hineyford. "	"	W. C. Hosken "
"	E. R. Hobson "	"	T. D. Macdonald "
"	L. W. Glanville "	"	W. E. Lee "
"	B. I. Cosman "	"	W. E. Green "

SUMMARY of EVIDENCE

Summary of Evidence in the case of

K 25538 Gunner DOBBIE, Donald, on the strength of "F" Battery, "Q" Wing, No 2 Cdn Arty Reinf Unit, a soldier in the Canadian Army (Overseas).

BY DIRECTION OF THE COMMANDING OFFICER, THIS SUMMARY OF EVIDENCE IS TAKEN ON OATH

FIRST WITNESS
For the Prosecution

F 87648 Gnr TOTTEN C.H., a member of the Regimental Police, Administrative Wing, No 2 Cdn Arty Reinf Unit, being duly sworn, states:

"On the 23 of Jan 43 I was in charge of four men from the Guard Room, working in the Officers' Mess; two washing dishes, one cleaning tables and Gunner DOBBIE, whom I now see here and recognize, was working in a small room in the kitchen, along with one of the kitchen staff. I walked into the mess-hall, leaving Gnr DOBBIE with the kitchen helper, and when next I went back into the room where I had left Gnr DOBBIE, he had disappeared. This was at approx 1320 hrs. I immediately reported Gnr DOBBIE's absence to the Guard Room. I did not see Gnr DOBBIE again until 27 Jan 43, when he was confined in the Guard-Room."

THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS

C.H. Totten

F 87648 Gnr Totten C.H.

SECOND WITNESS
For the Prosecution

F 21329 Cpl POWER R.A., a member of No 6 Coy, Cdn Provost Corps, London.
A written statement of this witness' evidence, purporting to be signed by him, is attached to this Summary of Evidence, marked "Exhibit A" , and has been read to the accused.
With due regard to the expense and loss of time involved, the attendance of this witness cannot, in my opinion, be readily procured.

THE ACCUSED DOES NOT DEMAND THE ATTENDANCE OF THIS WITNESS FOR CROSS-EXAMINATION

R.J. Guy LT

R.J. Guy, Lieut., R.C.A.
(Officer detailed to take Summary of Evidence)

THIRD WITNESS
For the Prosecution

G 12088 Sgt SHRIEVES I.D., a member of No 6 Coy, Cdn Provost Corps, London.
A written statement of this witness' evidence, purporting to be signed by him, has been read to the accused and is attached to this Summary of Evidence, marked "Exhibit B."
With due regard to the expense and loss of time involved, the attendance of this witness cannot, in my opinion, be readily procured.

THE ACCUSED DOES NOT DEMAND THE ATTENDANCE OF THIS WITNESS FOR CROSS-EXAMINATION

R.J. Guy LT

R.J. Guy, Lieut., R.C.A.
(Officer detailed to take Summary of Evidence)

FOURTH WITNESS
For the
Prosecution

H 16082 Cpl KEENIE P., a member of No 6 Coy, Cdn Provost Corps, London.
A written statement of this witness' evidence, purporting to be signed by him, has been read to the accused and is attached to this Summary of Evidence, marked "Exhibit B." With due regard to the expense and loss of time involved, the attendance of this witness cannot, in my opinion, be readily procured.

THE ACCUSED DOES NOT DEMAND THE ATTENDANCE OF THIS WITNESS FOR CROSS-EXAMINATION

R.J. Guy Lt

R.J. Guy, Lieut., R.C.A.
(Officer detailed to take Summary of Evidence)

FIFTH WITNESS
For the
Prosecution

M 3315 A/Bdr SIMPSON J., a member of the Regimental Police, Administrative Wing, No 2 Cdn Arty Reinf Unit, being duly sworn, states:

"On the 26 Jan 43, at approx 1630 hrs, I was on duty in the Guard-Room, No 2 C.A.R.U., when the accused, Gnr DOBBIE, whom I now see and recognize, was brought in under escort by the Cdn Provost Corps, with the accompanying documents, purporting to relate to the accused, (Attached to this Summary of Evidence, marked "Exhibit C.") He was sober and properly dressed."

THE ACCUSED DOES NOT WISH TO CROSS-EXAMINE THIS WITNESS

J.W. Simpson B

M 3315 A/Bdr Simpson J.

The foregoing Summary of Evidence, consisting of two (2) pages, was taken down by me in the presence of the accused at Superior Camp, Ludshott, Hants, this twenty-eighth day of January 1943.

Rules of Proceedure 4 (c), (d), (e), (f), and (g) have been complied with.

R.J. Guy Lt.

R.J. Guy, Lieut., R.C.A.
No 2 Cdn Reinf Unit
Cdn Army (Overseas)

SHEET A

CHARGE

Army Form B 252
(See King's Regulations)

No.2 C.A.R.U. Regiment / Battery / Squadron / Troop or Company

CHARGE against No. K-25538 Rank Gnr.

Name Dobbie D.

Place London Date of Offence 25 Jan 43.

OFFENCE W.O.A.S., was A.W.L. from.....? until apprehended by the Cdn.Provost Corps at Charing Cross Station at about 2345 Hrs.

(2) resisting arrest, same time date and place

Names of Witnesses:—
A/Cpl.Power R.A. Cdn.Provost Corps

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O

Wt.W21 472/580. 2,000,000. 7/41. K. & H., Ltd. (A6274)

CHARGE

No.

EXHIBIT "B"

Troop or Company

CHARGE against No. H25539 Rank Gnr.

Name DOBBIE, D.

Place London Date of Offence 26 Jan 43

OFFENCE W.O.A.S. escaping military custody about 0600 hrs. 26 Jan 43 at 30 Henrietta Street, London.

Names of Witnesses :—

Sgt. SHRIVES

Cpl. KERR

Signature of O.C. Battery, Squadron, Troop or Company

A.A.P.M.

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

W21972/580 2,000,000 7/41 K. & H., Ltd. 6667/47

Exhibit "C"

CERTIFICATE IN ACCORDANCE WITH P.C. 8797 of 10 Apr 42.

I CERTIFY that No. K-25570. Rank Pte. Name Robbins R.

Unit 2C.A.R.U. R.C.A. was arrested at London (Place)

at 2345hrs. (Hour) on 24/Jan/43. (Date) and that at the time of his arrest he was wearing (Military Uniform) or (Civilian clothing).

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer of the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.
(Strike out part inapplicable).

..... Capt.
(W. Mrn) D.A.P.M.,
London Area

EXHIBIT 'A'

CHARGE

Army Form B 252
(See King's Regulations)

No.2 C.A.R.U. Regiment / Battery / Squadron / Troop or / Company

CHARGE against No. K-25538 Rank Gnr.

Name Dobbie D.

Place London Date of Offence 25 Jan 43.

OFFENCE W.O.A.S.,was A.W.L. from.....? until apprehended by the Cdn.Provost Corps at Charing Cross Station at about 2345 Hrs.

(2) resisting arrest,same time date and place

Names of Witnesses:—

A/Cpl.Power R.A. Cdn.Provost Corps

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O

Wt.W2197/508 2,000,000 7/41 K.& H., Ltd. C467/42

Statement of **EVIDENCE** in the case of

K-25538 Gnr.Dobbie D.
No.2 C.A.R.U.

Sir;-At London,at about 2345 Hrs. 25 Jan 43. I was on duty at Charing Cross Tube Station, when I saw the a/n soldier.

I approached him and requested his pass he could not produce one and admitted being A.W.L.

I placed him under arrest and told him to come with me,which he resisted.

I then called upon Guardsman Davies F. of the Welsh Guards who assisted me on escorting the a/n soldier to No.6 Cdn.Provost Corps Detention cells,where I handed him over to the N.C.O. i.c.of cells to be detained.

London
25 Jan 43

R.A.Power A/Cpl.
(R-21329 R.A.Power)

REMARKS

CHARGE

No.

Troop or Company

CHARGE against No. 1935539 Rank Gnr.

Name DOBBIE, D.

Place London Date of Offence 26 Jan 43

OFFENCE W.O.A.S. escaping military custody about 0600 hrs. 26 Jan 43 at 30 Henrietta Street, London.

Names of Witnesses:—

Sgt. SHRIVES

Cpl. KEENE

Signature of O.C. Battery, Squadron, Troop or Company } A.A.T.C. Tadcaster

Punishment Awarded }

By whom Awarded }

Adjutant.

W1/W2172/300 2,000,000 7/41 K & H, Ltd 040747

P.T.O.

Statement of **EVIDENCE** in the case of
[illegible]

No. 2 C.A.R.U.

Sir:

At London at about 0600 hrs. 26 Jan 43 I was N.C.O. i/c Detention Cells when it was brought to my attention by L/Cpl. Smith that two men had escaped custody, one being the a/m soldier. We immediately searched the surrounding vicinity and at approximately 0840 hrs. he was apprehended at the Washington Club and brought into the Detention Office where he was detained to await escort to unit.

London
26 Jan 43

[signature] Sgt
(A19098 I.D. Shrieves)
No. 6 Coy., Cdn Prov Corps

Sir:-

I have read over and corroborate the above statement.

London
26 Jan 43

[signature] Cpl.
(H13082 P. Keenie)
No. 6 Coy., Cdn Prov Corps

REMARKS

STATEMENT of ACCUSED

I, K 25938 Gunner DOBBIE, Donald agree to accept

Lieut. W.H. Fargey, R.C.A.

as my defending Officer in my forthcoming Court Martial.

Donald Dobbie

(Sgd) K 25938 Gnr. Dobbie, Donald

M.F.M. 6
A.F.B. 177
11134—7-41 (1319-20)
H.Q. 1773-39-1453

No. [illegible] Name DOBBIE, Donald | Sqn., Battery, or Company | Corps | Date of enlistment 6-7-40 | G.C. Badges Nil | Service or Proficiency Pay Nil

Date of last entry in Company Conduct Sheet | No. and date of last drunk 20-5-41 Nil | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Vernon	20/6/41	Pte		1. Conduct to the prejudice of good order & military discipline in that he left camp improperly dressed, contrary to Camp Orders (XXX) and wear anklets when wearing battledress	Sgt. Simpson	7 days C.B.	21/6/41	Lt. Fowler	
				2. Conduct to the prejudice of good order & military discipline in that he did not obey order of an N.C.O. - Sec. 40 A.A.					
Gordon	7/11/41	Gnr		Conduct to the prejudice etc. Failing to march at attention A.A. Sec 40	BSM Crowshaw Sjt McLeod	2 days C.B.	8 Nov 41	Major W.F. Blair	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26 Dec 41	Gnr		Interfered with guard in pursuance of his duties - A.A.40	S/Sgt Erwin. Bdr Stewart	Admonished	27 Dec 41	Major C. C.Wood	
Bordon	27Feb 42	Gnr		Disobeying a lawful command given by superior Officer, i.e.		14 days pay	28 Feb42	Entry from Docs	??(Capt)
Field	16Sep 42			(1)WOAS absented himself without leave from 2230 hrs 16/9/42 until 2130 hrs 20/9/42(Absent 3 days 21 hrs 30 mins) A.A.Sec 15(1) (ii) While a defaulter, Breaking out of Barracks Sec 40	L/SgtLaflamme D. Sgt Favreau G.S.	7 days F.P.	21/9/42	W.A.Townsley Lt. Col.	
In-the-Field	27/9/ 42	Gnr		WOAS absented himself without leave from 2230 hrs 27/9/42 until 0600 hrs 28/9/42 (Absent 7 hrs 30 mins) A.A.Sec 15 (1)	Bdr ReddickR Bdr BarnettT	14 days F.P. 14 days pay	29/9/42	(W.A.Townsley) Lt.Col.	
Field	30/9/ 42	Gnr		A.A.Sec 22 WOAS escaping from confinement in that he at approx. 2030 hrs 30/9/42 escaped from No 1 Fd. Punishment Camp	Sgt Vautier S.A.	14 days F.P. 14 days pay	13/10/42	(W.A.Townsley) Lt.Col.	

No. K 2553 Name Dobbie, Donald Sqn., Battery, or Company 55th Hvy Bty Corps Date of enlistment 6-7-40 G.C. Badges NIL Service or Proficiency Pay NIL

M.F.M. 6 (A.F.B. 127) 175M—7-41 (1210-20) H.Q. 1772-30-1402

Date of last entry in Company Conduct Sheet — No. and date of last drunk Nil — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ft Brandon Barracks	16-8-41	Gnr		1. Conduct to the prejudice of good order and Mil discipline in that he failed to comply with an order given by a superior officer (Sec 40 A.A.)					
				2. Breaking out of Barracks: while under open arrest, did leave the camp area. Sec 10 (4)		Forfeits 3 days pay		L. English ? Lt.Col.	
				3. Absenting himself without leave Absent from 1230 hrs to 1530 hrs (Absent 3 hrs) Sec 15 (1) A.A.					

(P T O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Farnborough	12.6.42	Gnr		WOAS Conduct to the prejudice of g.c. and m.d. in that he on 12 Jun 42 when ordered to clean & press his uniform, used insolent and disrespectful language to his Superior Officer AA Sec 40	Sgt Hibbert Bdr Rawson	7 days C.B.	16.6.42	Capt R.A. Adams	
Field	7/9/42	Gnr		W.O.A.S. Improperly dressed A.A. Sec 40	L/Cpl Wooden R.P. L/Cpl Isherwood J.P. #7 Provost	7 days C.B.	15/9/42	W.A.Townsley Lt.Col.	
Field	18 Nov42	Gnr		A.A. Sec 10(4) WOAS Being a soldier breaks out of barracks after being quarantined in Hut 19 - 16 Nov 42 (2) WOAS Disobeyed a lawful command given to him by his Superior Officer	BQMS Williams Sgt Jackson (Documentary)	12 days F.P. 12 days pay FR&I 149(2)	25 Nov42	Lt.Col. Thompson	

No. K 25538 Name Dobbie, D. Sqn., Battery, or Company — Corps R.C.A. — Date of enlistment 6 Jul 40 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 3 — Signature O.C. Company, etc.

M.F.M. 6
A.F.H. 1127
17531—7-41 (1219-20)
H.Q. 1772-39-1652

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16 Jan 43	Gnr		(1) A.A.Sec 15 (1) WOAS AWL from 0830 hrs 16 Jan 43 until apprehended at 0330 hrs 22 Jan 43 (Absent 5 days 19 hrs)	L/Sgt Rutsey	28 days F.P. Forfeits			Forfeits 6 days pay.
Field	22 Jan 43	Gnr		(2) A.A.Sec 40 WOAS Conduct to the Prejudice etc., in that when questioned by the CPC purported to have a pass knowing full well that he did not	Documentary	28 days pay FR&I 149 (1)(b)	23 Jan 43	Lt. Col. J.W.G. Thompson	under FR&I 149 (1) (a)

CERTIFIED TRUE COPY

(R.J. Guy) Lieut., RCA
No 2 Can Arty Reinf Unit
Actg Q Wing, No 2 CARU.

(P.T.O.)

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

142 E. Pte Dobbins J.J.

O. H. M. S.

M. F. B. 270

R 22e R

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 15th day of December, 19 41

Whereas it appears to me, the undersigned, an officer in Command of 3rd Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~and that the proximity of the enemy renders it impracticable that such offences should be tried by any other Court Martial~~]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* [~~I am unable to appoint~~

*[~~five Officers to form the Court~~

*[~~a Field Officer as President~~

*[~~three Officers having more than one year's service~~]

* Omit if not applicable.

for the following reasons, namely:—]

PROCEEDINGS REVISED 20/11/41

President.

Rank.	Name.	Regiment.
Major	P. Millette P.	R 22e R

Members.

Rank.	Name.	Regiment.
Capt	J.O. Millard	WEST N.S.R.
Lieut	A.H. Mc Lean	WEST N.S.R.
* Waiting) Lieut	G. Payette.	R 22e R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed H.W. Lawrence Brig.,

Commanding 3rd CdnInf Bde

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
[illegible]-20072 Pte Debains, J.J. Carlt C York R.	1st Charge:- Sec 8 (2) A.A.	Not Guilty	Not Guilty	
	Alternative Charge:- Sec 40 A.A.A.	Guilty	Guilty	
	See Charge Sheet Attached. Sentence: 30 days detention J.F.Mulvale Maj			Confirmed H.K.Young Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (*a*)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) H.K.Young Brig (Signed) J.F.Mulvale Maj
Commanding 3rd Cdn Inf Bde Officer (*e*) President

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 19th day of Dec, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) Nil
*(4. ~~The officers under instruction~~) Nil
were duly sworn.

* Omit if not applicable.

Signed this 19th day of Dec 19 41

J.F.Mulvale Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 752 M.M.L. 1940.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* ~~I direct that the soldier named in the margin be not committed to prison with hard labour.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 2 day of Jan 19 42

H.K.Young
Brig
Commd 3rd Cdn Inf Bde *Confirming Officer.*

Promulgated and extracts taken in the case of

(*a*) (Dated) 3 Jan 42 (Signed) Lieut Command Lt Col

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

Charge Sheet.

The accused G20072 Pte Dobbins J. J. a member of the Carleton & York Regiment, a soldier of the Canadian Army (Overseas)-is charged with:-

First charge- Sec 8 (2) A.A. When on Active Service is charged with using insubordinate language to his superior Officer

in that he

At Caterham on 18 Nov 1941 did while on Company Parade and during Company drill say to Sgt. Cleary W.B., "I will not do it", and left the parade without permission.

or

Alternative - Charge Sec 40 A.A. When on Active Service is charged with conduct to the prejudice of good order and military discipline,

in that he

At Caterham on 18 Nov 41 did while on Company Parade and during Company drill break out of ranks and left the parade without permission.

In the Field

Date

(W.C. Lawson) Lt. col.
Comd Carlt & York Regt.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(H.N.Ganong) Brig.,
Comd 3 dn Inf Bde

G20072 Pte Dobbins J. J.

Prosecutor. Lieutenant C. M. G. Arthurs C.Y.R.
Defence Officer. Lieutenant C. G. Maxwell C.Y.R.

NONE

NO

Court sworn.

3(a) Capt J.O. Millard being absent due to sickness Lieut G. Pappelle waiting member is sworn as member of the Court.

Medical Officer's certificate is handed over by the Prosecutor and attached as exhibit "A".

The Summary of Evidence has been read by the Prosecution, and is attached as exhibit C

Plea of mitigation of sentence has been handed over by the Defence and is attached as exhibit "D"

FORM C PAGE 3

After finding

Lieut Arthur is sworn and states:-
I produce a certified true copy of A.F.B.1200 relating to the accused. (The said copy is marked "A" signed by the President, and attached to the Proceedings)

Question to the accused:

Do you wish to address the Court, or to call evidence as to character?

Answer YES
Particulars of accused attached as Exhibit E
JMM

Witness as to character - C.2006 - Sgt. Gregson - B.
having been duly sworn states:

I know Pte Dobbie for 16 years, that year of this time I worked with him, part of my social life I spent in his company, there is nothing I can say against his character.
Plea in mitigation of Sentence as attached as Appx. D
JMM

Ex A

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No B 20072 Pte Dobbins J. J.

of Carleton & York Regiment and in my opinion he is fit ~~unfit~~

to undergo Trial by Court Martial.

Station In the Field

Date 12/12/41

Lt Brown Capt
Medical Officer

	Date of offence	Rank	Cases of drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Pte Parker	26/6/41	Pte		Apprehended in London	R/Cpl Rooke	14 days C.B.	2/7/41	Lt Col Rawcon	

Admitted evidence
[illegible]

Certified true copy [illegible]
O.C. No. 1 Coy Const. Corps

"B"

No. 20072 Name Hobbins, J. J. | Sqn., Battery or Company | Corps 'C' Company R.Y.R. | Date of enlistment 9/9/39 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

M.F.M. 6 (A.F.B. 122) 30871—8.11 (1762) H.Q. 1771-43-18

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
This Soldier having completed 6 months service and in accordance with K.O. 71 C.A. & C. (Overseas) the entries below are to be prepared from [illegible]									
Northampton	31/5/40	Pte		Absent from parade Drunk, disobeyed an Order.	PSM Horan	Forfeits 10 days pay	2/6/40.	Lt Col Jarvis.	
Woodstock, Eng.	1/7/40	"		1. Petty Larceny 2. Drunk & Disorderly 3. Resisting Arrest 4. Breaking Arrest after being brought back to Barracks.	PSM Connell PSM Horan	10 days each	3/7/40	Lt Col Jarvis.	
Effingham	30/9/40	"		Absent from Parade	PSM Crompton	10 days C.B.	3/9/40	Lt Col Jarvis	
Caterham	17/2/41	"		Absent from 5th Platoon Roll Call	Cpl Cowell	7 days C.B.	19/2/40	Capt Bond	
Caterham	19/4/41	"		Absent from G.D. Mount Duties	Cpl Green	5 days C.B.	20/4/40	Lieut. Logan	
Caterham	26/4/41	"		A.W.L. Duties R.A.	PSM Butler L/Cpl Rook	28 days F.P.	12/5/41	Lt Col Lawson	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Eastham	26/6/41	Pte.		Apprehended in London	L/Cpl. Rooke	14 days C.B.	2/7/41	Lt-Col Lawson	

Admitted in evidence

J. Mitchell Maj

Certified true copy — C.O.R. Cy. Comdt. — C. Mitchell — York

Exhibit C

Summary of evidence in the case of G20072 Pte Dobbins, J.J. a soldier of the Carleton & York Regiment, Cdn Army (Overseas).

By direction of the Commanding Officer the summary of evidence is taken on oath.

First witness for Prosecution

G20061 C.S.M. Gregson, B. having been duly sworn states as follows:-

On the 18 Nov 41 I was giving "C" Company as Company Serjeant- Major a period of foot drill. It was approximately 1020 hrs that Pte Dobbins broke ranks making some remark which I did not understand. Sjt Cleary who heard his remark placed him under close arrest.

B Gregson

Accused declines to cross-examine this witness.

Second Witness for Prosecution

G20048 Sjt Cleary, W.B. having been duly sworn states as follows:-

On 18 Nov 41 approximately 1030 hrs in the morning, my company serjeant-major had the company on parade. On this parade my platoon commander asked me as platoon serjeant to check on Pte Loftus to see whether he was sick or what the trouble was. Following his orders I asked Pte Loftus if he was sick. He said he wasn't sick but sick of the whole thing. At the same time Pte Dobbins said, "HE're all sick". I told him we all had to do it and like it; he said he might do it but wouldn't like it. Later, stepping out of the ranks he walked away, saying, "I will not do it". On doing so I placed him under close arrest.

W B Cleary

Accused declines to cross-examine this witness.

Third Witness for Prosecution

Lieut D.W. May No. 15 Pl Coml having been duly sworn states as follows:-

The company had been doubling up and down the road for some time on drill and halted to do some turnings. I noticed that Pte Loftus was doing his drill in a very half hearted manner. I asked Sjt Cleary, who was standing nearby to ascertain whether he was ill or malingering. Sjt Cleary walked over to Pte Loftus and after a short conversation Pte Loftus turned and walked off the parade and at the same time Pte Dobbins also walked off the parade ground. Sjt Cleary then placed him under close arrest.

D W May Lieut

The accused declines to cross-examine this witness.

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E) elected not to make a statement.

Certified that Rule of Procedure 4 (C) (D) (E) (F) (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 20th day of November 1941 in the Field.

J B Rousseau Capt.

List of Witnesses in the case of G20072 Pte Dobbins, J.W. Carleton & York Regiment.

For the Prosecution

Name.	Unit.	Address.
G20061 CSM Gregson, B.	Carleton & York Regiment	In the Field.
G20048 Sjt Cleary, W.B.	Carleton & York Regiment	In the Field.
Lieut. D.W. May.	Carleton & York Regiment	In the Field.

For the Defence.

Name	Unit.	Address
NIL		

List of Exhibits in the case of G20072 Pte Dobbins, J.W. Carleton & York Regiment.

NIL.

Application for Defending Officer in the case of G20072 Pte Dobbins, J.J. Carleton & York Regiment.

I, G20072 Pte Dobbins, J.J., desire the services of Lieut J.R. Campbell if he is available.

J.J. Dobbins

2

Plea of mitigation of sentence Pte. Robbins. J.J.

Since June of this present year there has been no entry of ill conduct sheet of the accused. At his last misdemeanor he promised to soldier. Then he had done until Nov. 18. As to his willingness to work and as to his character. Sgt. Pregron has I think convinced the court that Pte Robbins is a fine man and a credit to the Canadian Army. Gentlemen, the Army Act was not written for this type of man. The punishments laid down are for hardened criminals who have no respect for law and order. Pte Robbins only crime, if crime it may be called, was to let for one second the words that come at times to all average men, to let those words escape on a parade. They were not directed at anybody in particular, they were just the feelings that had accumulated due to separation from his wife for two long years, due to the rather obscure outlook on his part of what time might bring to him.

That feeling passed very quickly and once again he was ready and willing to do his duty. Surely that privilege should not be denied him, because of ~~other offence~~ such a trivial slip. I ask the court to kindly consider my remarks before passing sentence.

E.J. Marshall Lt

J.W. Mellette Major

Ex E

SHORT STATEMENT AS TO PARTICULARS OF SERVICE OF THE ACCUSED

G20072 Pte Dobbins, J.J. Carleton & York R

(a) The accused has been in confinement awaiting trial on the present charges for NIL days in civil custody and 31 days in military custody being a total of 31 days of which NIL days were spent in Hospital.

(b) The present age of the accused according to his attestation paper is 30.

(c) The date of his attestation specified in his attestation paper is 12 Sep 39

(d) The accused is in possession of, or entitled to no military decoration or military reward, (or in possession of or entitled to

I hereby certify that the foregoing particulars are true extracts from the regimental books in my custody.

J R Allingham Lieut

EE 80

PTE DOBSON FMA

EE-80

"E"

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this NINETEENTH day of MAY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 6 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

[redacted] —

Judge Advocate

Major W.P. Taylor J.A.G. Branch, C.M.H.Q.

President.

Rank.	Name.	Regiment.
Major	J.R. Mather	S Sask R.

Members.

Rank.	Name.	Regiment.
Capt.	J.P. Thivierge	Fus M R.
Lieut.	N.H. Hadley	S Sask R.
Waiting Member Lieut	A. Racine	Fus M R.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed A.T. Law.
(A.T. Law) - Lieut - Col.
Commanding T/Comd. 6 Cdn Inf Bde.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C-31206 Pte. [illegible] P. Dobson 18 L.A.D., R.C.O.C. HQ 6 Cdn Inf Bde	First Charge A.A. Sec 40 See charge sheet att.	not guilty	not guilty 20 May 1943 J.K. Martin Maj D.	Noted Brig. 6 Cdn. Inf. Bde. 21 May 43.

Major
Judge Advocate.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on a separate sheet if necessary*) :— N. A.

(Signed) A.T. Law (A.T. Law) Lieut.-Col.
T/ Commanding 6 Cdn Inf Bde
Convening Officer (*e*)

(Signed) J.K. Martin Maj D.
D. Dad. R.
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 20 May 1943 day of , and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 20th day of May 1943.

Major
Judge Advocate.

J.K. Martin Maj D.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (§) on page 76c M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison until further orders.)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this day of 19 .

Confirming Officer

Promulgated and extracts taken in the case of

(*a*) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] W. 40113—8/42 (8 to the P. S. G. Ltr.

CHARGE SHEET

The accused, C-31206, Pte ~~F.~~ Dobson, 18 L.A.D., R.C.C.C. a soldier of the Canadian Army Overseas, is charged with:-

A.A. Sec 40 Conduct to the prejudice of good order and military discipline in that he in the Field on or about 0900 hrs 17 May 43 was improperly in possession of certain articles of Army rations the property of the public namely:-

National butter	1 lb
Sardines	5 tins
Salmon, Grade 3	1 tin (1 lb)
Plum Jam	1 tin (2 lbs)
Sugar	1 tin (2 lbs)
Solidified Spirit (4½ oz)	2 tins
Marmalade	1 tin
Clams	2 tins
Cocoa	1 tin (½ lb)
Beans	1 tin
Black Currant Jam	½ lb jar
Evaporated milk	1 tin (14½ oz)

(N.S. Bergman), Capt.,
S.C., 6 Cdn. Inf Bde.

In the Field
This 18 day of May 1943

To be tried by F.G.C.M.

(A.T. Law), Lt.-Col.,
T/Comd 6 Cdn Inf Bde

In the Field
19 May 43

J.R. Marks
M.D.

MEDICAL CERTIFICATE (K.R. (Can) 557)

I certify that I have this morning examined No. C31206

Dobson. F

of 138 L.A.D. R.C.O.C.

and in my opinion he is FIT/~~UNFIT~~ to undergo trial by Court Martial.

Station Jordan Field

Date 20 May 43

W. J. Mc Mahon Capt
(Medical Officer)

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

JKM

Proceedings of a Field General Court-Martial held ~~at~~ ~~in the Field~~ on the 20th day of May 19 43 by order of Lieut Col A. J. Laws T/Commanding 6 Cdn Inf Bde dated the 19th day of May 19 43

President.

Major J. R. Mather 5 Sask R

Members.

Capt J. P. Thivierge Fus M R

Lieut A. Racine Fus M R

Major W. J. Taylor JAG Branch CMHQ

Judge Advocate.

Trial of* C 31206 Pte Dobson

18 LAD RCOC attached ~~att~~ HQ 6 Cdn Inf Bde

JKM

The order convening the Court, the charge-sheet and the summary ~~of evidence~~ of evidence are laid before the Court.

JKM

The Court satisfy themselves that Lieut N H Hadley is not available to serve owing to less than one year commissioned service. Lieut A. Racine waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt J. D. LeMay Fus M.R.

JKM

~~counsel,~~ or defending officer† Capt A. Muir Fus M.R.

At 11.00 o'clock the Trial commences.

The order convening the Court is read, and is marked G signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer. No Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Major
J.A.

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Capt. G. B. Buchanan 5 Sask R.
Lieut. W. H. Hadley 5 Sask R.

The witnesses are ordered from the court room.
The court being satisfied that the name of the accused is incorrectly stated in the charge sheet amend the charge sheet accordingly
The defending officer does not object.

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 56 (3) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The medical certificate is laid before the court, and attached to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read?

Question to the accused.

not guilty.

Answer.

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~

Question. ~~N.G.~~

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~

Question. ~~N.G.~~

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~

Question. ~~N.G.~~

Answer.

~~The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.~~

~~N.G.~~

Instruction.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A).)

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No sir

The prosecutor makes an opening address ~~(handed in a written address which is read, marked ——, signed by the President, and attached to the proceedings)~~.

The prosecutor proceeds to call witnesses.

First witness for prosecution. Capt Murray Douglas Stewart
18 LAD RCOC
attached HQ 6 Cdn Inf Bde

being duly sworn, is examined by the prosecutor.

I was present at a kit inspection of the kit of the accused at his billet at 0900 hrs 17 May 43. ~~He produced~~ A number of tins of sugar, sardines, salmon, beans, 1 lb of butter, 2 tins of canned meat and some other items were found in the kit of the accused.

Cross examination by Defending Officer

Q. When did you first receive the information upon which you based the order for a kit inspection.

A. Between 0830 and 0900 hrs Monday 17 May 43.

Q. Was the accused's the only kit which was inspected.

A. Yes.

Q. Why was his kit inspected first

A. Because he was one of the two men on duty in the kitchen in the afternoon of 15 May 43.

Q. After you discovered the articles in the kit which you referred to, did you carry the inspection any further.

A. No.

Q. Was not the accused instrumental in helping to clear up a case of theft of rations early last month for which he was complimented by the Brigade Major

A. He was instrumental in initiating the case. I do not know about the second part of the question.

No re-examination.
R.P. 83 (B) complied with.
The witness withdraws

Second Witness Prosecution. B4X737 Sgt. A.B. Gardner 18 & AD RCOC having been duly sworn states

Q. Did you arrange a kit inspection on Sunday morning 16 May 43.

A. No. I arranged a kit inspection on Monday morning 17 May 43.

At 0755 hrs 17 May 43 I ordered a kit inspection of 18 & AD. The accused said he had lost his keys. I waited 15 minutes or so then told him he must open his kit bag. I then went into the office with Capt Stewart. About fifteen minutes later I was told the kit bag was open. I went upstairs again. The kit bag was open. The accused started to remove the contents. I sent for Capt Stewart.

I produce the following articles which were found in the accused's kit bag.

1 lb butter
1 tin jam
1 tin beans
1 tin sugar
1 tin milk
1 tin salmon
5 tins sardines
2 tins canned heat (~~solidified~~ spirits)
1 tin marmalade
2 tins dates
1 tin cocoa
1 jar black currant jam (part filled)

I was present when these articles were removed from the kit ~~back~~ bag.

Cross examination

Q. Was Capt Stewart present during whole inspection.

A. No he arrived just after the first article had been removed from the kit bag of the accused - a lb of butter.

Q. Were all these articles removed from the kit bag.

A. All but the 2 tins of solidified spirits - which were on the bed.

Q. Was the loss of his keys the only reluctance the accused showed to open his kit bag.

A. Yes. He was looking for them.

~~Cross-examination~~
~~R.P.S.C. complied with~~
The witness withdraws

The court adjourns until 1345 hrs. at 1210 hrs.

At 1345 hrs the court reassembles, present the same members as on adjournment the Officer under instructions are present.

Third witness for prosecution

A29056 Cpl L Mahaffy, 18 A.D. R.C.O.C. having been duly sworn states

I was present at a kit inspection of the accused's kit at 0755 hrs 17 May 43. The accused claimed he could not find his key to the lock on the kit bag and spent some little time looking for it. He did not find it and cut the lock with a hack saw. I was present during all this time. When the bag had been opened I called Sgt Gardner and we were both present when the accused removed certain articles from his kit bag.

Q. Has the accused any right to have public property in his kit bag

A. No.

Q. Do you recognize any of these articles (indicating the articles produced by second Witness)

A. Yes. butter, salmon, sardines, beans, milk, also can of sugar. The solidified spirits was under all by the

Q. Was anyone else around the kit bag while it was being inspected besides you and Sgt Gardner

A. No one, but Capt Stewart

Mahaffy
Cpl

Cross-examination

Q. you say you recognize the articles
A. could you be mistaken
not on those things

Q. you are prepared to say these are the
articles taken from the accused's kit bag.
A. yes, they have been under lock
and key until they handed here. The
pound of butter should have a tear in
the paper.
(The court examine the lb of butter - the paper is
torn)

Q. would it not be possible for two
lbs of butter to have the paper torn
A. yes but I do not think exactly
alike.

No re-examination

Q. by court - What is your position at
the A D
A. Motor vehicle fitter
R P 83 (B) complied with
The witness withdraws

Fourth witness for prosecution

This witness is called under R. P. 76,
the Defence has been advised and states
has no objection
H 19878 C D M S G R. Wicks R.O.C.H.
attached to H Q 6 Cdn Inf Bde having been
duly sworn states:
I am acting O.M. of 6 Inf Bde H Q
I draw rations for the H Q 6 times a week.
I identify the following articles (of
those produced by the record witness) as
public property
1 tin plum jam - from compo rations
1 tin sugar - compo rations
1 tin milk
3 tins sardines
1 tin salmon grade 3
1 tin beans - this is purchased from the

2½ d allowance once a week for the O/Rs
at Bde H.Q. from NBAF1.
2 tins solidified spirits
1 lb butter which is drawn every Saturday
morning.

Q. How long have you been drawing
rations for 15 L.A.D.

A. For over 10 months.
I draw rations every week, salmon on
Thursday with sardines, the beans are purchased
at NBAF1 on Thursday. Milk is drawn
4 days a week. The last time was
I had a tin of jam or sugar like those
in question was on the Spartan specials,
They are compo rations. Spartan was in early part of March.
I issue the rations for the 15 L.A.D. to
the cook Pte Lamere or Pte Dobson who
comes when the cook is not available.

Q. Was any person the right to have rations
in his possession a kit bag

A. No.

Cross Examination

Q. Is there any mark on these articles to
indicate they are public property

A. Made 3 salmon are issued only to the
Army and are not available to the public except on
points and I have never seen it on sale in
stores. The other articles except solidified
Spirit are all rationed and cannot be
obtained in this country except on points.

Q. Are you prepared to swear that all those
articles (as set out in exhibit 1 of this witness)
are government issue although there is no
govt mark on them?

A. Yes.

Q. Are you prepared to swear the salmon
is govt issue because you have not
seen it for sale.

A. Yes.

Q. What about the sugar

A. It is from a compo pack. 9/ your honour

the top
you will find ~~the~~ a sealed tin.
(The tin is opened and the inner seal
is found broken - i.e. partly removed)
no re-examination
R. P. 8 3 (B) complied with
The witness withdraws.

D

The prosecution is closed.

Defence.

The accused is advised in accordance with R.P. 40 note 2

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. yes

Question. Do you intend to call any other witness in your defence?

Answer. yes

Question. Is he a witness as to character only? *Answer.*

no

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court above.)

Wesleyan major
Gn

D 2

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

The Defending Officer makes an opening address in which he indicates that he proposes to prove that certain of the articles charged to be Govt rations are not Govt rations, that the means was not to his knowledge in possession of Govt rations, and that the institution of proceedings would seem to have been accompanied by certain prejudices.

First Witness for Defence — 12074 Pte [illegible] P. E. Lamare 5 Sect RE attached to H.Q. 6 Cdn Inf Bde sworn states

I am now and have been for a month and a half cook for 18 L A D at Bde H.Q.

The rations are kept under lock and key after supper about 1700, 1100 hrs but during the day the door to the pantry where key are kept is not locked because I have to go in and out quite frequently. The practice of locking the door has been in force since about a week after I commenced to cook for the L A D.

On Saturday afternoon 15 May 43 I wanted to [illegible] returned 2000 hrs and found 8 eggs missing from the pantry — I reported this Sunday morning the 16th to Sgt major Sharpe of 18 L A D.

I did not discover any other loss — up to the 1st inspection on Monday morning 17th May. nor did I discover any of the boxes of the eggs when I [illegible] on discovering the loss of the eggs the back I examined the lock on the door and I was in perfect condition. It was not locked when I had gone out I gave the key to Pte Savigne the duty man of the day when I returned the key was given back to me by the accused.

Cross examination

Q. How many keys are there to that lock?

A. As per as I know only one, I keep it.

Q. Does the second draw rations for you?
A. He used to go quite often if I was unable to go.
Q. Do you cook the rations or issue them to the members of the A A D in bulk
A. I cook them
Q. Who was duty mess on 16th May Sunday.
A. I believe Pte Leaver & Anderson
Q. Do you receive rations in the form of these articles.
A. Yes
Q. Is this butter army issue
A. We get butter like that over a week.
Q. Is it army issue
A. Yes, because it is the only kind I have seen issued to the army.
Butter is issued Saturday afternoon only. I asked Dobson to get the butter that afternoon for me as I was to be away. I gave him a pkge of cigarettes to do that.
Q. Is this tin of jam an army issue
A. It was only issued for Spartan
I am prepared to say it is army ration. I have been connected with army rations for a number of years.
I have drawn Bordens Evaporated milk on rations.
Grade 3 Salmon is on ration & may be obtained with 2½d allowance.
Beans are obtained with 2½d allowance
I have had salmon this week on rations.
When I receive the rations I put them in the pantry
They are never issued by me fresh but are cooked.
The men in the A A D should not have bulk rations in their possession

Re examination
When the eggs were discovered missing nothing else was missing. I checked.

H Hayes major
JA

D 4

Sardines can be bought on points - not prepared to say these tins are our rations.

The [illegible] sugar is a spirt issue only part of a compo pack.

Q. From the time you started cooking for the 18 & A D has there been any of this pack of sugar in your pantry

A. No

Q. by court - can you buy this kind of Salmon - the same brand in civilian stores.

A. yes - I have seen it once.
I am not sure whether the milk, beans jam, sardines can be bought in stores.
We had some jam the same brand and type of tins on Spartan.
The butter is only provided to army also the sugar which is from compo pack.

Q. Was there any shortage in your pantry on Sunday 16th May.

A. No. except the "88"

Q. What about the cocoa, jar of jam (black currant) and marmalade, and cocoa.

A. Are not rations - may be received in parcels from Canada.

Q. I gave the accused one of the tins of sardines (one of the tins not included in the list on P C 4).

A. When I first arrived at 18 & A D except the men would make themselves lunches in the pantry. That is why I had the lock put on the door.

Q. Would you notice if any of your rations were missing

A. yes, because we only get a small amount as there are only about 15 men.
R P 83 (3) complied with
The witness withdraws.

Second witness for Defence

C 31206 Pte T. H. A. Dobson (the accused) 18 A D R.C. attached 44 Can Inf Bde having been duly sworn states - (witness gives his evidence from place where other witnesses have testified).

Q Was the inspection of kits of 17 May 43 a general one

A No.

Q What was the reason given for holding it

A It was on account of 8 eggs being missing.

Q Are rations kept locked

A No. During the morning all the men of the A D Can go into the pantry and have tea and a sandwich, same in the afternoon. In the evening the pantry is open if cook is there. If cook is there the Can have tea at 2100 hours. Anyone in the A D has access to the rations.

Q Where did you last have your kit bag - the one referred to - open

A Two weeks ago tomorrow the 7th May when I returned from leave. I kept the key on the uniform I am wearing. It is the only uniform I have. I have not had this uniform on since coming from leave - except to day. When I returned from leave I kept the key in the pocket of this uniform after opening the bag to put away some things I had bought. The uniform has been hanging on the corner of my room.

Q Could anyone have known the key was there.

A yes

Q Do you claim possession of any of these articles.

Defence Ex

A

Jps
1 jar Black currant jam - bought in London
1 tin marmalade - ~~gift~~ given by Pte Williams, Capt Dennis's batman to use of some out of jam.
2 tins cleans - ~~gift to me~~ from Pte Macdonald - to make clam chowder - to open cans with available
1 tin cocoa - compose home
4 ~~tins~~ sardines - 2 from home and 2 tins from Spartan
I saved several ~~used~~ sugar tins from Spartan for use to hold mails etc, and I cleaned one out to hold sugar which I bought in London on my leave. This sugar tin is the same ~~that I~~ I am not sure it is the same one. The tins are all white.
The last time I had had my kit bag open these tins were at bottom of the bag. PT shorts were on top of them, then cigarettes and more clothes & ration bag full of shaving kit.
When the kit bag was opened on Monday 17th May, the butter was on top - the other tins were rolled into one of my shirts
Q. Do you go out often
A. No I rarely leave the camp - in my spare time I make castings and designs etc I wear coveralls.

Cross-examination

Q. ~~How many~~ razors and both brushes have you.
A one
Q. ~~How do you shave~~ - with ~~one~~ your razor locked up in kit bag for last ~~two~~ weeks.
A. Withers explains he has one set out in lavatory for use. The others are spare ones.
Q. ~~Had you any~~ idea these items were in your kit bag.
A. No - or I would have had them out and not got into this trouble.
Q. When were you ~~were~~ cooking for ISLA's nine consecutive days -
A about 2 months ago which took ~~Before~~ during PT lines or leave. I had access
for

to Cadet and Arent rations then

Q Would you say these items (those not claimed by him as his property) are army rations

A. No. The butter looked like that. Those pure jam in tins like that as Spartan. I have seen solidified spirits before but have not used it.

Q. How many kits bags & packs have you got.

A. 2 kit bags, haversack, small pack. I keep my clothes in an unlocked kit bag - ~~I~~ some in the locked bag.

Q. When did you last have some pair out of the ~~jam~~ of black current

A. Every day - with cod liver oil and malt. It was not in kit bag but in ~~the~~ small pack. The cover is loose - it would come off if it was in kit bag. I kept it on window sill until room had to be cleaned up when I put it in haversack It was then only I said were in bottom of locked kit bag.

Q. This tin of sardines is army ration?

A. Yes sir it was given me as my ration on day on the exercise - but I had a sammich and didn't eat it.

Q. You are prepared to say your have not had your kit bag open since leave and that you had no knowledge of these articles being in it.

A. yes.

Q. by court - Did you ever find your key.

A. No.

Q. Do you know how these articles got into your kit bag.

A. No, but there is a lot of jealousy and ant agents at 18 & R E. They had lots of opportunity if anyone wanted to play a trick on me.

R.P. 83 (B) complied with.
Witness resumes place as accused.

Third Witness for Defence

K 2 9162 Pte D.N. McDonald 18 C.A.D. R.C.O.C having been duly sworn states.

I am a storeman in 18 C.A.D.

I received the 2 lots of claims from home. I asked Dobson (the accused) to make some claim about some time.

Q. Does the accused go out in evening.
A. Not very often
Q. When did you last see accused in Sept prior to 17 May.
A. When he returned from leave - about 8 May.

Cross examination

Q. Do you sleep in same room as accused
A. No

No re-examination

R.P. 83 (B) complied with

Witness withdraws.

Closing address of Defending Officer and reply of Prosecutor are set out on a separate sheet marked H, signed by the President and attached to the proceedings.

The J.A. sums up

Lt Col
Judge Advocate

"H"

Address of Defending officer

There is no mark on any of the articles to indicate they are public property.
There have been several witnesses who thought they were army rations.
Several articles have been proved not to be army rations.
Butter could not have been in kit bag for any long period and still keep its condition.
Inspection of kit was a prejudiced one.
The only articles missing before the inspection were eggs. Yet on the discovery of these articles which did not include eggs the inspection was called off.
Draws attention to discrepancy in statements re position of solidified spirits
1. in kit bag
2. on bed
3. on window sill.
Can it therefore be said to be in his possession.

Reply of Prosecutor

The articles came from kit bag of accused.
Some are army rations.
The accused had cigarettes and clothes in the bag - and yet he said he didn't open it for 2 weeks.
He must have known the articles were there.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused C 31206 Pte Frederick Mathew Acquilla Dobson 18th AD RCD C, attd 4th 6 Can Inf Bde is not guilty of the charge.

The court is re-opened

The finding is read in open court and the accused is released.

In the field this 20th day of May 1943

J.F. Sayer Major Judge Advocate

J.R. Martin Maj D. President

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction before Sentence.

*The Court being re-opened, the accused is again brought before it.

is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Cross-examined by the accused.

[Instruction.—If in cases of the trial of an officer or of the accused on a plea of guilty, or otherwise, the finding of the Court renders him liable to any exceptional punishment, he should at this time be informed by the Court the punishment which the alternative to the Court or the trial, and the Court must inquire into the matters and records of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

S U M M A R Y O F E V I D E N C E

In the case of C-31206, Pte. F. Dobson, 18 L.A.D., R.C.O.C. a soldier of the Canadian Army Overseas.

The Staff Captain directs that the evidence be taken on oath.

FIRST WITNESS- Lieut. A/Capt. M.D. Stewart, 18 L.A.D., R.C.O.C. having been duly sworn states:-

I was present at a kit inspection held at the billets of 18 L.A.D. around 0900 hrs 17 May 43 and on examining the kit of the accused the following articles were found:-

National butter	1 lb
Sardines	5 tins
Salmon, grade 3	1 tin (1 lb)
Plum Jam	1 tin (2 lbs)
Sugar	1 tin (2 lbs)
Solidified spirit 4½ oz.	2 tins
Marmalade	1 tin
Clams	2 tins
Cocoa	1 tin (¢ lb)
Beans	1 tin
Black currant Jam half lb jar	
Evaporated milk	1 tin (14½ oz)

2/3 of these articles are army rations the property of the public. Pte. Dobson is a driver mechanic and has no right to have these rations in his possession.

The accused declines to cross-examine the witness

SECOND WITNESS- R-94732, Sgt. A.E. Gardner, 18 L.A.D., R.C.O.C. having been duly sworn states:-

On Sunday evening 16 May 43, the cook reported to me that certain articles had been stolen out of the kitchen and I arranged a kit inspection. Capt. Stewart was present when I examined the kit of the accused, whom I recognized at approximately 0900 hrs 17 May 43. The accused was reluctant to open his kit and claimed to have mislaid the key. I went away for awhile and when I came back the kit bag had been opened with a hacksaw and the following articles were found in the kit bag:-
National butter 1 lb - Sardines 5 tins - Salmon grade 3, 1 tin (1 lb) - Plum Jam 1 tin (2 lbs) - Sugar 1 tin (2 lbs) - Solidified spirit (4½ oz) 2 tins - Marmalade 1 tin - Clams 2 tins - Cocoa 1 tin (¢ lb) - Beans 1 tin - Black Currant Jam, half lb Jar - Evaporated milk 1 tin (14½ oz)

Questioned by the accused:-

Q.1- What time did you order the kit inspection?
A.1- I ordered it at 0755 hrs Monday morning 17 May 43.

THIRD WITNESS- A-<9056, Cpl. L. Manaffy, 18 L.A.D., R.C.O.C. having been duly sworn states:-

I was present at the kit inspection held on the kit of the accused whom I recognized at approximately 0955 hrs 17 May 43. Pte. Dobson opened his kit bag by sawing the lock with a hacksaw and the following articles most of which are Army rations were found in it:-

National butter 1 lb - Sardines 5 tins - Salmon, grade 3 1 tin (1 lb) - Plum Jam 1 tin (2 lbs) - Sugar 1 tin (2 lbs) Solidified spirit (4½ oz) 2 tins - Marmalade 1 tin - Clams 2 tins - Cocoa 1 tin (½ lb) - Beans 1 tin - Black Currant Jam half lb jar - Evaporated milk 1 tin (14½ oz).

Questioned by the accused:-

Q. 1- Were you in my room on Sunday 16 May 43 at any time?
A. 1- No I opened the door and put my head in to ask you a question while you were lying on your bed.

(K.S. Bengman) - Capt.
S.C. 6 Cdn Inf Bde.

The accused declines to make a statement.

Taken down by me in the presence of the accused in the Field 18 May 43. I hereby certify that the provisions of R.P. & O.E. have been complied with.

(K.S. Bengman) - Captain,
S.C. 6 Cdn Inf Bde.

SUPPLEMENT

No. C31206 Name Dobson, F. | Sqn., Battery, or Company | Corps RCOC | Date of enlistment 15 Jun 41 | G.C. Badges | Service or Proficiency Pay |

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. R.E. Turner Capt | Character

M.F.M. 6 (A.F.B. 122) 30694—8-39 (1763) H.Q. 1772-45-18

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified True Copy

Murray D Stewart Capt

(P.T.O.)

M.F.B. 355
22M—5-41 (573-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-31600	Pte	Dobson F.	18 L.A.D., R.C.O.C.

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	NIL times	NIL times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.A. 73 / A.F.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~[illegible]~~

4. The accused has been in confinement awaiting trial on the present charges, for ..... days in civil custody, and ONE days in military / Air Force custody, making a total of ONE days in custody, of which ..... days were spent in hospital.

5. The present age of the accused according to his record of service is / attestation paper is June 14 1896 46

6. The date of his commission specified in his record of service is / attestation paper is N.A.

7. The service which the accused is allowed to reckon towards discharge is 1 yr 11 months

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military / military possession of or entitled to). State any air force decoration or reward. military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the substantive rank of N.A.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated..... N.A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N.A. ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
N.A.	N.A.	N.A.	N.A.	N.A.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ..... day of .....

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

300 2.

Pte Dobson W. C.

O. H. M. S.

M. F. B. 270

A-22375 Pte. Dobson,M.C.
2 C.D.I.R.U.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 23rd day of January, 1942.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[redacted]

*(1) [redacted]

*(2) [redacted]

*(3) [redacted]

[redacted]

PROCEEDINGS REVISED

President.

Rank.	Name.	Regiment.
Major	J.G.A.D. de Grandpre	No.1 Cdn Arm'd Corps R.U.

Members.

Rank.	Name.	Regiment.
Captain	J. Brown	2 Cdn Div Inf Reinf Unit
Lieutenant	W.S. Hamilton	No.1 Cdn Sigs Reinf Unit
Lieutenant	H.G. Mackenzie	2 Cdn Div Inf Reinf Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed [redacted] Brigadier

Commanding Cdn Reinforcement Units.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A-22375 PTE. DOBSON, M.C. 2 Cdn Div Inf Reinf Unit.	First Charge A.A. sec 40 See charge sheet attached.	NOT GUILTY	Guilty 40 days detention Recommended that this man is not to be given furthur employment in Orderly Rooms	Confirmed J.M. Nelson Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) J.M. Nelson Brigadier (Signed) G.H.L. de Grandpré Major
Commanding Cdn Reinforcement Units. *Convening Officer* (e) No 1 Cdn Armd Corps Holding Unit. *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27 day of January 42, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 27th day of January 1942
G.H.L. de Grandpré Major.
President of the Court Martial.

* See footnote (b) on page 782 M.M.L. 1939.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

C. Certificate in awarded death sentences.

Signed this day of 19

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 4th day of February 1942
J.M. Nelson Brigadier.
Confirming Officer.

Promulgated and extracts taken in the case of A-22375 Pte Dobson, M.C.

(a) (Dated) 6th February 1942 (Signed) W. Henderson Maj Adj.
2 CDI RD.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

B [illegible]

CHARGE SHEET

The accused, No.A.22375, Private Dobson,M.C. (Essex Scottish Coy) No.2 Canadian Division Infantry Reinforcement Unit, a soldier of the Canadian Army (A.F.) is charged with while on active service

First Charge
Sec 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

on the 20th day of September 1941, during a war, did in private correspondence, to wit, a letter bearing date the said 20th day of September 1941 and addressed to Miss Liliane Gaskin, Nehling Insurance Agency, Public Service Building, Beloit, Wisconsin, U.S.A, make allusions, criticisms and statements calculated to bring our forces into disrepute.

[signature] ..... Lt-Col
A/Officer Commanding
No.2 Cdn Div Inf Reinf Unit

Laurentide Camp
14th Jan 42.

To be tried by Field General Court Martial

[signature]
(F.R. Phelan)Brigadier
Commanding Cdn Reinforcement Units.

Farnborough,Hants
This 16th day of Jan 42.

[signature] Major.

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL

Held at Algonquin Camp, Witley, Surrey, on the 27th day of January 1942.

President

Major J.G.A.D. de Grandpre, No 1 Cdn Armd Corps R.W.

Members

Capt. J. Brown, No 2 Cdn Div Inf Reinforcement Unit.
Lieut. W.S. Hamilton, No 1 Cdn Sigs Reinf Unit.
Lieut. H.G. Mackenzie, No 2 Cdn Div Inf Reinf Unit.

Trial of: A-22375 Pte. DOBSON, M.C.,
(Essex Scottish Regiment),
No 2 Cdn Div Inf Reinf Unit.

The order convening the Court, the charge-sheet, and the summary of evidence are laid before the Court.

The Court satisfy themselves that Capt. J. Brown is not available to serve owing to the fact that he is the former company commander of the accused.

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor - Lieut. M.S. Bergman

Defending Officer - Lieut. D.A. Croll (Lawyer)

At 0900 hours, the trial commences.

The order convening the Court is read and is marked A signed by the president and attached to the proceedings.

The names of the preseident and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

President: Do you object to be tried by me as president, or by any of the officers whose names you have heard read over?
Accused: No, sir.

The President and Members of the Court are duly sworn.

The following officers under instruction are duly sworn:

Lieut. K.L.W. Leon (Edmonton Regt)
Lieut. J.D. Colson (1st. Black Watch)
Lieut. T.L. Taylor (Royal Regt. Canada)
Lieut. T.G. McLaren (48th. Highrs. Of Can)
Lieut. C.L. Dow (Carlton York Regt)

The shorthand writer is duly sworn.

President: Do you object to Sgt. Spidle as shorthand writer?
Accused: No, sir.

The charge-sheet is signed by the president, marked "B" and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

President: Do you plead guilty or not guilty to the charge against you that you have just heard read?

Accused: NOT Guilty, sir.

President: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Accused: No, sir.

The prosecutor makes an opending address.

Before I call my first witness, I want to make an observation. I am referring to the summary of evidence and you will note that the accused in the summary of evidence made certain admissions which I am informed were made under promise of certain consideration, namely that if he made this admission it was on the understanding that he would be dealt with summarily by his commanding officer.

President: The Court here is not concerned with that part of it.

I am concerned because I want to clear me of my duty as prosecuting officer and for that reason I will not introduce the admission of the accused when the time comes.

The prosecutor proceeds to call witnesses.

1st Witness for the prosecution — Capt. C.S. HADLEY, having been duly sworn, is examined by the prosecutor.

1. Q. Would you give the Court your rank, name and unit?
   A. Capt. C.S. Hadley, No. 1 C.D.I.R.U.
2. Q. What was your position or appointment around about the 1st December of last year?
   A. On 1st December last year I was 2 i/c of the Essex Scottish Company.
3. Q. Do you know the accused?
   A. Yes, I do.
4. Q. I will show you the back of a letter. What information does it give?
   A. The information it gives me is that it was mailed by Pte. Dobson.
5. Q. That is a letter purporting to be written by the accused?
   A. That's correct, yes.
6. Q. I tender the letter and envelope as Exhibit "A". Are you acquainted with the contents of that letter?
   A. I am.

7. Q. I will show you a document purporting to be certain observations made by the censor in connnection with the letter. That purports to be certain observations made by the postal censors?

A. Yes.
(Document submitted and marked Exhibit "B")

Defending Officer: I am not admitting the letter.
Prosecutor: I am putting it in as an exhibit. The only purpose of this is it purports to be observations made by the censor as a result of that letter.

8. Q. What was your position around about the 20th of September of last year?

A. 20th of September?

9. Q. In relation to the Essex Scottish Company.

A. I am not quite sure of the dates, but some time during the fall I became acting O.C. of the Company, but I think I was 2 i/c.

10. Q. Were you in a position to know what went on in the company. Are you sure of the allegations made in this letter?

A. Yes, I am.

11. Can you make any statement regarding the truth of the statements?

A. Well I would say about 99.99% were false.

This witness is examined by the Court.

12. Q. What do you mean when you say about 99% of them were false.

A. The statement was absurd on the surface. Such things as being able to get stripes for N.C.Os. and promotions and special leaves, etc. The only thing that is common knowledge of stealing passes. Other things about influencing the company commander and sergeant-major are absurd.

This witness is cross-examined by the Defending Officer.

13. Q. Is there anything in the letter, any allegation about stealing passes?

A. No, I am sorry, I don't think there is. There is something about covering up passes.

Defending Officer: Well, let's get the thing right.

2nd Witness for the prosecution

A-21127 C.S.M. SIMPSON, J., Essex Scottish Company, No 2 Cdn. Div. Inf. Reinf. Unit, having been duly sworn, is examined by the Prosecutor.

14. Q. Will you give the Court your number, rank and name?

A. A-21127 C.S.M. J. Simpson, Essex Scottish Regt.

15. Q. No. 2 C.D.I.R.U.?

A. Yes, sir.

16. Q. I will show you Exhibit "A". After examining it and the back, by whom does that purport to have been written?
A. It has been written by Dobson.
Defending Officer: Purports to have been written. Come on, listen to what he said.
17. Q. By whom does it purport to have been written? Who do you think wrote that?
A. Dobson wrote the letter.
18. Q. Do you know the accused in this case?
A. I do, sir.
19. Q. Is the accused in this case the person by whom the letter purports to have been written?
A. Yes, sir.
20. Q. Are you acquainted with the contents of that letter?
A. I am, sir.
21. Q. Can you give the Court any information as to the allegations contained therein?
A. To the best of my knowledge, sir, it is pure fiction.
22. Q. Are they true or are they false?
A. They are false, sir.
Defending Officer: What's this - a game?
23. Q. Have you any connection with the functioning of the orderly room at the Essex Scottish Company? Did you have any control over the functioning of the orderly room of the Essex Scottish Coy. around the 20th September 1941?
A. I was responsible for it, sir.
24. Q. Is it possible that these things could go on without coming to your knowledge?
A. No, sir, it is impossible, sir.

This witness is cross-examined by the Defending Officer.

25. Q. Sgt-Major Simpson, you know Dobson?
A. Yes, sir.
26. Q. For some time?
A. Since, I believe, April 1941. TC 9 draft.
27. Q. What sort of a bloke is he?
A. As far as I have had connection with him, I have never found him unreliable, sir. I am not prepared to go out on a limb for him after reading that letter. I had no occasion to check him up for anything he did.
Prosecutor: This is more or less evidence as to character.
Defending Officer: It is merely an introduction to the man who wrote the letter.
Witness: Since that time I have changed my opinion, after reading the letter, sir.
28. Q. Have you, for instance, heard the boys use the term "rebel."
A. Yes, sir.
29. Q. It is quite x common among the Americans. The northerners call the southerners rebel. Have you seen, for instance, some of the boys mimicking the communists or the soap-box orators, and referring to themselves as communists?
A. Yes, sir. I believe we used to have one.
30. Q. Who was that?
A. Cpl. Gatrell.
31. Q. Yes; it was a bit of boy play at the time?
A. Yes, sir.
32. Q. Noone took it seriously?
A. No, sir.

33. Q. As a matter of fact, Cpl. Gatrell comes from South Carolina?
A. He is a southerner anyway, sir.

The witness is re-examined by the Prosecutor.

34. Q. Now that you have given this much information about Cpl. Gatrell, will you tell the Court whether all the statements made in that letter about Gatrell were true? Are you acquainted
A. with the statement?
A. Can I have the statement, sir.
(The statement is read out by the President.)
A. That statement practically refers to three separate items. It mentions sabotage, embezzlement and communism.
35. Q. I just want to know whether or not that fits the views of Gatrell at the present time; if he is carrying on well?
A. Sir, a man's record previous to joining the army I know nothing of. Since joining the army I do know he has been in no trouble and he has been in no trouble where he is.
36. Q. Leaving out the quotation regarding embezzlement, is the remainder true or false?
A. It is false, sir.

(At the close of the evidence of the prosecution the admission of the accused contained in the summary of evidence could not be submitted.)

The Prosecutor then sums up as follows:

There is only one point beforethe prosecution is closed. I am assuming that there will not be an objection at this moment that we have not proved as far as we are able that the accused wrote the letter. The evidence is that it purports to be written by the accused. The only step available by the Prosecution is to have a handwriting expert down to prove that and we are prepared to go to the expense to do that. As far as the rest of the evidence is concerned, I think we have proved that.

President: Do you apply to give evidence yourself as a witness?
Defending Officer: Just one minute. I am sorry I will have to disappoint my friend in not offering to make objections. My responsibility is to my fellow soldier who has asked me to defend him. If I am going to be any good at all I will see his rights are protected and I will have to see it right up to the hilt.

If you will read the charge, the charge says that he did make allusions, criticisms, statements calculated to bring our forces into disrepute. Obviously if he calculated to bring our forces into disrepute, he sat out with that intention in mind. There has been no proof placed before the Court of any intention on the part of this man. It is not the duty of the Court to read intention into the evidence. There must be some definite evidence as to that.

As to the second part, you have a letter placed before the Court purporting to be written by a man who is Dobson--beyond that you have no further evidence. I may have written the letter so far as the Court knows, and until such time as there is ample proof of the writing of the letter beyond a shadow of a doubt, someone must put a finger on the man and say, "He wrote it."--until that time there is nothing for me to do.

Prosecutor: The reason we did not make any evidence of the intention is we have no evidence, but we have the law. The closing statement of para. 14 (p.73 M.M.L.) states that: "As a general rule a person is presumed in law to have intended the natural and probable consequences of his act." Now that matter rests with the Court. The accused in this case intended the natural and probable consequences of his act.

Defending Officer: May I point out in reply to that if you read the entire letter, the natural and probable consequences of the letter would be that the girl would join not the A.T.S. but the W.R.N.S. as he points out that "You will have the great satisfcation of doing a real job." I don't say that was the intention. Someone must go beyond that to prove intention.

Prosecutor: The difficulty that arises here is not what happened because the letter didn't get to its ultimate destination. In the first place they would be publishing these facts to a lady who would have mentioned them to her friends and neighbours. To make it more serious you must put yourself back to the 20th September 1941, when each and every person in this country was trying their best to do anything to prejudice the feeling of the United States towards this country. You must look at these things and take this into consideration when considering the prosecution.

President: Does the accused apply to give evidence?

Defending Officer: You haven't complied with my motion. I made that in the form of a motion that there was not sufficient evidence to put my client on trial and gave two reasons for it.

The Court adjourned to consider this motion.

President: The Court overrule that motion. Do you wish to add anything?
Defending Officer: No.

President: Do you apply to give evidence yourself as a witness?
Defending Officer: No, I am relying on my motion and not going beyond that.
President: Do you intend to call any other witnesses in your defence?
Defending Officer: No, sir.

President: Have you any witnesses as to the character of the accused?

Lieut. M.S. BERGMAN, having been duly sworn, states:

I submit Army Form B-296, Statement as to Character and Particulars of Service of the accused.

(Statement is read out to the Court.)

There is one point I want to inform you regarding these 23 days and the time he was originally arrested. He was arested on 1st December and released to open arrest on the 23rd and has been in open arrest since.

The Court is closed for the consideration of the finding.

President: Do you wish to say anything?

Defending Officer: I am going to say something on behalf of the accused. I merely wanted to point out to the Court--I think the Court definitely sees my point in the matter--that I am relying on the legal aspect in the case for the purpose of proving my client innocent and take the view that he was within his rights. The Court disagreeing with me on that makes its finding and what I saw is not with any concurrence in the Court's finding except to get some facts before the Court before they finally deal with the matter.

I am relying on the technicality that there was not sufficient evidence to put him up for trial but the Court say differently. But I think before the Court comes to its final conclusion, the whole letter ought to be read. There are some things in the letter that rather mitigate against any excessive punishment. There is no indication of malice. I think the only view the Court can properly take of the matter is--I suggest it to the Court--here is a young fellow taking his girl out for a walk in the garden. He is not very choosy of his words and a bit loose in his talk. The Army is not built up of profound thinkers. I think it is well to see what is in the letter for he says: "hope I don't run out of words before I tell you..." Actually what he was doing was filling up a page--running out of things to say and just filling up a page with something. He did it thoughtlessly and carelessly; didn't mean to do any harm. He was just writing what we call bluff or the Americans call "Bull" or "hooey" as we say in Canada. He didn't say anything mean or vicious. And for his loose use of words, subversive activities, sabotage; they have seen them so often they think they mean anything they want them to.

He has a good character, never has been in trouble. His C.O. gives him a good character reference. He just let his imagination run riot. He didn't intend to do any harm. As a matter of fact he tells the girl that if you feel the same way I do you will have the great satisfaction in doing a job. He tells her why to join the W.R.N.S. and not the A.T.S. He discussed the whole thing and he speaks of it rather loosely.

"You will have a great deal of satisfaction in doing a real job of it." That's the only light I can put on the letter. He was not intending to knock his superiors. He was an orderly room clerk and he got a full sense of his own responsibility as many of them do, having to act as private secretary to the company commander in so many things; thinking the whole world rotated around them, but they do not realize that the minute that they go to the regiment someone else carries on.

He has been over here for a couple of years and with nothing much to write about and just trying to impress his girl. He has served 23 days.

I think the Court should take a very lenient and generous view because of the things I have pointed out and I think properly pointed out to reach a justifiable conclusion.

The Court is closed for consideration of the sentence.

EXHIBIT "B"

M.C.

POSTAL & TELEGRAPH CENSORSHIP. SUBMISSION No. BM/57825/41

31.10.41

P.C.72

Terminal ~~Mail~~ Air / Surface

Letter from	To
PTE. M.C. DOBSON, Address or postmark: Essex Scots, Camp 101, No. 1.C.I.H.U.	MISS LILIANE GASKIE, Urchling Insurance Agency, Public Service Building, Beloit, Wisconsin, U.S.A.
Date of letter or postmark: Sept. 20th 1941 (Postmark 22.10.41)	Language: English

ORIGINAL LETTER:	SUBMITTED TO:
Submitted X Photographed	Original to M.I.12
Retained Released	Copy to I.S.B.
Returned to Sender	

Seen by: Naval Adviser Air Adviser M.I.12 S.F.

SUBJECT

(Include necessary references to Watch Lists, with Authority requiring the Watch)

A company clerk, who appears to be irresponsible and unworthy of his position, boasts of aiding and abetting the men, in evading army discipline and regulations, evidently with the connivance of the C.S.M. The writer states that he will shortly leave this unit, but he feels that his work will be ably carried on by his successor, whom he describes as "a real rebel."

Page 2. Lines 15-19.

"..... .....Some of them I know in camp Borden, but I was much more glad to see them than that, as their arrival means my "release" from the orderly room and I'll go to the battalion on the next draft probably next week...."

Page 3. Line 3. to Page 7 line 6.

" and

Operating Unit	Section	Examiner	D.A.C.	Date
L'pool	Pri.T.17	6836	S.F.	31.10.41

"and although the job is naturally a sort of thankless perpetual task of petty duties and troubles I really have it whipped. The sergeant major and captain are both very good eggs, and ~~xx~~ as they all know I can leave them in a spot by going loose I'm in a pretty advantageous position and simply refuse to be the goat - the customary role of the company clerk. We've been too short handed to have a runner but my "moral ascendancy" is such that I've got the orderly N.C.O's doing all the running, staying in during evenings, and unloaded all the grief on them. I give them hell regardless of stripes and it's a mercy I'm going direct from the orderly room to the battalion because if they should ever get me on the square again some of the N.C.O's might welcome the opportunity to wear me down. They really couldn't make things much tougher than they have been though as we've been so short-handed that all have been doing darn near double duty for months and a weekend pass is a rarity.

At least I have had the satisfaction of helping a lot of fellows get courses and jobs they wanted, covered them up on minor A.W.L's etc., and generally been "boring from within" in the cause of relaxing some of the rules and regulations, and with pretty good results too. The place is always such a madhouse that if there are a few guys still absent on the absentee midnights passes I quick shoot up a Nil return on the absentee report, juggle the parade state about, and if they show up any time before noon all is well. If they show up any time after noon all is well. If they show up any time after noon all is well. If they show up any time after

" "and although the job is naturally a sort of thankless perpetual task of petty duties and troubles I really have it whipped. The sergeant major and captain are both very good eggs, and ~~zk~~ as they all know I can leave them in a spot by going loose I'm in a pretty advantageous position and simply refuse to be the goat - the customary role of the company clerk. We've been too short handed to have a runner but my "moral ascendancy" is such that I've got the orderly N.C.O's doing all the running, staying in during meals and evenings, and unloaded all the grief on them. I give them hell regardless of stripes and it's a mercy I'm going direct from the orderly room to the battalion because if they should ever get me on the square again some of the N.C.O's might welcome the opportunity to wear me down. They really couldn't make things much tougher than they have been though as we've been so short-handed that all have been doing darn near double duty for months and a weekend pass is a rarity.

At least I have had the satisfaction of helping a lot of fellows get courses and jobs they wanted, covered them up on minor A.W.L's etc., and generally been "boring from within" in [redacted] relaxing some of the rules and regulations, and with pretty good results too. The place is always such a madhouse that if in the morning there are a few guys still absent on midnights passes I quick shoot up a Nil return on the absentee report, juggle the parade state about, and if they show up any time before noon all is well. Worked this for a couple of guys this morning who were 11 hours late on a week-end pass (ordinarily 14 days C.B. or even 7 days detention) and am even putting one of them through for a good conduct stripe.

In several cases where charges had already been made out I successfully confused the daily agenda, so the charges were thrown out by the "statute of limitations. And a lot of verbal orders to make out charges I've just ignored. Also claim some credit for getting permanent midnight passes, getting the men

FOR MINISTRIES ONLY

Recommendation for Disposal of Letter and Reason

FOR CENSORSHIP INTERNAL ACTION

Letter Condemned ..... Returned to Sender ..... Released .....

men away 12 hours early on leaves, an occasional pass forgery when officer not available, some original hardluck stories for the paymaster to squeeze money out of that store for needy soldiers in advance, aiding and abetting lead swingers, hiding drunks, sleeping after reveille; and in general untying a few knots of red tape and foiling to some extent the natural tendency of the army system to make the lot of the buck private unnecessarily onerous.

I think they'll miss me when I'm gone, although I leave my career of sabotage in good hands in the person of Gatrell, a great guy whose career has included a stretch for embezzlement in North Carolina and who is a Communist primarily for the entertainment value. A real rebel.

Of course in a lot of these subsersive activities I have the benevolent backing of the C.S.M. who sticks up for the men always and obligingly looks the other way or forgets things, but even so if trouble should ever arise he'd have to officially disown me. That's the old army game.

Though I've made it easy and often amusing still I've been wasting my time and I'll be happy to join the battalion and start getting down to business in this game...."

Yours for the Major

CANADIAN LEGION

WAR SERVICES

Camp 101
A.F.C.I.H.U, England
September 30th 1944

Dearest Dil:

After a weekend without a spare moment I'm catching up on our correspondence, with the added inspiration of the arrival today of the 2 flat 50's of cigarettes which you mentioned in your letter. Much thanks to you and Jessie then on to Burt Jarrigan please. Over here when you get something like that you have about the same feeling as you'd have back home when the boss gives you a raise in salary.

I'm still answering your letter of July 24th Dil. (The pages were the ones sent July 25th — and I really look like most of my mail will get to me eventually.)

I send you my Sunday airmail the middle of last week, the one in

which I let off all that steam, and which by the way I hope you didn't take too seriously. Since I sent you that one we've been extremely busy due to the arrival from Canada of a company of reinforcements. The Maple writing room is full of them now; some of the boys feeling their first duty to be a letter home and then putting a tick at the head of the priority list.

Some of them I knew in Camp Borden, but I was much more glad to see them than that, as their arrival means my "release" from the orderly room and I'll go to the battalion on the next draft, probably next week. It has been rather irksome being stuck here so long after I had given up a nice London appointment to get to the field unit; but on the other hand there probably a lot of waiting yet and at least I did have the break of a

darn fine time in London for as long as I wanted it.

And although the job is naturally a sort of thankless perpetual treadmill of petty duties & troubles & really have it whipped. The Sergeant Major and Captain are both very good eggs, and as they all know I can cleave them in a spot by going loose I'm in a pretty advantageous position and simply refuse to be the goat—the customary role of the company clerk. We've been too short handed to have a runner but my "moral ascendancy" is such that I've got the Orderly NCO's doing all the running, staying in during meals and evenings, and unloaded all the grief on them. I give them hell regardless of stripes and it's a mercy I'm going direct from

the orderly room & the battalion because if they should ever get me on the square again some of the NCO's might welcome the opportunity to wear me down. & they really couldn't make things much tougher than they have been. Thought as we've been so short handed that we have been doing damn near double duty for months and a weekend pass is a rarity.

At least I have had the satisfaction of helping a lot of fellows get courses and jobs they wanted, covered them up on minor AWOL's etc, and generally been "boring from within" in the cause of relaxing some of the rules and regulations, and with pretty good results too. The place is always such a mad house that if in the morning there are a few guys still absent on midnight passes a quiet shout up a Nil return on the absentee report, juggle the parade state sheets, and if they show up any time before noon all

is well. Worked this for a couple
of gangs this morning who were
11 hours late on a weekend pass
(ordinarily 14 days C.B. or even 7 days
detention) and am even putting
one of them through for a good conduct
stripe.

In several cases where charges
had already been made out I
successfully confused the daily
agenda so the charges were
thrown out by the "statute of
limitations." And a lot of verbal
orders to make out charges "was
just ignored." Also claim some
credit for getting permanent
midnight passes, getting the men
away to town early on leaves, an
occasional pass forgery when Officer
not available, some original land-
lord stories for the racketeers to
squeeze money out of that store for
needy soldiers in advance, aiding

and abetting lead swingers, hiding drunks, sleeping after reveille; and in general nudging a few knots of red tape and foiling to some extent the natural tendency of the army system to make the lot of the buck private unnecessarily onerous.

I think they'll miss me when I'm gone, although I leave my career of sabotage in good hands in the person of Gutrell a great guy whose career has included a stretch for embezzlement in North Carolina and who is a Communist primarily for the entertainment value. A real rebel.

Of course in a lot of these subversive activities I have the benevolent backing of the CSM who sticks up for the men always and obligingly looks the other way & forgets things, but even so if trouble should ever arise he'd have to officially disown me. That's the old army game.

CANADIAN LEGION

WAR SERVICES 19

though you made it easy and the annoying still I've been wasting my time and I'll be happy to join the battalion and start getting down to business in this game.

Well what a debate -- hope I don't run out of words before I write what I've been wanting to tell you.

Of course I'll not write a word to anyone of your plans to join up; thought from your mention of "about three months" I presume that me little'll work out. Maybe what I wrote in one of my letters from London gave you some new leads though.

It would be wonderful if you were here Sat. From your letter I guessed you had in mind an ambulance driving job with the Red Cross or something or that

order, whilst would be fun.
I think you'd like the WRENS and the WAAF too Lil, and probably even the ATS although I'd not advise you to do the latter as they're a very mixed lot & [illegible] seemingly about half dam nice and about half of them dam vulgar. In either the Wrens (the naval auxiliary) or the Waafs (air force aux) you'd be with a fine bunch of girls and be doing vital work.

However, I suppose this is a practical consideration, I think the Wrens uniform is a bit too smart – but on second thoughts I'm sure it would look good on you. (Black cotton stockings being the main drawback)

Of course you'd want to do a lot of thinking before you signed the dotted line, as it's really the same as joining a regular military service – for the duration, low pay, infrequent leave,

CANADIAN LEGION

WAR SERVICES 7 19

and "orders is orders" — you'd go where they sent you and some stations would be pretty remote. I might not be able to see you very often, depending on where you'd be and what you'd be.

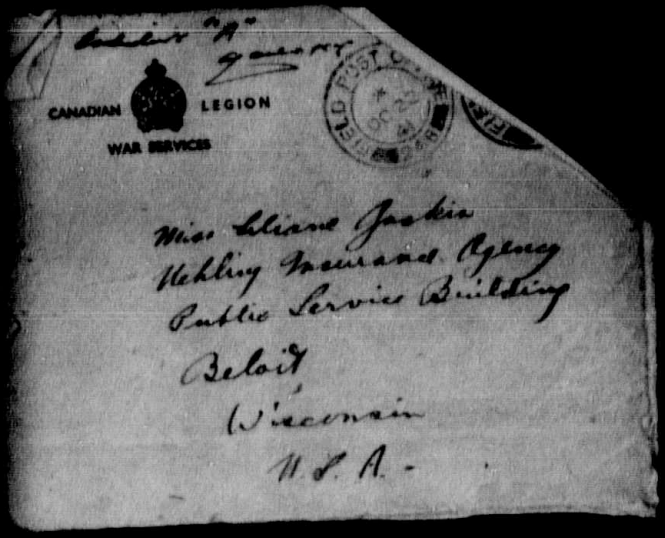
Still if you feel the same way about this that I do you will have a great satisfaction in doing a real job in it, and there'll be plenty of fun along with it, I'm sure. You'll be anxious to hear from you about it.

I know it's a much more different step for a girl to take than for a fellow — I can just see what a sensation that would cause among the local gossips.

Well it's nearly time for my evening tea tid — before closing time.

Love, and all the best,

Mum


CANADIAN LEGION
WAR SERVICES
Miss Liliane Jaskin
Welfare Insurance Agency
Public Service Building
Beloit
Wisconsin
U.S.A.

No. A22375 Name DOBSON, W.C. Sqn., Battery, or Company ESSEX SCOTTISH Corps REGIMENT Date of enlistment G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				STREET BRAWL					

J. Brown, Capt.

J. BROWN, Captain
Essex Scottish Company
O.C.

(P.T.O.)

ARMY FORM B.196.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
6A-22375	Pte.	Dobson, M.C.	No.2 C.D.I.R.U.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishment being given for the most serious offence in each entry, and to any recognised special acts of gallantry, list of distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct.

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~or The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for ..... days in civil custody, and 23 days in military custody, making a total of 23 days, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ attestation paper is 28

6. The date of his ~~attestation~~ specified in his ~~attestation~~ attestation paper is 20-6-40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 18 mos.

8. The accused is entitled to deferred pay or gratuity in respect of 18 mos. service.

9. The accused is entitled to reckon 18 mos service for the purpose of determining his pension, etc.

~~10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to retain any military decoration or reward).~~

~~11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

~~12. (In the case of an officer.) The accused holds in this army the rank of dated~~ ~~and in his regiment (or corps or department) the rank of dated~~

(*16540) Wt.30264/502 75,000 12/40 A.& E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A-22375 Rank Pte Name Dobson M.C. of No.2 CDIRU Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispositions with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment awarded

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22 day of December 1941 42.

Lt.Col
(D.L.Redman)
A/Officer Commanding No.2 C.D.I.R.U.

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of ..... years .....

In the rank of ..... years .....

In the rank of ..... years .....

Date of Promotion.

(Instructions: If the accused is in any of the above paragraphs cannot be cleared from the regimental books the paragraph must be struck through. Similarly if the full period cannot be stated the information may be collected from such sources as are available and the fact recorded in the paragraph.)

Exhibit "E"

MEDICAL OFFICER'S CERTIFICATE

K. R. (Can) Para 557

I certify that I have this morning examined No.A-22375 Pte M.C.Dobson of No.2 C.D.I.R.U. and in my opinion he is ~~unfit~~ fit to undergo trial by Court Martial.

(Medical Officer)

Major

Laurentide Camp
27th January 1942

SUMMARY OF EVIDENCE

In the Case of No.A22375 Pte. Dobson, M.C.

By direction of its Commanding Officer the proceedings are taken on Oath.

1st Witness for the prosecution: Capt. C.S. Hadley, No.1 C.D.I.R.U. having been duly sworn states:-

I am Capt. C.S. Hadley of No.1 C.D.I.R.U., I was Coy Commander of the Essex Scottish Coy at No.1 C.D.I.R.U. I produce a letter marked Exhibit "A", written by Pte. Dobson to a Miss Liliane Gaskin on the 20th September, 1941 and a submission from the Postal and Telegraph Censorship No. LIV/57223/41 dated 31-10-41, marked Exhibit "B". At no time during my command of the Essex Scottish Coy has a state of affairs existed nor have the events, described in the letter written by Pte. Dobson on the 20th Sept, 1941, occured. It would be impossible for such happenings to take place without coming to my notice. I have read the letter and the memorandum of Censorship thoroughly, and most certainly deny the allegations contained therein.

Charles S. Hadley Capt. ....Capt.

The accused declines to cross-examine the witness.

2nd Witness for the prosecution: No. A-21127 C.S.M. Simpson, J. Essex Scottish Coy. No.2 C.D.I.R.U. having been duly sworn states:-

I am No.A21127 C.S.M. Simpson, J of the Essex Scottish Coy of No.2 C.D.I.R.U. I have read the letter and memorandum from the Censor now before me. In my capacity as C.S.M. I have direct control of the Orderly Room of the Essex Scottish Coy. I can definitely say that a condition as is described in the letter written by Dobson did not exist. Dobson as Coy. Clerk did not have control over Tattoo or Absentee Reports. Dobson has always appeared to be rather a meek type of individual and at no time did I hear Dobson give an N.C.O. "Hell". I can definitely state that the statements regarding the operation of the Orderly Room of the Essex Scottish Coy, contained in the letters written by Dobson to a Miss Liliane Gaskin on the 20th Sept. 1941 are false.

John Simpson .....C.S.M.

The accused declines to cross-examine the witness.

The accused having been duly warned in accordance with R.P. 4 (e)

Makes the following statement.

I am No. A-22375 Pte. Dobson, M.C. of the Essex Scottish Coy. No.2 Canadian Division Infantry Reinforcement Unit. I wrote the letter which has been produced by Capt.Hadley. I did this merely to impress and amuse Miss Gaskin and without any intention or thought of throwing any discredit on His Majesty's Forces.

M C Dobson .....Pte.

Certified that all the provisions of Rule of Procedure 4 (c)(d)(e)(f) and (g) have been complied with in connection with the foregoing Summary of Evidence. Taken down by me in the presence and hearing of the accused this 23rd day of December, 1941.

.....A. C. Evans.....Capt.

GGG-63 (Can #2)

PTE DOCKSTADER L.R.

See HH-128 for last card

UU-128

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A450 Pte Louis Raymond Dockstader

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on~~ (date) WOT (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which NO days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for sixty (60) days

W.A.D. Gunn Major (Sgd) 11 Nov 43 (Sgd) R.C. Hyde President. (RP 45, 50.)

Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after sgd.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding & Sentence Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (Cert. 2)

(1. AA 57A. Delete if not used.)

(Sgd) R.C. Hyde

Date 17 Nov 43 Commanding 4 Cdn Armd Div Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
A450 Pte DOCKSTADER, L.R.	17 Nov 43	J.R. Richards Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

CFAPS (In lieu of AFA3) 40-P-A-N-1498 (2854)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig W.C. Hyde A/Comd 4 Cdn Armd Div dated 10 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A450	Pte	Louis Raymond	Dockstader	10 Cdn Inf Bde Coy RCASC

Proceedings Reviewed R. Beaudille Capt 21 Nov 43 Reviewing Officer (J.A.G.) C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 11 Nov 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) WOT The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3) WOT

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1040 hours trial commences. WOT

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) WOT

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~an interpreter~~ Are ~~the Interpreter is sworn.~~(1) Do you object to 111736 S/Sgt Elliott as shorthand writer? Ans No obj WOT

The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No obj (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 56(E). If objection, see procedure AA 51, RP 25, 71, 118, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	R.C. Oake	4 Cdn Armd Div Sig.
Member	Capt.	M. Turner	8 Cdn Fd Sqn RCE
Member	Capt	R.L. Whitman	10 Cdn Lt Fd Amb.
Judge-Advocate	Major	W.A.D. Gunn	HQ 4 Cdn Armd Div
Prosecutor	Capt.	C.A. Robson	10 Cdn Inf Bde Coy RCASC
Defending Offr	Capt.	J.R. Wilson	10 Cdn Inf Bde Coy RCASC

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused Pte Louis Raymond Dockstader before arraignment makes(s) (no) ~~no~~ plea. (1) WOT

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 18, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (does WOT not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is adjourned until~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 2, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement~~(1). The Court decides (not) to advise accused to change his ~~plea~~(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, ~~and his plea(s) of Guilty to charge(s) Part 2 of the Schedule is amended accordingly~~. ~~charge(s) his (their) plea(s) of~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)

(1. *If "Yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans .....

Do you intend to call witnesses on your behalf? Ans .....

Are they witnesses as to character only? Ans .....

(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf RP 95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(2) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative pronouncement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans ~~No~~ Yes

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy(ies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex X and Ex Y respectively.(3)

(1. *AFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 46(e). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 358, 330, 563-566. Overseas RO 309, 2323, MML p 86, 737-739. As to sentences assigned for civil offences by law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3), 68(7), KR Con 564.* 2. *RP 50. As to release from arrest by Convening Offr see KR Con 567. As to assembly and disposal of record after trial see insstrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Concurrence of [illegible]

The Court [illegible]
to [illegible] that the
[illegible] should undergo
neuropsychiatric examination
to determine his fitness to
stand at completion of
his sentence.

Ltr to Field
11 Nov 43.

Rodney
Pres Ct.

With three more
judges concurred

CHARGE SHEET

The accused A 450 Pte DOCKSTADER, LOUIS RAYMOND
10 Cdn Inf Bde Coy RCASC a soldier of the Canadian Army Overseas is charged with when on active service:-

First Charge
Sec 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he
in the Field on 13 Oct 43 absented himself without leave from his unit 10 Cdn Inf Bde Coy RCASC from 2230 hrs 13 Oct 43 until 1845 hrs 1 Nov 43 while in lawful custody namely while serving a sentence of 28 days field punishment.

In the Field
/6 Nov 43

(H.E. Miller) Major
Offier Commanding
10 Cdn Inf Bde Coy RCASC

HQ 4 Cdn Armd Div

To be tried by FGCM

(W.C.Hyde, DSO, VD)) Brig
A/Comd 4 Cdn Armd Div
Convening Officer

In the Field
/6 Nov 43

Witness will be judge advocate

MEDICAL OFFICER'S REPORT

I certify that No. A450 Pte DOCKSTADER, L. R.
of HQ Base Coy RCASC is in a good state of health,
and fit to undergo Trial by Court martial.

K. C. Brown Capt.
Medical Officer.

Station Field.

Date 11 November 43.

M. F. B. 246

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PASS/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A 450	Pte		LOUIS RAYMOND	DOCKSTADER	10 Cdn Inf Bde Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 10 Nov 43 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~.
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for (for reasons I have attached hereto).~~
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

Major (Rank.)	R.C. OAKS	4 Cdn Armd Div Sigs (*Must be named. RP 106.*)	(Unit.)

MEMBERS.

Capt	M. TURNER	8 Cdn Fd Sqn RCE	
Capt (Rank.)	R.L. WHITMAN	12 Cdn Lt Fd Amb RCAMC (*Named or detailed. RP 106.*)	(Unit.)

WAITING MEMBER.

Capt (Rank.)	C.L. WILSON	HQ Sqn 4 Cdn Armd Div (*Named or detailed, if any. RP 106.*)	(Unit.)

JUDGE-ADVOCATE.

Major (Rank.)	W.A.D. GUNN	HQ 4 Cdn Armd Div (*Must be named, if any. RP 106.*)	(Unit.)

On Active Service in the Fd

in England (Country.)

(*Signed personally. RP 107 fn 2.*) (Rank.)
(W.C.HYDE, DSO, VD) Brigadier

Date 10 Nov 43

A/ Commanding 4 Cdn Armd Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

Statement by the accused, A 4so Pte Dockstader, L.R.
10 Cdn Inf Bde Coy RCASC, in Mitigation of Punishment

I have just hoped that my record will count, that my good record will help. I cannot understand why I do these things, I always tried to be a good soldier as long as I have been in the army. I don't know whether it is the inactivity or the results of the accidents I spoke about. All I can do is ask for leniency and a chance to prove that I joined the army with the right intentions. I had two very serious accidents which nearly cost my life both times and often have wondered if that is what causes such crazy ideas. I have always tried to keep out of trouble and just wondered if that had anything to do with it. I spent several months in the hospital.

Statement in Mitigation by the Defending Officer

Sirs, in view of Pte Dockstader's previous record and apparently it was clear while with the 3rd Div Petrol Coy until he came to this unit. As shown in his charge sheet there are three A.W.L. charges. It may be inactivity or some other reason. I have asked him and he says he wanted to get going and he got going. In fairness to the soldier I have wondered if he might be examined again by a competent medical authority to see if he is perfectly fit to carry on as a soldier in the field. One other point, I understand in the summary of evidence that the roll was called and the L/Cpl concerned said he was absent and reported to the Sgt. I may be wrong but my understanding is that a man doing Field Punishment, it is actually more than C.B., should he not be with an escort at all times and be safeguarded against such opportunity of running away or breaking out of barracks. I understand during that time he was employed in the Sgts Mess and men's kitchens.

Exhibit "A"

SUMMARY OF EVIDENCE

IN THE CASE OF

A 450 Private Dockstader, L.R., 10 Cdn Infantry Brigade Coy., RCASC is charged with:

1. A.A. 15(1) - Absent without leave 18 days 20 hrs 15 mins

2. A.A. 10(4) - Breaking out of barracks

The Commanding Officer directs that the evidence be taken on oath.

The accused has had his rights explained.

FIRST WITNESS

L64671 L/Cpl Cartwright, W., 10 Cdn Inf Bde Coy., RCASC., having been duly sworn states:

"I called the roll on the night of Oct 13/43 at 2200 hrs. The accused did not answer his name. I waited until 2230 hrs and he was still absent. I then reported his absence to the Platoon Sergeant."

W Cartwright

Cross-examined by accused

Q. Did you notice me at any time between supper and tattoo?

A. Yes, I saw you between 1930 to 2000 hrs.

Q. Did you notice anything peculiar about my actions?

A. The accused seemed restless, sir, and spoke of being tired of C.B.

SECOND WITNESS

K75644 Sgt. Bridgment, H., 10 Cdn Inf Bde Coy., RCASC., having been duly sworn states:

"On the night of Oct 13, 1943 L/Cpl Cartwright reported to me that the accused was not in his quarters at roll call. On the following morning I called his name while calling the roll at 0800 hrs. He failed to answer his name and has not answered a roll call since."

H Bridgment

Cross-examined by accused

Q. At any time since I have been in your platoon, have you noticed that my actions or behaviour have been otherwise than what they should have?

A. Apart from the previous charge of being A.W.L. I would say that there has been no unusual or ~~outwards~~ occurances that I have noticed.

THIRD WITNESS

Lieutenant A.J. Blamey, 10 Cdn Inf Bde Coy., RCASC., having been duly sworn states:

"I was rear party officer at the time that A450 Pte. Dockstader, L.R. reported in. He reported to me at 1845 hrs 1 November 43.

Cross-examined by accused

Q. In the short time you have known me, is there anything you have seen that would classify me as anything but a good soldier?

A. Nothing outside of the present charge.

A.J. Blarney Pte.

FOURTH WITNESS

Major H.E. Miller, 10 Cdn Inf Bde Coy., R.C.A.S.C., having been duly sworn states:

"On the 17th Sept 43, the accused was paraded before me on a charge of being A.W.L. He was found guilty of the offence and sentenced to 28 days field punishment and 28 days forfeiture of pay. On being medically examined, it was found that the accused had contacted scabies while being A.W.L. The accused was again paraded and informed that he would serve his period of field punishment in the unit lines.

H. Miller Major

The accused declined to cross examine the witness.

The accused was warned as follows:

"Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given as evidence".

A450 Pte Dockstader, L.R., 10 Cdn Inf Bde Coy. RCASC., having been duly sworn states:

"My record until I joined this unit has been spotless. I have been in two accidents since my arrival in England and have spent four monthis in hospital. Since my release from hospital I have had to exercise great control over my impulses and am under the impression that these abnormal feelings and impulses are the result of the accidents. Before the accidents I had always been able to control my impulses."

L.R. Dockstader

I certify that the foregoing summary of evidence was taken down by me in the presence and hearing of the accused, and that Rules of Procedure four (C), (D), (E) and (F) have been complied with.

In the field this eighth day of November 1943.

E.A. Robson

(E.A. Robson) Captain.

MFM 6
(AFB 1227 40/PAS/126 (3438)

No A450 Name DOCKSTADER, L. Coy. Battery Coy. Corps R.C.A.S.C. Date of enlistment 8 Apr 41 GC Badges 1 Service or Proficiency Pay N.A.

Date of last entry in Company Conduct Sheet N.A. No and date of last drunk N.A. Period not reckoning towards freedom from extra fine N.A. Sheet No 2 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Original sheet destroyed on completion of six months service 8 Oct 41. No entries.									
U.K.	14/8/43	Pte		Absent without leave in that he failed to answer tattoo roll call 2200 14-8-43. Returned 2330 hrs 16-8-43. Time absent 2 days 1 hr 30 min. Sec 15(1) A.A.	CSM Wilson, G.E.	6 days forfeiture pay.	16/8/43	H.E. Miller Major	3 days auto forfeiture.
U.K.	17/9/43	Pte		Absent without leave from 0800 hrs 17 Sep 43 until apprehended by Provost Manchester 2230 hrs 28 Sep 43. Cost of apprehension £2.14.8. Time absent 11 days 14 hrs 30 min Sec. 15(1) A.A. Cond. prej. good order & mil discipline in possession of an improperly signed pass. Sec 40 A.A.	Documentary	12 days automatic forfeiture. 28 days Fd Punishment. 28 days Forfeiture. Cost of apprehension - £2.14.8	2/10/43	H.E. Miller Major	

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true copy H Mason Maj OC 10th CDN. INF. BDE. CAT. R.C.A.S.C. C.A.(O)					
				Evidence Y. Maj					
				Sworn Witness sworn Judge Advocate					

Exhibit "X"
Read in evidence
Pres. with Prisoner
July 20/41

M.F.B. 355
40/T & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A450	Private	DOCKSTADER, L.B.	10 Can Inf Bde Coy, RCASC

1. The following is a fair and true summary of the entries in the ~~Service and General~~ ~~Regimental and Squadron Battery~~ ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	A.W.L.	2 times	A.W.L.	2 times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct nil

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted~~

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with and under A.F.A. 75 are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence to ... beginning on the ... day of ...~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 8 10 days in military custody, making a total of 8 10 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 35 years

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 8 April 1941

7. ~~The service when the accused is shown to retain current liability is ...~~

8. ~~The accused is entitled to reckon ... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, ~~or the Imperial Award (or a~~ military ~~in possession of or entitled to): State any air force decoration or award~~ military.

10. (~~If the accused is a warrant officer~~) The accused ... is a warrant officer ... of the ~~Regiment~~ rank of ...

11. ~~(In the case of an officer.)~~ The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

dated, and in his regiment (or corps), the rank of

dated

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the~~ present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank

Name of Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11 day of November 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

JAG BRANCH - REVIEW RECORD

Accused
A450 Pte. Sookstader L.R.
10 Cdn. Inf. Bde. Coy.
R.C.A.S.C.

Remarks	Date
Trial in (Country) Eng.	11 Nov
Charges 15(1)	
Sentence 60 days	11 Nov.
Rec'd from CR at JAG Branch	22 NOV.
To DW. for (~~pre~~)(post) rev	22 NOV
Recommendations by DW	
(1) Pass and record.	
(2) ~~Ltr on irregularities~~	
(3) Quash ____ charge(s).	
(4) See 5 of [illegible]	
Ret'd to JAG Rev 1 by DW.	27 NOV 43
Passed to	
Passed to	
→ To AG 5 for Remarks as to date	27 Nov. 43.
Ret'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal	
Instrs completed by	

UU-128

Pta Dockstader, L.R.

ENTERED IN RECORDS OF C.M. GGG·63

FIELD GENERAL COURT-MARTIAL

CFA96 (To form of AFA31) 42-P.S. 5.1608 (2804)

Convened by Order of Lt Col J. G. Tatham Comd 1 Can CRE Wks dated 18 Mar 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 420.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A450	Pte / Pte	Louis Raymond	Docstader	14 Fd Fd Coy RCASC

PROCEEDINGS REVIEWED
H C Church Lieut
5 Apr 44
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS REVIEWED
Date 29 Mar 44
Maurice Ivay
FIRST CC

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 21 Mar 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(*s*) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(*1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.*)

A3. The Court is opened. The accused is (are) brought before the Court. At 1065 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(*1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.*)

A5. President to accused: Do you object to ~~as interpreter~~ ? Ans ~~No~~

The Interpreter is sworn.(1) Do you object to ~~as shorthand writer~~ ? Ans ~~No~~
The shorthand writer is sworn.(1)

(*1. RP 72. Delete, if none employed.*)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(*1. RP 110. 2. If no objection, waiting member retires. RP 66(3). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.*)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major K R Jones	RCASC	14 Fd Fd Can Army
Member	Capt C F Black	RCA	14 Fd Fd Can Army
Member	Capt E H A Cross	RCA	14 Fd Fd Can Army
Judge-Advocate			
Prosecutor	Lieut D G Stirling	14 Fd Can Army	N.T. Coy RCASC
Defending Offr	Lieut F E Fox	14 Fd Fd Can Army	Defence Coy

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(*1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.*)
(*2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.*)

A8. The accused before arraignment make(s) (no) (~~an~~) plea. (1)

(*1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 117), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to Rule cited. Insert in AB rank and name of the accused making the plea.*)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(*1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.*)

A10. The Court is closed and, considers the Instrs on Procedure after Arreignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A450 Pte Louis Raymond Docstader

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	NOT Guilty	NOT GUILTY	
3rd	GUILTY	GUILTY	
4th			
5th			
6th			

(*Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.*)

~~At present under sentence for~~ beginning on (date) (1)

(*1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.*)

Time in confinement awaiting present trial—a total of 22 days, of which Nil days were spent in hospital.(1)

(*1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.*)

Sentence Awarded by the Court:

To undergo detention for 120 days and to be put under stoppages of pay in the amount of £1-15-1, the costs of apprehension

(Sgd) Judge-Advocate, if any. 21 Mar 44 Date awarded. (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

FIRST CON ANY

DATE 21 Mar 44

No illegalities or irregularities such as would warrant withholding confirmation

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 780.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is

Confirmed.

I direct that the accused be not committed to prison or detention barracks until further order.(1) ~~as CT~~

(*1. AA 57A. Delete if not used.*)

(Sgd) J G Tatham Lt Col

Date 24 Mar 44 Commanding 1 Can CRE Wks Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A450 Pte Docstader L R	27 Mar 44	R R Rutherford Camp Comdt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO except that with respect (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)
to Charge I, I desire to point out that I summoned myself, and was not apprehended.

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (~~three~~) plea(s) of Guilty ~~to Not Guilty or~~ First and Third charge(s). The accused is (~~are~~) so informed, ~~and he (they) charge(s) his (their) plea(s) on charge(s).~~ Part I of the Schedule is amended accordingly. wf wf
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex J, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. ~~The evidence for the Prosecution is taken~~.(1) The Prosecutor states that he is not submitting any evidence on the second charge
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does~~ not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4) wf.
(1. *Delete remainder of this para. if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115*.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence ~~and~~ as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP* 165. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)
wf.

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)
on the second charge

D8. The President announces the finding(s), ~~if any~~, of Not Guilty, and states to the accused that the finding(s) of the Court on the first and third charge(s), being subject to confirmation, will be promulgated later.(1)
Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*c*), *RP* 43, *120*(*A*). 2. *AA* 54(3), *RP* 43, *117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex F respectively.(3)
(1. *MFB* 255 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Just through my Company Officer (Statement marked Ex G)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 30(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas AO* 309, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(3)(*b*), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

A 4 48

The accused, No. A-450 Pte. Louis Raymand DOCKSTADER, HQ First Cdn Army, Motor Transport Company, a soldier of the Canadian Army Overseas, on Active Service, id charged with-

First Charge
Sec 15(1)
A.A.

ABSENTING HIMSELF WITHOUT LEAVE

In that he, at Car Park, Headley Court, at 0900 hours, 4 February, 1944, absented himself without leave until apprehended by No. 6 Provost Detachment, Manchester, at approximately 1845 hours, 28 February, 1944. Cost of apprehension, £1-15-1. Time absent 24 days, 9 hours, 45 minutes.

Second charge
Sec 24 (2)
A.A.

LOSING BY NEGLECT HIS EQUIPMENT AND REGIMENTAL NECESSARIES

In that he, at Car Park, Headley Court, on 1 March, 1944, was deficient the following articles of the total value of $37.65, calculated at 75% of the vocabulary price thereof.

		VOCABULARY PRICE
Trousers B.D.	1	5.39
Blouses B.D.	1	5.25
Boots Ankle prs	2	10.92
Caps F.S.	1	.56
Drawers Cellular prs	2	.86
Gloves woollen prs	1	.47
Greatcoat drab	1	11.31
Jersey pullover	1	1.79
Shirts angola	1	2.03
Badges cap	1	.09
Braces prs	1	.28
Brushes brass	1	.26
Brushes hair	1	.34
Brushes shoe polishing	1	.28
Tooth Brush	1	.11
Comb hair	1	.04
Dressings field	1	.24
Fork table	1	.07
Hold all	1	.19
Housewife	1	.17
Clasp Knife	1	.86
Knife table	1	.15
Razor safety	1	.06
Shorts gym	2	.86
Spoons N.S. Dessert	1	.07
Vests gym	2	.72
Towels hand	1	.32
Belt waist	1	.67
Straps web supporting	2	.26
Pull through	1	.11
Socks woollen prs	4	1.48
Blankets brown single	1	3.07
		49.27

75% of vocabulary price is 37.65.

OVER

SHEET II

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

THIRD CHARGE
SEC 9(2)
A.A.

in that he, in the field, in England, at approximately 1645 hours, 7 March 44, whilst in close arrest, when personnelly ordered by R.S.M. McArthur to go on a work task, did reply, "I would rather be charged than go to work before supper", and failed to do so.

In the Field
9 March, 1944

R S Row
.....Lt-Col.,
Camp Commandant
HQ First Cdn Army

To be tried by Field General Court Martial

In the Field
12 Mar 44

J.G. Tatham ..... Lt-Col
Coo ~~Cmd Wg~~

B. A.R.C. Overseas

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of A.F.A.95)
40/PAM/1607 (23958)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
A-450	Pte	Pte	Louis Raymond	DOCSTADER	HQ First Cdn Army MT Coy, RCASC Det.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~have~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 17 Mar 44 endorsed by me, ~~(or by an officer by whom he is to be tried)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior authority~~.

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint an Judge Advocate to attend at the Court as my representative~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	V R Jones	RCASC	HQ First Cdn Army

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	C S Black	RCA	HQ First Cdn Army
Capt	E H A Carson	RCA	HQ First Cdn Army

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	J C Oliver	RCE	HQ First Cdn Army
	~~ADJUTANT~~		
(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

(Signed personally. RP 105 fn 2.) (Rank.)

Date 18 Mar 44

Commanding 1 Cdn Corps Units.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Copy

V.R.

MEDICAL CERTIFICATE

I hereby certify that I have this day examined

A450 (No.), Pte (Rank), Dockstader L R (Name)

and in my opinion he is fit to undergo trial by Court-Martial.

Date 21 Mar 44

E L Gladdon Capt
RCAMC

A450 Pte Inc Raymond Doostaga

Statement of Defending Officer

G. VRS.

This Canadian Soldier si 32 years old. He was married at 24 and has one child of 6 yrs. He went to school until 15 and then worked as a tailor by trade.

He joined the army 26th June 40 but was discharged.

Intent on doing his bit, he rejoined on 8 April 41 and proceeded overseas on the 20th Aug 41. He was with the R.C.A.M.C. [illegible] In June 43 he contracted V.D.S. which was most probably hereditary. One of his sister has died with this disease, another in a mental hospital and still another has committed suicide. He had always had the fear of passing it on to his beloved wife and child and now stark realization came upon him that he too was a victim. His heart was broken and his soul distroyed. He became mentally unbalanced, and with this preying on his mind he went AWL. Simply wandering anywhere, just anywhere to keep his away from the disaster that had befallen him. This was last November and upon returning to his Unit was punished for his actions. He had never had anything but a clean record previously.

On 31st December 43 he came to Army HQ. and was not happy here wither. He wrote his wife and told her of his troubles and said that he could never face her again. He was fast becoming a mental case and finally he could stand it no longer and on 4th Feb 44 he again went AWL but surrendered himself on 28th Feb 44. I suggest that at this time punishment id udeless to this broken man. He has reached the stage through the sins of his forefathers that life no longer holds the prospect of a brigher future and sweet joy of living. He is up for Court Martial and his future is in the hands of the Court to decide. If he is punished as a "criminal", he will pay his debt to the world but has the world paid their debt to man who has twice offered his life for freedom? I suggest that action be taken to insure that this man's life be reconstructed and that he will be with the liberating armies of the world in this their zero hour of attack.

Statement of EVIDENCE in the case of
A/450 Pte. Jockstader, L.R.
1st. Cdn. Army, R.C.A.S.C.

Sir:-

At Manchester on the 28-Feb-44 at about 1845 hrs, I was on duty on Mosely St. in company with L/Cpl. MacPherson, D when the a/m soldier approached me and replied that he wished to surrender as an absentee.

I placed him under arrest, and he was escorted to the Ardwick Guard Room, where he was handed over to the N.C.O. i/c Guard to be detained.

Manchester
28-Feb-44

H. Hamilton L/C
(L/48) H. Hamilton
No.6. Provost Detachment

Sir:-

I have read over and corroborate the above statement.

Manchester
28-Feb-44

D. MacPherson L/C
(L/60087) D. MacPherson
No.6. Provost Detachment.

REMARKS

Exhibit "A" (10) P4 Vol I

CHARGE

Army Form B 252
(See King's Regulations)

R.C.A.S.C. — Regiment
1st. Cdn. Army. — Battery / Squadron / Troop or Company

CHARGE against No. A/450 Rank Pte.

Name Dockstader, L.R.

Place Manchester Date of Offence 28-Feb-44

OFFENCE. C.A.S. was A.W.L. from ? untill surrendering to the Cdn.Provost Corps on Mosely St. Manchester on the 28-Feb-44 at about 1845 hrs.

CAPT.
R. R. HOLMES, D.A.P.M.
LONDON AREA.

Names of Witnesses:—

C.Hamilton,H. No.6.Provost Detachment
C.MacPherson,D. No.5(Area)Provost Coy " do "

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded: Summary of Evidence for F.D.& C.A.

To whom warded: O.C. Provost Company

Date 4/3/44

Exhibit "B"

Capt. (R.R.R.J. HOLMES) D.A.P.M. LONDON AREA

A.450 Pte. DOCKSTADER L.R.

1st Cdn. Army R.C.A.S.C

Field

M 48 L/C. HAMILTON H.E.C.

Canadian Provost Corps 5(Area)Provost Company.

28th Feb.44 1845 hrs.,

xxxxxxxxxxxxxxxxx.

London
29 Feb.44.

.....Capt.

Exhibit "C"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 9450 Rank Pte Name Jockstadt L.L. Unit H.Q. 1 Army

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Manchester

Date	Particulars (½ Portion)	Amount		
29.Jan.47.	Escorts return fare from LONDON To Manchester		14	1
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Diet~~ Meals, Bus fares (½ Portion)		3	2
	Total £	1	11	4.

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

W.H. Howes Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

CMHQ 1000-55
40/P & S/480

Exhibit D.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539 Dy. 44/3

Reg. No. A/50 Rank Pte Name Lockstadter L.C. Unit H.Q. 1 Army.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
19 Apr 44	Escorts return fare from LONDON To Hatherlead		2	6
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Hatherlead		1	3
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		3	9

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

A Webber Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

CMHQ 1000-55
40/F & S/483

D/ adj.

S U M M A R Y O F E V I D E N C E

In the case of

A-450 Pte Dockstader Louis Raymond
Headquarters First Canadian Army
Mechanical Transport Company -
Is charged with A.W.L. from 0900 hrs 4 Feb 44. until 1845 hrs 28 Feb 44. Army Act 15 (1) and losing by neglect his equipment and Regimental necessaries. Army Act 24(2).

By direction of the Commanding Officer the evidence was taken on oath.

First Witness For The Prosecution

L-7635 L/Sgt Ackerman A. Headquarters First Canadian Army Mechanical Transport Company duly sworn in states:-
I am administrative Sgt of "A" Platoon HQ M.T.Coy. On the 4 Feb 44. I checked tattoo and 0800hr individual roll calls. Pte Dockstader,whom I recognise,being marked present in both cases. I personally had seen Pte Dockstader on my tour of duty in the car park, at approx 0830 hrs. At 0900 hrs I wanted a releif for the gate detail;I called upon Pte Dockstader. After thoroughly searching the car park and the canteen he was not to be found. Pte Dockstader was then posted A.W.L. The accused did not return to this Coy to the 29 Feb 44.
I produce the following documents all relating to the accused -
1. Army Form B252 marked exhibit "A"
2. Certificate Under The Army Act Sec 163 (i) & (j) Marked exhibit "B"
3. Expense Voucher K.R.& O.(Can) 539 marked exhibit "C"
4. Expense Voucher K.R.& O.(Can) 539 marked exhibit "D"

(Signed) L-7635 L/Sgt Ackerman A.

The accused declines to cross examine this witness.

Second Witness For The Prosecution

M-48 L/Cpl Hamilton H. No 6 Provost Detachment, Manchester
A written statement of this witness's evidence purporting to be signed by him and marked as exhibit "A" has been read to the accused and is included in the summary of evidence. Owing to exigencies of the service attendance of this witness cannot readily be procured.

Signature of Officer taking Summary

....[signature]....Lt

The accused does not demand the attendance of this witness for cross examination.

Third Witness For The Prosecution

B-77212 CQMS Little R.J. HQ First Cdn Army, duly sworn in states:-

The accused's kit was placed in the custody of Quarter Master Stores when reported AWL. On the 1 Mar 44. I personally checked Pte. Dockstaders kit and found it to be deficient the articles listed and shown as exhibit "E". The accused had been issued with all the said articles.

(Signed) R.J. Little
B-77212 CQMS Little R.J.

The accused does not demand the attendance of this witness for cross examination.

Fourth Witness For The Prosecution

A-3275 A/Cpl Hill L.G. Regimental Police, HQ First Canadian Army, being duly sworn in states:-

I am the a/m NCO of the a/m Unit. At approximately 1645 hours 7 Mar 44, I was informed by RSM McArthur that there was another job of work to do by personnel under close arrest in the guard room before supper. I came back to the guard room and told the accused along with the others that there was another job to do before supper. The accused and others said that they were not going to do any more work before supper. I then asked the accused if he refused to go to work again before supper and he said he would take another charge against himself before doing any more work before supper. I informed RSM McArthur that the accused refused to work, whereupon RSM McArthur accompanied me back to the guard room.

(Signed) L.G. Hill
A-3275 A/Cpl Hill L.G.

The accused declines to cross examine this witness.

Fifth Witness For The Prosecution

M-10693 RSM McArthur H.W. Camp RSM, HQ First Canadian Army, being duly sworn in states:-

I am the a/m Warrant Officer of the a/m Unit. At approximately 1615 hours 7 Mar 44, I received instructions from Lt.-Col. King my C.O. that personnel in close custody would help the M.S. Branch move their office quarters from the building to a hut, a task which would take about one hour. This branch had to be moved by 1800 hours 7 Mar 44. I then came to the guard room and passed my instructions to Sgt. Jackson and Cpl Hill. My duties took me down to the hutment area. On my return I met Cpl Hill and as a result of what he told me, I accompanied him to the guard room. There I saw the accused and ordered him to work. He replied, I would rather go on charge than go to work before supper. I then gave the accused two minutes to change his mind, which time I pointed out to him the work that was to be done and explained that it was a task job. At the completion of the two minutes he still refused to go.to work.

(Signed) H.W. McArthur
M-10693 RSM McArthur H.W.

The accused declines to cross examine this witness.

The accused having been warned as follows, "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.", declines to make any statement.

Certified that Rules of Procedure 4 (c)(d)(e)&(g) have been complied with.

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence and hearing of the accused this ninth day of March 1944.

Signature of Officer taking Summary

.....W Stoveley.....Lieut.

9 Mar 44
Field

No A-450 Name DOCKSTADER L.R. | Sqn, Battery or Company | Corps | Date of enlistment 8 Apr 41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	Original sheet destroyed on completion of six months service 8 Oct 41, no entries.								
Field	14-8-43	Pte		Absent without leave in that he failed to answer tattoo roll call 2200 hrs 14 Aug 43. Returned 2330 hrs 16 Aug 43. T.T. 2 dys 1 hr 30 min.	CSM Wilson G.E.	6 dys pay	17-8-43	A. Muir Major	Forfs 3 dys pay FR&I 149 (1a)
Field	17-9-43	Pte		A.W.L. from 0800 hrs 17 Sep 43 until apprehended 2230 hrs 28 Sep 43, cost os app. £2-14-8 T.T. 11 dys, 14 hrs, 30 mins. A.A. Sec 15 (1) In poss. of improperly signed pass. AA Sec 40	Documentary	12 dys attdo. 28 dys F.P.			forfs 12 dys p FR&I 149(1a) 28 dys pay FR&I 149 (2)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13-10-43	Pte		A.W.L. from 2230 hrs 13-10-43 to 1845 hrs 1-11-43. Time absent 18 dys 15 mins 20 hrs. AA Sec 15 Breaking out of barracks while serving 28 dys F.P. AA Sec 40	Sgt Bridgement L/Cpl Cartwright Lt Blaney	60 dys Det.			Forfs 19 dys pay FR&I 149 (1a) 60 dys pay FR&I 149 (2)
			Awarded	Cdn Volunteer Service Medal & Clasp wef 15 Jan 44. DO 1					
				CERTIFIED TRUE COPY		(W.J. Stewart) Major OC Army HQ M.T. Coy H.Q. First Cdn Army			Released from Detention 20 Dec 1943. Sentence Having Expired. Remission earned under "Rules for Detention Barracks and Military Prisons" 20 days.

E
Y.K.

M.F.B. 355
40/P & B/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A-450	Pte	Dockstader, Lewis Raymond	HQ First Cdn Army M.T. Coy.

1. The following is a fair and true summary of the entries in the [redacted] Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	AWL	2 times	AWL	2 times
For		times		times
For		times		times
For		times		times

[redacted]

Previous convictions of the accused by a court-martial [redacted] of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, [redacted] for 12 days in military custody, making a total of 22 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 37

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 8 April 41

7. The service which the accused is allowed to reckon towards discharge is 2 years 11 months

8. The accused is entitled to reckon 2 yr 11 mo service for the purpose of determining his pension, etc.

9. The accused is in possession of [redacted] military reward (or is in possession of or entitled to). State any [redacted] military reward. C.V.S.M. & Clasp 15 Jan 44

10. [redacted]

11. [illegible]

12. [illegible]

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number A-450 Rank Pte

Name Dockstader, Lewis Raymond of HQ First Cdn Army, MT Coy Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
FGCM	In the Field 11-11-43	AWL	60 days Det Forf 89 dys pay	20 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14th day of March 1944 [illegible] Capt. A/Adj't 1st Cdn Army

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked E signed by the president, and annexed to the proceedings.

[illegible]

5H-139

Cpl. Dodd H.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D46649 Cpl Henry Dodd

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AR 15 (1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ____ beginning on (date) ____ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which ____ days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be reduced to the Ranks and to undergo detention for twenty-eight days.

(Sgd) ____ Judge Advocate, if any. 19 Apr 45 Date awarded. (Sgd) D.T. Mac Dougall Maj President. (RP 46, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ____ (Sgd) ____ Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed

I direct that the accused be not promoted to ____ or demoted or [illegible] until further orders. (1. AA 57A. Delete if not used.)

(Sgd) J.J. Lind Brig

Date 21/APR/45 Commanding 3 CAB Gp. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
D46649 Cpl Henry DODD, P2 9 CBR Bn	APR 24 1945	[illegible]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160. 5H-139

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Brig J.J.H. Lind Comd 3 Can Bde Gp dated 16 Apr 45

RECEIVED 22 MAY 1945 WAR DIARY SECTION C.M.H.Q.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Rank.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
			Henry.	Dodd.	9 CBR Bn

D. 46649 PROCEEDINGS REVIEWED 22 May 45. Judge Advocate General's Office

REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the (Locality) Millicent on (date(s)) 18 Apr 45.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2-9/81

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr~~, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1130 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ____ as interpreter? Ans ____~~

~~The Interpreter is sworn.(1) Do you object to ____ as shorthand writer? Ans ____~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Not. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 31, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~JA if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D.T. Mac Dougall	9 CBR Bn
Member	Capt	T.J. Lowday	9 CBR Bn
Member	Capt	R. Roberts	9 CBR Bn
Judge-Advocate			
Prosecutor	Lieut	J.R. Firth	9 CBR Bn
Defending Offr	Lieut	G.D. Balfour	9 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 23.)

A8. The accused ____ before arraignment make(s) (no) objn(s) to ____ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposed, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (severally) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~adjourns~~ and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

HQS 8486 Vol 5 p 49

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(C). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or ~~JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)
President to accused : Do you wish to make a statement ? Ans. No Sir. (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ~~FF~~, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)
(1. *If "yes" see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 84(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(2) (4), RP 45, 120(4).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No Sir.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 183(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Mitigation if required, Sir.
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(4).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the ~~JA, if any.~~ (2)
(1. *When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(4), KR Con 308, 330, 563-566, Overseas RD 309, 1223, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 44(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest for Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Squadron / Battery / Company / Detachment

2 Coy 9 Bn Unit or Battalion

19 April 1945

MORNING SICK REPORT

Regt'l No.	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner or defaulter	Married or Single	DISEASE	Medical Officer's Remarks and Initial
46649	Cpl	D O O D H.	36	R-C	DUTY	S	

Left to undergo trial
by F.G.C.M.

J.R. Patanek Capt.
A/Adj.

Medical Officer

Cpl Kulesza Orderly N.C.O.

(OVER)

3/60A N.F.D. 292 40/P & S/147

MEDICAL OFFICER'S REPORT

I certify that No. D-466449-CPL-DoDD-H-

of 2760Y-9 BN-9CBRGP is in a fair state of health,

and fit. to undergo Trial by Court martial.

J. V. Palanchi Capt
Medical Officer

Station IN THE FIELD

Date 19 APRIL 1945

KT.

M. F. B. 246

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate outhy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-46649	Cpl		Henry	DODD	28 Coy 9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 Apr 45 endorsed by me, ~~(or by an offr of my staff for me),~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D C MacDOUGALL	CAC 9 CBR Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by 9 CBR Bn	
Capt or Lt	To be detailed by 9 CBR Bn	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lt	To be detailed by 9 CBR Bn	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Dat 16 Apr 45

J S H Lind Brig (Rank.)

(Signed personally. RP 105 fn 2.)

(J S H Lind)

Commanding 3 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPA 98 (In lieu of AFA 3) 40/P & D/1691 (S1&D)

(See overleaf for oaths and notes for use on trial.)

D C MacDougall was president

CHARGE SHEET

The accused, D-46649 Cpl. Henry, DODD, on strength of 28 Coy. 9 Bn. 3 C.B.R.G. a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
AA Sec 15(1).

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that he,

In the Field, did absent himself without leave from 0800 hrs. 8 April 1945 until surrendering himself at 1700 hrs. 11 April 1945.

(Total time absent: 3 days, 9 Hrs.

(H.N. RICK) - Lieut./Col.,
Commanding,
9 Bn. 3 C.B.R.G.

In the Field,
13 April 1945

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
16 Apr 45

(J S H Lind) Brig
Comd 3 Cdn Base Rft Gp

A Brae Dodge Maj
President

PLEA OF MITIGATION
IN THE CASE OF D 46649 Cpl. DODDS H.

The Accused has been in the Army four years six months, seven months of which he spent in Newfoundland. He came to the continent D+8 or 14 Jun 44 with the Sherbrooke Fusiliers of the 2nd Army Tank Bde. He was with this regiment all through France & Belgium as a Sjt. He was sent back to C.B.R.B. for re-allocation due to his age and health

He had just returned from U.K. leave and was having a few drinks in Ghent and he ran into some of his old pals and that caused this A.W.L. for which he is very sorry, as up to now he has a clean crime sheet.

The accused hopes that the Court will take into consideration his long service and clean record when rendering its verdict.

Signed. H. Dodds Cpl

SUMMARY OF EVIDENCE

In the case of D-46649 Cpl. DODD H. of 28 Coy., 9 Bn. 3 C.B.R.G. Canadian Army Overseas.

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS: Documentary,

The Casualty Report produced as documentary evidence was read over to the accused, marked EXHIBIT"A", signed by me and attached hereto.

W Lloyd Wornell Lt
.....
(W. Lloyd Wornell) Lieut.
Officer detailed to take
the Summary of Evidence

SECOND WITNESS: Documentary,

The Certificate of Surrender under Army Act Sec. 163(1)(j), produced as documentary evidence was read over to the accused, Marked EXHIBIT "B", signed by me and attached hereto.

W Lloyd Wornell Lt
.....
(W. Lloyd Wornell) Lieut.
Officer detailed to take
the Summary of Evidence

THE ACCUSED WAS CAUTIONED AS FOLLOWS:-

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I do not wish to make a statement Sir!

THE ACCUSED DOES NOT CALL ANY WITNESSES:-

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence of the accused and that R.P. 4(c)(d)(e) and (f) have been complied with.

W Lloyd Wornell Lt
.....
(W.Lloyd Wornell) Lieut,
Officer detailed to take
The Summary of Evidence.

In the Field,
13 April 1945

Ex A
Time: Dangerously
prisoner

TE 9 CBR Bn

(Margin for filing purposes)

EXHIBIT "A"

Army Form W.3011A.

Serial No. 59

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)—OTHER RANKS.

Number of sheets to this return One & last.

Army No.	Rank	Name and Initials	Corps or Regt.	Casualty		Remarks
				Nature of Casualty	Date	
D 46649	Sgt	Dodd H	CAC	AWL from 0900 hrs 8 Apr 45 (Nat Entry)		Stellabrook
				Done		

(Date) 10 Apr 1945

Signature and appointment of Officer.

9 Bn 3 CBR Coy

(Unit)

(Bde., Div., Area, etc., with which unit is serving).

EXHIBIT B

CERTIFICATE UNDER THE ACT, SECTION [illegible]

I Lt./Col. H.W. Rick

Reg No D-46649 Rank Cpl. Name DCDD H.

REGIMENT 9 Bn. 3 C.B.R.G.

UNIT

STATIONED AT in the Field,

Surrendered himself to No B-28816 Rank Cpl. Name SHAW C.T.

of the 28 Coy, 9 CBR Bn. 3 C.B.R.G.

on the 11 Day of April 1700

at the time of his surrender he was [illegible]

or XXXXXXXXXXXXXXX

(Margin for filing purposes)

Army Form W.3011A.

FE 4 C BR Bn

EXHIBIT A

Serial No. 59

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)—OTHER RANKS.

Number of sheets to this return One & Part.

Army No.	Rank	Name and Initials	Corps or Regt.	Casualty: Nature of Casualty	Casualty: Date	Remarks
D 41642	Lt	Dodd H	CDC	Wd from 0300 hrs (Not Enemy)	8 Apr 45	Hospitalised
				Dow		

(Date) 10 Apr 1945

Signature and appointment of Officer.

9 Bn 3 C BR Gp

(Unit)

(Bde., Div., Area, etc., with which unit is serving)

This is Exhibit "A" referred to in the Summary of Evidence in the case of D46649 Cpl. Dodd H. taken before me this 13th day of April 1945

A. Lloyd Worrell Lt.

EXHIBIT "B"

CERTIFICATE UNDER THE ARMY ACT, SECTION [illegible]

I Lt./Col. H.W. Rick

Reg No D-46649 Rank Cpl. Name DODD H.

REGIMENT 9 Bn. 3 C.B.R.G.

UNIT

STATIONED AT in the Field,

Surrendered himself to Reg No B-22816 Rank Cpl. Name SHAW C.T.

of the 28 Coy, 9 CBR Bn. 3 C.B.R.G.

on the 11 Day of April 1700

at the time of his surrender he was [illegible]

on XXXXXXXXXXXXXXX

H.W. Rick

This is Exhibit "B" referred to in the Summary
of Evidence in the case of D 26649 Cpl. Dodd H.
taken before me this 13th day of April 1945.

Lt Lloyd Worrell Lt.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-46649	~~CPL.~~	DODD H.	9 Bn. 3 C.B.R.G.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For N/A ..... times.
For n/a ..... times.
For n/a ..... times.
For n/a ..... times.

Date of first entry in Field Conduct Sheet there is no entry on the MFM 6

Date of last entry in Field Conduct Sheet N/A

~~2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

*Strike out if not applicable.

~~3. The accused at the present time is under sentence for ..... for a period of ..... beginning on the ..... day of .....~~

4. The accused has been awaiting trial on the present charges for NO days in civil custody, and for 8 days in military custody, *i.e.*, 8 days in open arrest, NO days in close arrest; of which NO days were spent in hospital.

5. The present age of the accused is 34

6. The date of his attestation 8.10.40

7. The service which the accused is allowed to reckon is ~~A~~ 4 years 7 months.

8. The accused is in possession of; CVSM and Clasp

Strike the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of Corporal	~~11-9-42~~ 11-9-42
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(27652) W1.14039/3404 5m.000 7/43 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		Ex D L.C. Fine Drunkenness		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 19 day of

No. D46649 Name DODD H. | Sqn, Battery, or Company | Corps C.A.C. | Date of enlistment 8.10.40 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40(PAS/5136 (5418)

Date of last entry in Company Conduct Sheet n/a | No. and date of last drunk n/a | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc J.H. Baldwin Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks.
				CERTIFIED TRUE COPY OF MFM 6 TAKEN FROM REGIMENTAL BOOKS HELD IN MY CUSTODY.					
				(C.L. Nelson) Capt. Adjt. 9 Bn. 3 C.B.R.G.					
									Ex "C" D.L. MacDougall my president

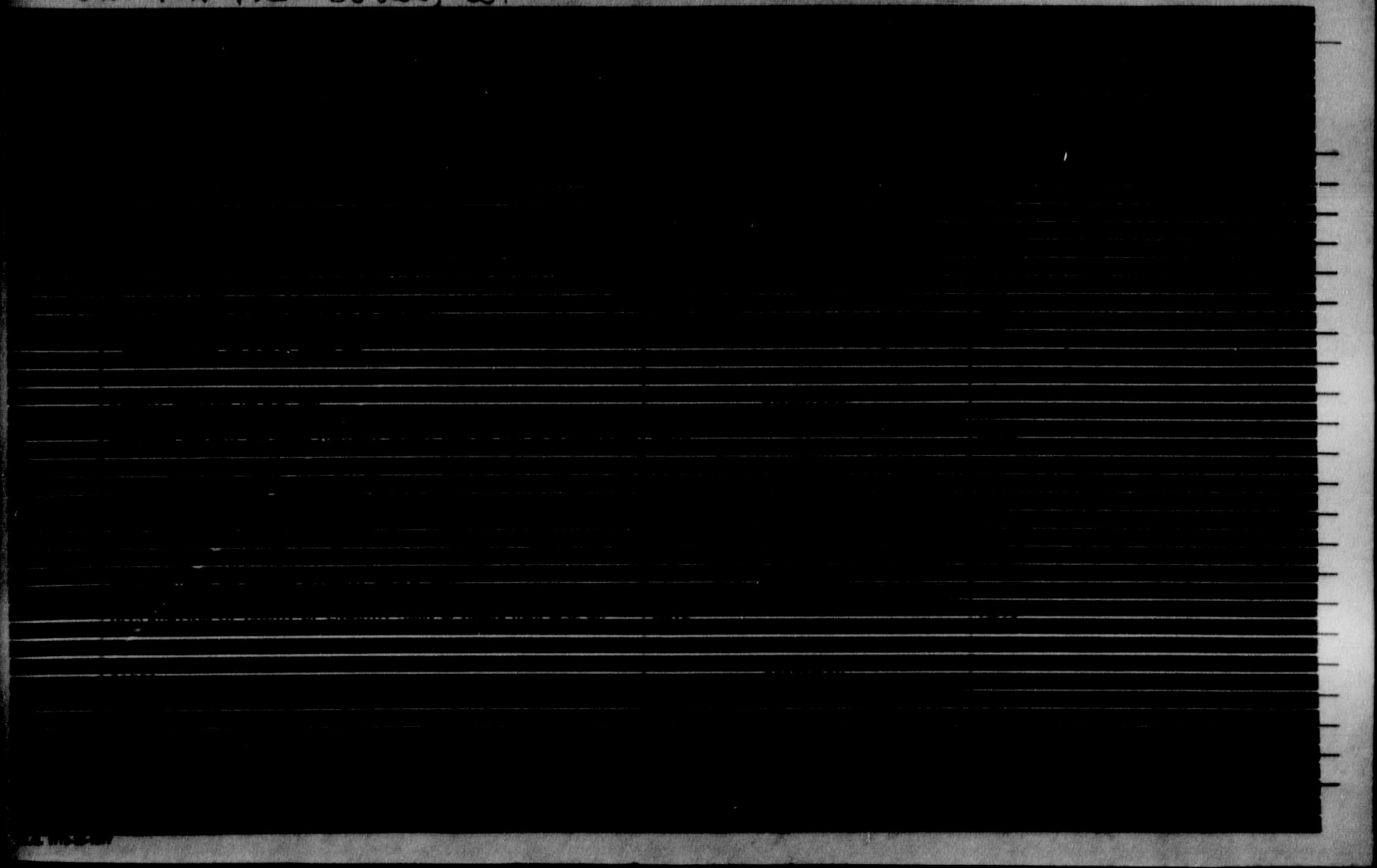
(PTO)

I hereby acknowledge that I have this date 13 APR 45
received from Adjt. 9 Bn. one copy of Charge Sheet and
Summary of Evidence relating to charge(s) of A.W.O.L.
for which I was remanded for trial by G.C.M.

To be detailed by Adjt

Lt J.D. Batson
O46649 C/O Dodd H
Lt J.D. Batson
14 Apr 45
CO Hdqrs. 3

CAC-1-71 Pte. Dodd, W.



SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H.45611 Pte Walter DODD

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA.Sec.15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

Ord. present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 37 days, of which 7½ days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of ninety (90) days and, to be put under stoppages in the amount of 11/11 cost of return to his unit.

(Sgd) ..... 3 Jul 46 (Sgd) C.E. Woodrow LT-COL
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I mitigate the sentence to read to undergo detention for a period of ninety (90) days and to be put under stoppages until the amount of 11/11 cost of return to his unit has been made up. The finding and the sentence as so mitigated I confirm but direct that he remain in detention barracks until further orders. Spd

(1. AA 57A. Delete if not used.)

(Sgd) J. Whitfield Brig

Date 8 July 46. Commanding C.R.U. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
H45611 Pte Walter Dodd	10 July 46	C.E. Woodrow Lieut

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED JUL 18 1946 CANADIAN SECTION G.H.Q.

RECORDED AT CMHQ IN AB 168 CAS-1-71

FIELD GENERAL COURT-MARTIAL

CPAM36 (In lieu of AFAB) 40/1/ & B/1666 (E 44) 4/38B

Convening Order of Colonel M.B.K. Gordon Comd 1 Cdn Repat Depot dated 2 Jul 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H.45611	Pte	Walter	DODD	4(Gen Rft) Wing, 1 Cdn Repat Depot

PROCEEDINGS REVIEWED
18 Jan 46 C.H. Tait, Maj.
REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Ord. Held in the Fd in (country) England on (date(s)) 3 Jul 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

Ord. A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns KRs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 49S, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

Ord. A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

Ord. A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1140 hours trial commences.

Ord. A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

Ord. A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans .....
The Interpreter is sworn.(1) Do you object to Sgt Winstad, R. as shorthand writer? Ans We do not
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

Ord. A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	C.E. Woodrow CBE ED	HQ CMH
Member	Capt	C.G. RICHARDSON [illegible]	1 Cdn Repat Depot
Member	Lieut	G.H. ROBERTS	1 Cdn Repat Depot
~~Judge Advocate~~			
Prosecutor	CAPT	J. DUFFIN	1 Cdn Repat Depot
Defending Offr	LIEUT	J.W. SULLIVAN	1 Cdn Repat Depot

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

Ord. A8. The accused ..... before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

Ord. A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea/s in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 49A to record proceedings. 2. RP 22, RP 23. If otherwise, delete and make appropriate record per Notes.)

Ord. A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*I. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No.(5)

(*I. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(*I. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*I. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex D, initialled and read aloud by the President.(1)

(*I. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*I. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*I. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(*I. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*I. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*I. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*I. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn. And you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans..... Do you intend to call witnesses on your behalf ?

Ans..... Are they witnesses as to character only ? Ans.....

(*I. RP 115. 2. RP 40(A), see 80(C). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*I. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*I. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*I. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No Sir.

(*I. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(2) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex C respectively.(3)

(*I. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans expending offence plea as mitigation already.(2)

(*I. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*I. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(*I. Where several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 543-566, Overseas Rls 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(b), 69(1), KR Can 566. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused H.45611 Pte Walter DODD, CIC., on strength No 4 (Gen Rft) Wing, No 1 Cdn Repatriation Depot, a soldier of the Cdn Army Overseas, is charged with:

FIRST CHARGE

SECTION 15(1)

ARMY ACT

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field absented himself without leave from 2359 hrs 22 Apr 46 until arrested at Brighton at 1930 hrs 27 May 46, thereby incurring expenses in returning him to his Unit in the amount of £0-11-11.

Absent: 34 days 19 hrs 31 mins.

Officer Commanding
No 4 (Gen Rft) Wing,
No 1 Cdn Repat Depot
(Lorne Scots)
Cdn Army Overseas.

Field
29 JUN 46

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(W.B.K. Gordon)Col
Commanding Officer
#1 Cdn Repat Depot

In the Field
2 Jul 46

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.45611	Pte		Walter	DODD	4(Gen Rft) Wing, 1 Cdn Repat Depot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (date) 2 Jul 46 endorsed by me, [redacted] " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial ; [redacted]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-General to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [redacted]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Name.) (Must be named. RP 106.)	(Unit.)
Lieut		C.E. Woodrow OBE ED	HQ CRE

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt		TO BE DETAILED BY COMMANDING OFFICER	1 Cdn Repat Depot
Lieut		TO BE DETAILED BY COMMANDING OFFICER	1 Cdn Repat Depot
[redacted]		[redacted]	[redacted]
[redacted]		[redacted]	[redacted]

On Active Service in the Fd

in England (Country.)

Date 2 Jul 46

M.K. Gordon (Signed personally. RP 105 fn 2.)

(M.K. Gordon)

Commanding No 1 Cdn Repat Depot Convening Officer.

Colonel (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (FAAS (To Secy of AFAS) AD P & S/1367 (4681))

(See overleaf for oaths and notes for use on trial.)

Ord.

MEDICAL OFFICER'S REPORT

(MR (Can) 567)

This is to certify that I have this morning medically examined

NO H-45611 PTE DODD W.

and that in my opinion he is {fit / ~~unfit~~} for "L.F."

to undergo trial by Court-Martial.

Station TWEEDSMUIR CAMP

Date 3 JULY /46

J. S. Gardiner Capt.

RCAMC
Medical Officer
"1" Wing #1 Cdn Repat Dep

Note:
(All deletions and alterations will be initialled by the M.O.)

Expense Voucher Re— Ref: KR & O (Can) 539

Reg No. H45611 Rank Pte Name Dodd, W. Unit 1 Can Repat 4 Wing

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from Brighton

Date	Particulars	Amount		
28 May 46	Escorts return fare from LONDON To Brighton	0	7	11
28 May 46	Prisoners single fare to LONDON From Brighton	0	4	0
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	0	11	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

F. Hanson Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-55 40/P & S 433 (6762)

SUMMARY OF EVIDENCE

in the case of,

H.45611 Pte Walter DODD, CIC., on strength No 4 (Gen Rft) Wing, No 1 Cdn Repatriation Depot, a soldier of the Cdn Army Overseas.

"I produce the following documents pursuant to Overseas Routine Order No 5352, which have been read over and shown to the Accused, and are attached hereto as Exhibits:"

(1) Certified True Copy of the Declaration of a Court of Inquiry held at No 4 (Gen Rft) Wing, No 1 Cdn Repat Depot, which declares that H.45611 Pte Dodd, W., absented himself without leave from 2359 hrs 22 Apr 46.
(Marked Exhibit "A")

(2) Certificate in Accordance with P.C. 2797 of 10 Apr 42 signed by Capt R J Stinson in London on 29 May 46, which declares that H.45611 Pte Dodd W., was arrested at Brighton at 1930 hrs 27 May 46.
(Marked Exhibit "B")

(3) Expense Voucher (CMHQ 100:55) signed by Capt R J Stinson dated 28 May 46, which declares that expenses were incurred in returning H.45611 Pte Dodd W to his Unit from Brighton in the amount of £0-11-11.
(Marked Exhibit "C")

C.E. Ennis
.....
(C.E. Ennis) Lieut RCA.,
Officer detailed to take the Summary of Evidence.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but anything you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused reserves his defence.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence, consisting of one(1) page, was taken down by me in the presence and hearing of the Accused, and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with."

C.E. Ennis
.....
(C.E. Ennis) Lieut RCA.,
Officer detailed to take the Summary of Evidence.

Field

29 JUN 46

Exhibit "A"

A

RECORD of the Declaration of a Court of Inquiry assembled at 0900 hrs on the 15th day of May 1946, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H 45611 Pte DODD, W.

DECLARATION

The Court declare that No. H 45611 Pte DODD, W.
No 4 (Gen Rft) Wing, No 1 Cdn Repat Depot
illegally absented himself without leave from No 4 (Gen Rft) Wing, No 1 Cdn Repat Depot
at 2359 hrs on the 22nd day of April 1946,
that he is still so absent, and that on the 15th May 1946 he was deficient, and
that he is still deficient of the following articles :—

ARTICLES		VALUE 100 % £ s d	ARTICLES	VALUE 75 % £ s d
Blouse Battle Dress	2	2 7 0		1 16 2
Boots Ankle, prs	1	1 4 5		18 4
Beret with badge	1	5 5		4 2
Gloves Woollen, prs	1	2 1		1 6
Shirts Angola, drab	2	16 2		13 6
Trousers Battle Dress	2	2 18 7		2 3 10
Totals		7 15 8		5 17 6

Capt R.C.O. O'Hagan, CIC — President

Lt A.J. Macdonald, CIC — Member

Signed at 4 (Gen Rft) Wing, No 1 Cdn Repat Depot — Member

this 16th day of May 1946

Signature of Commanding Officer C.W. Barclay, Major A/OC

Certified true copy A.J. Macdonald Lieut.
Signature of Officer having custody of original record

3 60B HFB 375—AFB 115 40/P&S/392 (HP03)

CERTIFICATE IN ACCORDANCE WITH P.C. [illegible] of 10 [illegible] 45.

I Certify that No. H-45611 & Rank Pte. Name Dodd W.

Unit No. 1 Cdn. Repat #4 Wing was arrested at Brighton (Place)

at 1930 (Hour) on 27-May.46. (Date) and that at the time of his arrest, he was wearing (Military Uniform) or (XXXXXXXXXXXXXX) Signature of Provost Marshal, Assistant Provost Marshal, or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable.)

(R.J. Stinson) CAPT.
A.A.P.M. C.M.H.Q.

London
29-May.46.

THE CASE OF H.45611 Pte Walter DODD, CIC.

(i) LIST OF WITNESSES FOR PROSECUTION

Nil

(ii) LIST OF WITNESSES FOR DEFENCE

Nil

(iii) LIST OF EXHIBITS FOR PROSECUTION

(a) Cert True Copy of the Declaration of a Court of Inquiry concerning the absence without leave of H.45611 Pte Dodd W.
(Marked Exhibit "A")

(b) Certificate in Accordance with R.C. 2797 of 10 Apr 42, concerning the arrest of H.45611 Pte Dodd, W.
(Marked Exhibit "B")

(c) Expense Voucher (CMHQ 100:55) concerning expenses incurred in returning H.45611 Pte Dodd W, to his Unit.
(Marked Exhibit "C")

(iv) LIST OF EXHIBITS FOR DEFENCE

Nil

(v) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE.

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence, taken in the Field preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

W. Dodd
(H.45611 Pte Dodd, W.)

(vi) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my Trial.

I desire the services of.....
if he is available.

W. Dodd
(H.45611 Pte Dodd, W.)

Signed in the Field

This 29 day of JUN 46

Plea attached at E3

DODD W.

Enlisted in June 40 & came overseas in Feb 43. Saw action on the Continent from 8 July 44 until the end of the war & finally returned to the U.K. in May 45. Not having had leave for a considerable time, Pte Dodd applied for a 48 hr pass in Apr. 46 & was refused. He took time off and as a result he is being Court martialled now. He has had a lot of domestic trouble back in Canada & actually started divorce proceedings in Feb of this year. At present these proceedings are at a standstill & he is anxious to return home as soon as possible to straighten things out. Pte Dodd has been a good soldier & did not shirk his duty when needed most. I ask the court to take this into consideration when sentencing him & also the fact that he has been under close arrest since 27 May awaiting trial. ~~I provide, the~~ 37 Days

Exhibit "B"

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
H.45611	Pte	DODD, W	1 Can Repet Depot

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 ~~months~~	* Since Enlistment
For A.A. 15(1)	times	4 times
For A.A. 40	times	1 times
For	times	times
For	times	times
For	times	times

~~Number of occasions of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused~~

2. ~~The accused has not been previously~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. ~~The accused at the present time is under sentence for~~

~~beginning on the~~

4. The accused has been in confinement, awaiting trial on the present charges, for N/K days in civil custody, and 37 days in military custody, making a total of 37 days, of which N/K days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ record of service is 29 yrs 4 mos

6. The date of his ~~attestation~~ specified in his record of service is 11 Jun 40

7. ~~The~~

8. ~~The accused is entitled~~

9. ~~The accused is entitled~~

10. The accused ~~is in possession of or entitled to any military decoration or reward and~~ is in possession of or entitled to (*state any military decoration or reward*). OVSM & CLASP - 17-44. F.S. O.C.F.

11. (~~If the accused is a warrant officer.~~) ~~The accused before he was made a warrant~~

12. ~~(In the case of an officer.) The accused holds the~~

~~and on his regiment (or corps or department)~~

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. H.45611 *Rank* Pte *Name* Dodd, W. of 1 Can Repat Depot Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating their convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	26-1-46	A.A. 15(1)	120 days detn	40 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 5 day of July 46

C. E. Ennis, Lieut, RCA
Legal Officer
4 Wing 1 Can Repat Depot

In the rank of ____ 19__
In the rank of ____ 19__
In the rank of ____ 19__

(INSTRUCTION—If any entry is made in any of the above footnote cases to record how the sentence was to be carried out, or that the punishment awarded has been remitted, or otherwise varied, the authority for such entry must be quoted.)

Date of Promotion

No. H. 4561 Name DODD, W | Sqn, Battery, or Company | Corps CIC | Date of enlistment 11-6-40 | GC Badge No. Tan Patrol "C" Ltd. | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/138 (T919)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature of GC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		A.A. 15(1)		5 days C B	30-7-43		
"		"		A.A. 15(1)		144 hrs F P	30-4-43		5 d p tot
"		"		A.A. 15(1)		7 days C B	16-5-44		7 d p tot
"		"		A.A. 40		7 days C B	4-11-44		7 d p forf.
"		"		A.A. 15(1)		35 days pay	8-1-45		35 d p tot
"		"		A.A. 15(1)		120 days detn 28-1-46		F.C.C.Y.	367 d p tot
						GRANTED NO DAYS REMISSION 17-2-46			

CERTIFIED TRUE EXTRACT FROM ORIGINAL MFM 4 HELD IN MY POSSESSION

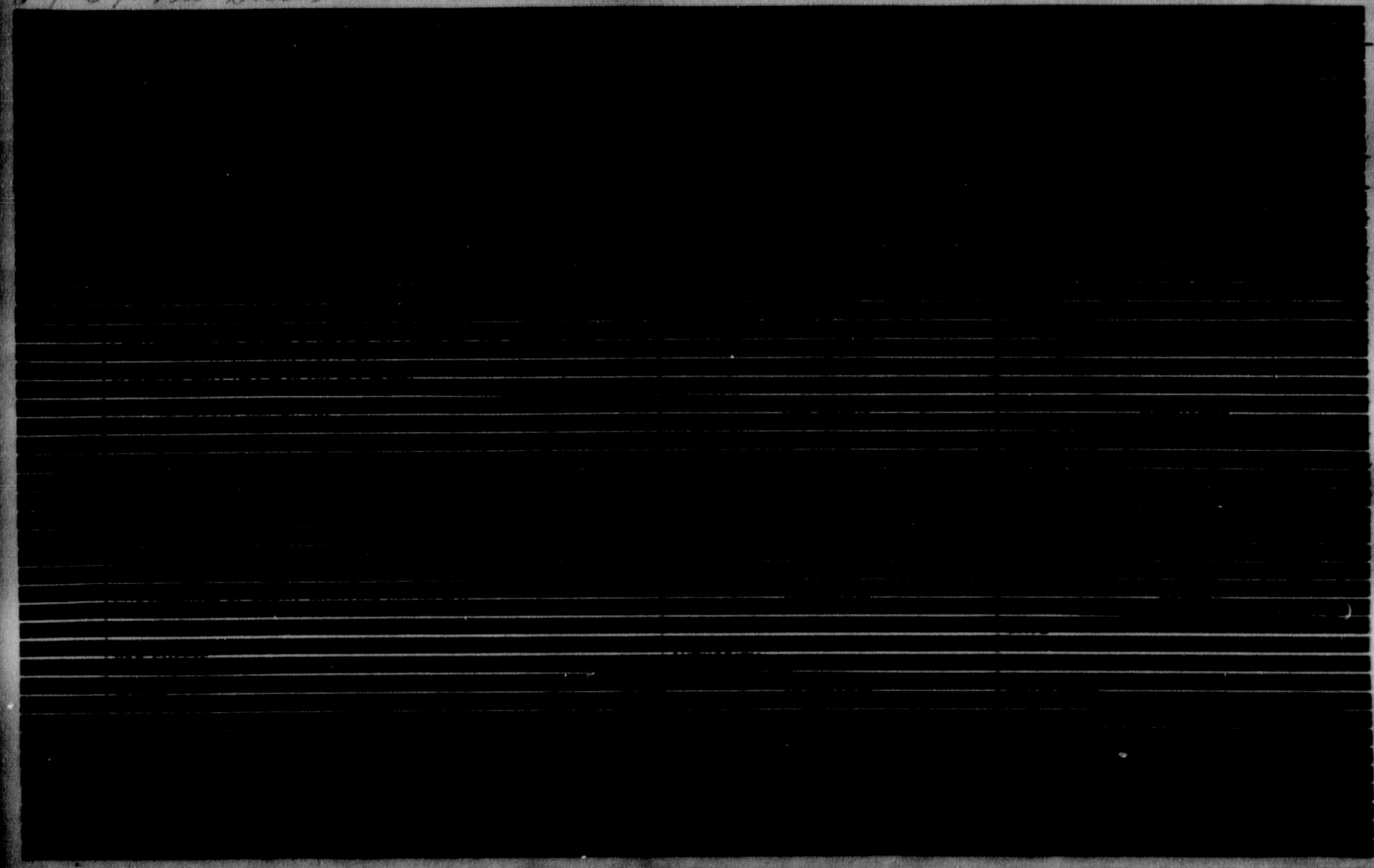
C.E. Ennis

(C.E. Ennis) Lieut RCA.,
Officer having custody
of original documents.

29 JUN 46

(PTO)

2 Y-59. Pte. Dodd, A.



SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H 45611 Pte (L/Cpl) Walter DODD 1 Cdn Repat Dep

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 153, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of one (1) months each to be put under stoppages in the amount of 11/11 cost of return to his unit.

(Sgd) ... Judge-Advocate, if any. 28 JAN 46 Date awarded. (Sgd) C E Woodrow President. (RP 45, 50.) Lt Col.

(See back of Convening Order as to re-assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding

PART III. DECISION ON CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 562-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

~~I suspend the sentence to remit~~ To undergo detention for a period ~~of~~ ~~days~~ ~~months~~ and I confirm the finding and the sentence ~~for the period of~~ ~~days~~ ~~months~~ (1)

I ~~direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) ... Confirming Officer.

Date 29 Jan 46 Commanding Lt Gen CRU.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
H45611 Pte (L/Cpl) Walter Dodd	1 Feb 46	WC Hagan Lt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 3 Dec 1946 JAG BRANCH CMHQ

RECORDED AT CMHQ IN AE 168 27-29

FIELD GENERAL COURT-MARTIAL

(CPA96 (1st Rev of AFA3) 60/P & S 1608 (3664))

Convened by Order of Brig T J Rutherford Comd "E" Gp CRU dated 25 Jan 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H 45611	Pte	L/Cpl	Walter	DODD	1 Cdn Repat Dep

PROCEEDINGS REVIEWED

13 Feb 46 R J Brody Major

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 28 Jan 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (2) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~were~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~were~~ brought before the Court. At 1110 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to as interpreter?~~ Ans ~~No~~

~~The interpreter is sworn.(1)~~ Do you object to E100409 Sgt O'NEILL as shorthand writer? Ans No Sir

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 23, 24, 68, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	C E WOODROW OBE ED	HQ, CRU
Member	CAPT	E H LOVE	1 CDN REPAT DEP
Member	LIEUT	H BERNHARDT	1 CDN REPAT DEP
~~Judge Advocate~~			
Prosecutor	LIEUT	W E HAGAN	1 CDN REPAT DEP
Defending Offr	LIEUT	A J MACDONALD	1 CDN REPAT DEP

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See DI p 3.)

A8. The accused ... before arraignment make(s) (no) ~~not~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding as recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~were~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~did~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 30, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ete, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No Sir (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if charged to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by employment with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No Sir
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(2), and certified true copy (copies) of Conduct Sheet(s)(3), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(4)
(*1. MFB 355 or AFB 296. 2. MSM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Requesting appeals plea as mitigation attached (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 96(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, H45611 Pte (L/Cpl) Walter DODD, CIC, on the strength of No 1 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE

SECTION 15 (1)

ARMY ACT

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in tha t he,

in the Field, absented himself without leave from 2359 hrs 5 Jun 45, until apprehended by the Canadian Provost Corps at Hove, Sussex, at 1600 hrs 31 Dec 45, thereby incurring expenses in returning him to his unit in the a mount of £0-11-11.

Absent: 208 days, 16 hrs, 1 min.

A/Lt Col

Commanding Officer
No 1 Cdn Repat Depot
(Lorne Scots)
Canadian Army Overseas.

Field,

.....14.Jan 46

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(T J RUTHERFORD) Brig
COMD
"E" Gp CRU

In the field
25 Jan 46

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H 45611	Pte	L/Cpl	Walter	DODD	1 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offences set forth in the Charge Sheet attached and on (date) 25 Jan 46 endorsed by me, [illegible] "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court-Martial; [illegible]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt Col	C E Woodrow OBE ED	Hq CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by OC 1 Cdn Repat Dep	1 Cdn Repat Dep
Lt	To be detailed by OC 1 Cdn Repat Dep	1 Cdn Repat Dep

WAITING MEMBER.

[illegible]

JUDGE-ADVOCATE.

[illegible]

On Active Service in the Fd

in England (Country.)

Dat 25 Jan 46

(Signed personally - RP 106 (F).)
(T J RUTHERFORD)
Brig (Rank.)
Commanding "E" Gp CRU
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 92. (In lieu of AFA 3) 40-P & S-1697 (41-43)

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Con 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 762, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(C)), any objections (*RP* 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 86(C), 87(C), 92(C) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or J A* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(*C*).)

(v) Closing address (on *matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(C), 92(C) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(C), 92(C) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 40(*E*), *KR Con* 565(*a*).)

(vii) Summing up by *J A*, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or *J A*, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or *J A*, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Con* 557.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Con* 560. *As to certified copies of regimental books see AA* 163 (1) (*g*) (*ii*).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 52(8), *RP* 116(*C*), *MML p* 759.)

4. The President or *J A*, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

Obit

Pte W. Dodd H 72611

28 Jan 46

Exhibit "A"
CEF

SUMMARY OF EVIDENCE

in the case of,

H45611 Pte (L/Cpl) Walter DODD, CIC, on the strength of No 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas.

"I produce the following documents, pursuant to Overseas Routine Order No 5352, which have been read over and shown to the Accused, and which are attached hereto as Exhibits:"

(1) Certified True Extract from the original MFM 4 concerning H45611 Pte (L/Cpl) Dodd W., which declares that the Accused absented himself without leave from 2359 hrs 5 Jun 45.
(Marked Exhibit "A")

(2) Certificate in accordance with PC 2797 of 10 Apr 42 dated at London 2 Jan 46 and signed by Capt R.J.Stinson, DAPM CMHQ, which declares that H45611 Pte Dodd W. was arrested at Hove, Sussex, at 1600 hrs 31 Dec 45.
(Marked Exhibit "B")

(3) Expense Voucher (Ref: KR&O (Can) 539) dated 1 Jan 46 and signed by the Officer Issuing Railway Warrant and Expense monies No 6 Area Provost Coy., Cdn Provost Corps, which declares that expenses were incurred in returning H45611 Pte Dodd W. to London from Brighton in the amount of £0-11-11.
(Marked Exhibit "C")

.....
(J.F. Hodgins) Capt
Officer detailed to take the Summary of Evidence

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused reserves his defence.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the Accused, and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with."

Field,

.14..Jan 46

.....
(J.F. Hodgins) Capt
Officer detailed to take the Summary of Evidence

Exhibit "A"

Certified True Extract
from original MFM 4 re
H45611 Pte Dodd W.

UNIT	RECORD OF ALL CASUALTIES, etc.	PLACE OF CASUALTY	DATE OF CASUALTY	ARMY RANK	AUTHORITY
L&WR	AWL from 2359 hrs	21 A Gp	5 Jun 45	L/Cpl	24 / 45

Certified True Copy of an original entry in the original MFM 4 concerning H45611 Pte Dodd W., held in my possession.

16 Jan 46

J.F. Hodgins Capt.
(J.F. Hodgins) Capt
Officer having custody
of original document

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42. Exhibit B"

I CERTIFY THAT NO. H-45611 Rank Pte. Name Dodd, W.
Unit 6th CIB, 2nd Div. Toronto Scottish Regt. (CAOF) was arrested at Hove. Sussex. (Place)
at 1600 (Hour) on 31-Dec.45. (Date) and that at the time of his arrest he was wearing (Military uniform) or [redacted]. Signature of Provost-Marshal, Assistant Provost-Marshal, or other Officer or the Commanding Officer of the portion of H is Majesty's Forces or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest. (Strike out part inapplicable.)

CAPT.

London
2-Jan.46.

D.A.P.M. C.M.H.Q.
(R.J.Stinson)

Exhibit C-1

Expense Voucher Re—

Ref: KR & O (Can) 539

Reg No. H-4561 Rank Pte Name Dowell Unit #1 C.G.R.U.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London from Brighton

Date	Particulars	Amount		
1 Jan 46	Escorts return fare from LONDON To Brighton		7	11
	Prisoners single fare to LONDON From Brighton		4	
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	0	11	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R P Hammond Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMBQ 100-55
40/P & O 483 (6762)

Exhibit E3
Dodd

H45611 Pte Dodd. W.

SERVICE.

Date of enlistment 11th June 1940.
To The Lake Superior Regt

Posted overseas
T.O.S. U.K. Sept 43.
Posted to Toronto Scottish 20 Nov
repeated 2nd to Apr. 42.
T.O.S. Toronto Scottish 17 June 43.
Has served with them continuously
and served in both France and England
has 2 gun numbers

Outside of minor convictions for
A.W.L. his record has been clean
since coming overseas.

PERSONAL

Pte Dodd was married in Canada
in December 1940 and spent three weeks
with his wife. He then rejoined his unit
The Lake Superior Regiment.

When next he came on leave he could
not find his wife, and stayed A.W.L.
looking for her. Upon his return to unit
he saw his C.O. and Paymaster, who got

PTE DODDS.

in touch with Ottawa and payment of his wife's dependants allowance was stopped.

After he came overseas he heard that his wife had a child by another man. He applied to the Legal Aid office in London to start divorce proceedings.

His Padre and the Legal Aid officer convinced him that he should try to make a go of it with his wife, and consequently have stopped her allowances.

Just before he came on leave to England he heard from his father that his wife was living with another man again.

He was determined that his wife would get no further support from him.

Two days he had no time before going on leave to stop his wife's allowance, and it showed on his pass that he was entitled to leave and if he went A.W.L. his wife's allowance

11-45-61. PTE DODDS.

would automatically stop, so feeling as he did, he stayed away.

His one ambition in life at the moment is to get home, get a licence and start over again.

SUMMARY.

This soldier has given good service with his unit as a gunner, and until his coming on leave to England, was in every respect a good soldier. His point score is 11 plus 15, and if he was repatriated, he would have every chance to start again as he wishes.

Exhibit "B"/
CEE

ARMY FORM B.2196

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
H45611	Pte(L/Cpl)	DODD W.	No 1 Cdn Repat Depot

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 19–.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* ~~Within last 12 months~~ CEE	* Since Enlistment
For AA SEC 15 (1)	times 4	times
For AA SEC 40	times 1	times
~~FOR~~ CEE	times	times CEE
~~FOR~~ CEE	times	times CEE
~~FOR~~ CEE	times	times CEE

~~Number of instances of gallantry or distinguished conduct.~~ CEE

or

~~There are no entries in the conduct sheets of the accused~~ CEE

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 77 of the Army Act are set out in the schedule annexed to this statement~~ CEE

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ CEE

~~beginning on the day of~~ CEE

4. The accused has been in confinement, awaiting trial on the present charges, for 0 days in civil custody, and 28 days in military custody, making a total of 28 days, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 28 yrs 11 mos ~~CEE~~

6. The date of his ~~commission~~ CEE attestation specified in his ~~attestation paper~~ record of service is 11 Jun 40 ~~CEE~~

~~7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve~~ CEE

~~8. The accused is entitled to deferred pay or gratuity in respect of service~~ CEE

~~9. The accused is entitled to reckon service for the purpose of determining his pension, as~~ CEE

10. The accused ~~is in possession of, or entitled to,~~ CEE is in possession of or entitled to (*state any military decoration or reward*) CVSM & CLASP, 1939-45 STAR, FRANCE-GERMANY MEDAL

~~11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ CEE

~~12. (In the case of an officer.) The accused holds in the army the rank of , dated~~ CEE

~~and in his regiment (or corps or department) the rank of dated~~ CEE

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. H-45611 Rank Pte (L/Cpl) Name Dodd, W. of 1 Con. Repat Depot ~~Regiment~~ CEE (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		CEE		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28 day of January 46

C. E. Ennis, Lieut, RCA
Legal Officer
4 Wing, 1 Con. Repat Depot

15. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of L/Cpl 10 months. Date of Promotion 28 Apr 45

~~In the rank of~~ CEE ~~CEE~~

~~In the rank of~~ CEE ~~CEE~~

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such records as are available and the paragraph inserted accordingly.)

H-45611

No Name DODD, Walter Sqn, Battery, or Company Corps CTC Date of enlistment 11Jun40 GC Badges "Expiree's" "C" Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No One. | Signature OC Company, etc | Character

MFM 6 (AFB 122) 40/PAS/158 (5a88)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte.		A.A. Sec 15 (1) AWL	Doc.	8 days C.B.	30Mar43		
Field		Pte.		A.A. Sec 15 (1) AWL	Doc.	6 days F.P. Forf 8 d.p.	3Apr43		
Field		Pte.		A.A. Sec 40 (Conduct to the Prej) etc,	Doc	7 days C.B. Forf 7 d.p.	16May44		
Field		Pte.		A.A. Sec 15 (1) AWL	Doc	7 days C.B. Forf 7 d.p.	4Nov44		
						Awd Forf 35 d.p.	8Jan45.		

CERTIFIED TRUE EXTRACTS FROM ORIGINAL MFM 4 HELD IN MY POSSESSION.

16 Jan 46. (J.F. Hodgins) Capt.
Officer having Custody of Original Document.

(PTO)

THE CASE OF H45611 Pte (L/Cpl) Walter DODD

(i) LIST OF WITNESSES FOR PROSECUTION

Nil

(ii) LIST OF WITNESSES FOR DEFENCE

Nil

(iii) LIST OF EXHIBITS FOR PROSECUTION

(a) Certified True Extract from the original MFM 4 concerning the absence without leave of H45611 Pte (L/Cpl) Dodd W.
(Marked Exhibit "A")

(b) Certificate in accordance with PC 2797 of 10 Apr 42 dated at London 2 Jan 46 concerning the arrest of H45611 Pte Dodd W.
(Marked Exhibit "B")

(c) Expense Voucher dated 1 Jan 46 concerning expenses incurred in returning H45611 Pte Dodd W. to his Unit.
(Marked Exhibit "C")

(iv) LIST OF EXHIBITS FOR DEFENCE

Nil

(v) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence, taken in the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

W. Dodd
.....
(H45611 Pte (L/Cpl)Dodd W.)

(vi) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of.....
if he is available.

W. Dodd
.....
(H45611 Pte(L/Cpl)Dodd W.)

Signed in the Field,

this 17 day of Jan 46.

TT-90
GNR DODDATTO G.H.

See K-26 for lot case

TT-90

FIELD GENERAL COURT-MARTIAL

CFA96 (in lieu of AFA3) 40/P.S./1608 (2864)

Convened by Order of Brigadier J.C. Stewart Comd "C" Gp, CRU dated 28 Oct 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-11944	Gnr 11 Inf Bde HQ 7th Mountain Regt	Gilbert Harvey	DODDATTO	No 1 CARU

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 28 Oct 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

R A1. The President, Members, waiting Member, ~~Deputy~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

R A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) R The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

R- A3. The Court is opened. The accused is (are) brought before the Court. At 1600 hours trial commences.

R A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

R ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with~~ R ~~summarily by the Offr.~~(2)

(1. KR Con 537. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

R ~~A5. President to accused: Do you object to as interpreter? Ans~~

R ~~The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~

R ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 187 MML p 742.)

R. A7. The President, Members, ~~Judge-Advocate~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	D.L. Redmans	HQ CRU
Member	Capt.	R.T. Webb.	1 CARU.
Member	Capt.	T.R. Arnold.	1 CARU
~~Judge-Advocate~~			
Prosecutor	Capt	J.H. Kelly	1 CARU
Defending Offr	Lt	H.S. Barber	1 CARU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D/ p 2.)

R A8. The accused before arraignment make(s) (no) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

R A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 3. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is sworn and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 5 D, B & C.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-11944 Gnr DODDATTO, G.H.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Guilty	Guilty	
2nd	AA Sec 8(2)	Guilty	Guilty	
3rd	AA Sec 40	~~not~~ Guilty	Guilty	except that he was not wearing an aperture field service cap
4th	AA Sec 40	Guilty	Guilty	
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

R At present under sentence for 2 yrs Hard Labour & R.D. and not fully served beginning on (date) 10 Sept 1943.(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a Period of Two (2) months and to be put under Stoppages of pay until he has made good £3-3-5 the expenses of his trial & Costs

28 Oct 43 (Sgd) [signature] President. (RP 45, 50.)

Date awarded. Judge-Advocate, if any.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(1), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 30/Oct/43 (Sgd) [signature] Commanding J.C. STEWART Brigadier, Commanding "C" Group Gds. Mountaining Div. [illegible]

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B11944 Gnr Doddatto G.H.	31 Oct 43	[signature] Lt-Col for C.O. No 1 C.A.R.U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO - SIR (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35ᵛᵉ, fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

R ~~B3. The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his~~
R ~~(their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they)~~
R ~~change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

R B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by vce of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO SIR (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

R D2. The Prosecutor makes (~~no~~) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE ATT
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

R D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not~~
R ~~establish a prima facie case against the accused on the charge(s).(2) The Court~~
R ~~is closed, and considers the submission (3). The Court is re-opened, and the President announces that the submission~~
R ~~is disallowed on the charge(s), and allowed on the~~
R ~~charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on~~
R ~~the latter charges).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. I'll make a statement later Do you intend to call witnesses on your behalf ?
K Ans. NO SIR Are they witnesses as to character only ? Ans.
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AB5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA when directed by RP 95(C).*)

K D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened. NOTE-ATT
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(2) (c), RP 45, 120(A).* 2. *AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

R D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below. Record Form B cards

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. I wish to call Capt Keller as to character
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)
NOTE-ATT

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true
K ~~copy~~ (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport
R to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *AFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Only say my Wife & Offspring
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*) NOTE-ATT

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence (1). The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 43, 44 and its groups, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 40(D), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see reverse of back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, B-11944 Gunner Gilbert Harvey DODDATTO, Royal Canadian Artillery, on the strength of "P" Training Wing, No 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:

WHEN ON ACTIVE SERVICE,

1st Charge. A.A. Sec 15(1) ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Bordon, Hants., while undergoing Field Punishment, did absent himself without leave from 1300 hours 25 September 1943 until apprehended by the Canadian Provost Corps on Argyle Street, Glasgow, Scotland at 1040 hours 18 October 1943, thereby incurring costs of apprehension and return to Unit in the amount of £3-3-5.
(Absent 22 days 21 hours 40 minutes)

WHEN ON ACTIVE SERVICE

2nd Charge. A.A. Sec 9(2) USING THREATENING LANGUAGE TO HIS SUPERIOR OFFICER,

in that he,

in the Police Box Central Station, Glasgow, at about 1050 hours 18 October 1943 on being questioned by A-28209 Cpl Busch, R.E., Canadian Provost Corps, threatened this N.C.O., saying: "I will get evan with you, you fucking bastard".

WHEN ON ACTIVE SERVICE,

3rd Charge A.A. Sec 40 CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

on Argyle Street, Glasgow, Scotland, at about 1040 hours 18 October 1943 was improperly dressed, i.e., was wearing a collar and tie, with his battledress unbuttoned at the neck and was wearing an Officer's Field Service cap.

WHEN ON ACTIVE SERVICE,

4th Charge. A.A. Sec 40 AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

on Argyle Street, Glasgow, Scotland, at about 1040 hours 18 October 1943 was inpossession of a document purporting to be a genuine leave pass, well knowing that it was not genuine.

Bordon, Hants.,
25 October 1943.

W.A. Townsley

(W.A. Townsley) Colonel,
Commanding Officer,
No 1 Canadian Artillery Reinforcement Unit

To be tried by Field General Court Martial

BRIGADIER,
Commanding "C" Group, Cdn Mft Units.
(Convening Officer)

Bordon, Hants,
28 Oct 43.

Medical Officers' Certificate
K.R. (Can) Para 557

I certify that I have this morning examined No B117444 Gnr. Deddato.G.H.
(Rank) (name)
of #1. Cdn Arty. Base Unit and in my opinion he is fit to undergo
trial by Court Martial.

Station Field.

Date 28. Oct 43.

Sgd. Hurtkoe
(Medical Officer)

FIELD GENERAL COURT-MARTIAL

CFA36 (In lieu of AFA8)
40)P&R/1697 (2958)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) apptnt, A/rank or A/apptnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptnt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-11944	Gnr	Gilbert Harvey	DODDATTO	No 1 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 28 Oct 43 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable that the order hereinafter mentioned should be duly carried into effect unless it is forthwith confirmed and put in execution~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I hereby direct as follows: (a) that the offence(s) set forth in the said Charge Sheet(s) be tried by the said Court; (b) that~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I hereby appoint as Judge-Advocate thereof the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-col	D.L. REDMAN		HQ, CRU

MEMBERS.

Captain	From		No 1 CARU
Lieutenant	From		No 1 CARU
(Rank.)		(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

Date 28 Oct 43.

(Signed personally. RP 105 fn 2.)

BRIGADIER, (Rank.)

Commanding "C" GROUP, CDN RFT UNITS.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

was looking right at Cpl Brush. It could not possibly have said it to anyone else

The case for the Prosecution is closed

NOTE: Evidence for the Defence
D 6 1st witness for the Defence

The accused being duly sworn states Bradshaw and I came out of the Y.M.C.A. on Argyle Street. L/Cpl Fowler called me over the actual if I had a pass. I showed it to me. He checked me for my tie. He said nothing about a cap. This is the cap I was wearing (Marked Ex 1) I bot it in Leeds in a store. It was sorden to me as an artillery. It was bot for 2 crowns. I was taken to the Police Box. I was questioned by Cpl Brush was asking Bradshaw about the officers and some caps he was wearing and about his civilian coat and other things. Bradshaw refused to answer. Cpl Brush said to Bradshaw "I'll take you outside and ~~beat~~ daff off my tunic to you" No one threatened me. I was there about half an hour waiting for the truck. I deny that I said to Brush. "I will get even with you you fucking bastard" or any words of that nature. I said nothing whatever to Cpl Brush in the Police Box. I had never seen Cpl Brush before

Cross Examined by the Prosecution

Cpl Brush never asked me any questions

entrance the street or on the Police Box. No one asked me any questions on the Police Box.

The Lucas pay telephone is closed.

The Prosecution addresses the Court saying that under A A 5-6 Court may find two words in a charge insufficient instead of Threatening and may make a special finding leaving out the offensive word. He admits he cannot prove it to be an offensive word.

MM

Trial of B 11944 Pte F. H Diddetto 1 C Co R.C.
Page 1
The accused when arraigned pld Guilty to the 1st and 4th Charges. and note Guilty to the 2nd and to the 3rd charges.
NOTE D 3 Evidence for the Prosecution on 2nd and 3rd charges
1st witness for the Prosecution
A 2842069 Cpl R. C Bush. of C Prov C being duly sworn states
I recognize the accused. On date 18th Oct 143 I was on Argyle Street Glasgow at about 1040 hrs, I walking my patrol I met the accused. I didnt like his attitude or the appearance of his pass. I told the pattol to take him to our head quarters. I myself took the accused to the Police Box in Central Station I met them there at 1045 to 1050 hrs. I questioned the accused. His attitude was insolent and arrogant. I was asking him as to when he had left his unit and when he had been paid. He made the statement "I'll get even with you you fucking bastard" He was in a temper at the time. when he assumed that attitude I became I decided to take him to my officer and have him questioned. L/Cpl Forster was with me while I was questioning him
when I saw the accused first at 1040 hrs on Argyle Street he was improperly dressed wearing a collar and tie and his shirt was open at the neck. He was wearing an officers Red - Blue Field Service cap with the buttons altered. The ordinary ~~copper or brass~~ brought O.R. buttons were on the cap. The cap was of very good quality, which I have seen Officers wear such caps.
Cross examd by Acj Officer
There were 2 constables detained in the Police Box while I was questioning the
(OVER)

accused. I asked question from the accused and then some question from the other whose name was Eric Bradshaw. I am certain that it was the accused who when I asked him about his Pay Book. who said to me "I will get even with you, you fucking bastard. and who was wearing the officers cap and had a collar and tie Bradshaw had a checkin raincoat. I had known Bradshaw before

2nd witness for the Prosecution

4-3-5-98. Cpl Jack Forbes of C Prov. C. being duly sworn states

I recognise the accused. at 1040 hrs 16th Oct I was on duty in Cargate Street Glasgow. I met the accused. He was ordinary dressed. He was wearing a collar and tie, about 3 buttons of his battle blouse were undone. I asked for his pass. He produced one. I was not satisfied with it. He said he had I took him to the Police Box in Initial Station where Cpl Busch met me and he questioned the accused. The accused took objection to being questioned and I was standing two feet from him and I heard him say to Cpl Busch "I'll get even with you, you fucking bastard. when he said this the accused appeared angry. He put a lot of venom into it.

Cross examined by Mr Oppie

I had authority to take accused to the Police Box. Cpl Busch was asking accused about his Railway ticket and Railway Card Busch was standing 6 to 8 ft away. Busch was quite angry too and he was talking louder than the accused. I did not hear the question asked by Busch immediately before accused made the remark charged with and

CANADIAN WOMEN'S YMCA ON ACTIVE SERVICE

NOTE D 6 My Page 5

Address of Ag Officer in Trouble

Cpl. Rusch states that two of his patrols while on duty questioned him as to what they should do ~~with~~ with two persons whose passes they had checked and thought faulty.

Cpl Forester states that without consulting anyone he took Mr. Doddato to the police box.

Cpl. Forester also states that Cpl. Rusch was angry with the other prisoner.

No one heard Cpl. Rusch ask ~~a question~~ Mr. Doddato a question, Cpl. Forester was watching the door. Therefore

PLEASE WRITE ON BOTH SIDES

CANADIAN WOMEN'S WAR WORK YMCA

NOTE D 6 MW Page 6

ON ACTIVE SERVICE

2.

he could not see Gnr. Oddatto make the statement. and even if the alleged statement was made, had no reason to believe it addressed to Cpl. Bush.

I The cap worn by Gnr Oddatto confirms unit R. O. 2366 and circular letter 256

~~I implore the court~~

May the court carefully consider this evidence before passing judgement.

K L Parker Lt.

PLEASE WRITE ON BOTH SIDES

Characterizations

Capt F H Kelly of 1 C a R H being duly sworn states

I am Basil ~~Carter~~ Capt of "D" Batt 1 C.a.R.H.

I have known accused since last Spring when he came into my Batt. for 3 mos last summer he was on a Commando course - He did well on it, Behaved himself and got into no trouble. Since then he has got into trouble.

NOTE
E 1

Sworn at B 11944 Pte. F H Woodcatto
1 C a.R.H.

Page 6 NOTE E 3

TO THE PRESIDENT AND MEMBERS OF THE COURT

THIS IS A PLEA OF MITIGATION ON BEHALF OF B-11944, GNR. GILBERT HARVIE DODDATTO.

On inspection of the accused's papers, I find that he has been in several difficulties in the past.

However, during the summer for a period of three months, he was on a commando course, where he did his best to redeem himself and be a good soldier.

At the end of the course his pals were sent to NO. 10 Training Company. The accused was left behind and felt terribly disappointed. The result is the present predicament in which the accused finds himself.

The accused begs the indulgence of the court, and states that on completion of his punishment, he will, if given the chance, again prove himself a soldier.

The accused also states that after completion of his sentence, he intends to marry and to settle down.

On deciding the price this man is to pay, now you take the above facts into consideration.

H. Barker L.

NOTE-E 3

Exhibit "A".

...RGE

Army Form B 252
(See King's Regulations)

...No.1..C.A.R.U..... Regiment
Battery
Squadron
..... Troop or
Company

CHARGE against No. B 11944 Rank Gnr.

Name Dolatto, G.H.

Place Glasgow Date of Offence 18 Oct 45

(1)

OFFENCE W.O.A.S. was A.W.L. from,,?. until apprehended by the Cdn. Provost Corps on Argyle St. Glasgow at about 10.40 hrs 18 Oct 45 (2) Was improperly dressed, same time date and place.(3) Stating a falsehood to an n.c.o. of the Cdn. Provost Corps, same time date and place (4) Being in possession of a false document purporting it to be genuine leave pass, well knowing same to be false. Same time date and place (5) Threatening an n.c.o. of the Cdn. Prov Corps, in the Police Box Central Stn, at about 1020 hrs 19 Oct 45.

Names of Witnesses:

L/Cpl. Folster, J.A. Cdn. Provost Corps
L/Cpl. Farquharson, A. Cdn. Provost Corps
Cpl. Busch, R.E. Cdn. Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

(W. FERN) D.A.P.M. LONDON AREA

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

10005. Wt.W5467/1406 1,500,000 10/41 K. & H., Ltd. G(2734)

Statement of EVIDENCE in the case
B 11944 Gnr. Dodatto, G.H.
NO.1. C.A.R.U.

Sir, At Glasgow at about 1040 hrs 18 Oct 43, I was on patrol duty [redacted] on Argyle St. and in company with L/Cpl. Farquharson,A. when I saw the a/m soldier.

I approached him and requested to see his pass and Pay Book, He produced the pass which is (attached hereto). Not being satisfied with it I questioned him to whether he was on leave or not and he stated that he was. I then told him that I was going to take him in to H.Q's for a check up, and he still insisted that he was on leave. He was improperly dressed i.e was wearing a collar and tie, with his battle-dress unbuttoned at the neck, and also wearing an Officer's F.S. cap. Cpl. Busch,R.E. of this Detachment then appeared and started to question the a/m soldier, and he became very nasty and threatened the m/n n.c.o. saying that I will get even with you, you fucking"Bastard".

I then placed him under arrest and escorted him to these H.Q.'s where he was paraded before the Officer i/c. He still stated that he was on leave. I then seen that his name was on the Deserters Nominal Roll, and on questioning further he admitted that he Was A.W.L. and that his pass was false, which he had made out himself.And also stated that he had sold his R. Ticket in Leed's.

I then escorted the a/m soldier to the Civil Police Station, where he was placed in a Cell to await an escort back to his Unit.

Glasgow
18 Oct 43.

REMARKS

J A Folster L/Cpl.
G 45598 Folster,J.A.

Sir, We have read over the above statement and corroborate same.

Glasgow
18 Oct 43.

M 10606 Farquharson,A L/CPL.
Rob E Busch CPL.

Exhibit "B"

...ole Army Reserve is ordered, every soldier on pass must return immediately to his unit without waiting for instructions.

No. B 28 Regiment 43 Bty R.A.C.

Army Form Base
(In pads of 100)

PASS

No. B/11944 (Rank) G.N.R. (Name) Dodd A To G.H.

has permission to be absent from his †quarters/duty, from

0800 hrs 13/10/43 to 2259 hrs 26/10/43

for the purpose of proceeding to* LEEDS

(Station) on THE FIELD.

(Date) 12/10/43 Commanding [illegible] O.T.C.

† Delete whichever is not applicable.
* Particulars are required when a pass is to extend to a station other than that at which the holder is quartered or is employed or when the purpose of a pass includes going to some other place or to obtain employment.

CROWN COPYRIGHT RESERVED

R.S.M. Whitehead

A soldier on whom who requires medical aid must apply for it promptly, if possible,

to the nearest Military, R. Naval or R. Air Force hospital or

under this rule if, however, he requires more than two

he may apply to a civilian doctor, in which he will show this form, and the doctor will

[illegible] the necessary medical attendance on the soldier on the latter's

[illegible]

	If not more than	Greater distances
MILEAGE AND MILEAGE	2 miles away	
	4s. 6d.	An additional 1d. for each mile or part of a mile, with a limit of 1s a week.
	2s. 3d.	

[illegible]

When the soldier visits the surgery of a civilian dentist for the purpose in respect of

which will be [illegible] and that

the soldier will at once report the conclusion of the civilian dentist by a letter

[illegible]

[illegible]

If hospital treatment is necessary, the soldier will at once report the fact if possible,

to the nearest Military, R. Naval or R. Air Force Hospital, Military Reception Station

or Medical Inspection Room [illegible], and telling that he is Commanding Officer,

[illegible] arrangements will be made, transport provided, and [illegible]

[illegible] Military service. If a soldier is admitted to a R. Naval or R. Air Force

Hospital, he will report the fact immediately to his Commanding Officer. It is the

[illegible] to report the fact immediately to his Commanding Officer, who will at once notify the Assistant District

Commissioner to the Commanding Officer, who will at once notify the Assistant District

[illegible]

[illegible] a soldier is detained by sickness, which must be properly certified, or

by [illegible] from exploding his leave by more than [illegible] which the

pass expires, he is to report [illegible] having that date—

[illegible]

[illegible]

[illegible]

If it does not, he is to consult the medical authorities as [illegible]

A soldier on leave [illegible] who requires emergency dental treatment must apply

for it to the nearest Military, Royal Naval or Royal Air Force Hospital or Dental Centre.

If no suitable dental [illegible] from such hospital or dental centre, he may apply

to a civilian dental practitioner to whom he will show this pass. The dentist [illegible]

will be [illegible] only for strictly emergency treatment and at the rates [illegible] under the

National Health Insurance Act (Dental Benefit) Regulations.

The soldier will at once report the employment of the civilian dental practitioner to

his Commanding Officer, and the practitioner will submit his claim for payment on

Army Form O 1447, and forward it to the Deputy Director of Medical Services of the

Headquarters of the Command in which the soldier is temporarily residing.

These instructions, where applicable, will also be held to refer to an auxiliary

of the Auxiliary Territorial Service or to a member of a Voluntary Aid Detachment

called out for service.

If his pass exceeds 24 hours a soldier is to leave his address with the Captain of his

company, and he must at all times be prepared to report on the shortest notice, if

ordered to do so.

[illegible] these instructions are not applicable to a soldier on Field Service abroad.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42. Exhibit "C".

I CERTIFY that No. B 11944. Rank Gnr. Name Doddatto, G.H.

Unit 1.C.A.R.U. was arrested at GLASGOW. (Place)

at 1040 hrs (hour) on 16 Oct 43 (date) and that at the time of his arrest he was wearing (Military Uniform) or (~~Civilian clothing~~)

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

LONDON.

L. S. Grayson

(L.S.GRAYSON) (~~XXXXXX~~) D. A. P. M., Capt.
London Area

Exhibit "D".

Expense Voucher No.: Ref: K.R. & O. (Can) 539

Reg. No. B11944 Rank Gnr. Name Doddatte, G.H. Unit 1 C.A.R.U.

The following expenses were incurred in apprehending and returning the A/N Soldier to ~~his Unit From~~ London from Glasgow

Date	Particulars	Amount		
	1/2 Portion			
20 Oct 43	Escorts return fare from LONDON To Glasgow	1	10	10
	Prisoners single fare to LONDON From Glasgow	1	10	10
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed,~~ Meals, Bus fares 1/2 Portion		1	9
	Total £	3	3	5

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

A. Shaw Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/35
60/P & R(A&SC)(587)

EXHIBIT "E"

P-65

Offence Report *(Field Service only.)*

for week ending 11 Sep 43

Army Form B. 2069. (In Pads of 50).

"p" Training Wing

Unit No 1 Canadian Artillery Reinforcement Unit

Serial No.

Prisoners of war all entries on A.F.B. 122 will be entered hereon.

Squadron, Troop, Battery or Company	Army No. *	Rank	Name	Place and Date of offence	Offence	By whom reported and Names of Witnesses	Initials of Officer Commdg. Company, &c.	Punishment awarded	Signature of Officer by whom ordered and date of award	Date of Entry in Casualty Sheet.	Remarks
"p"	B-11944	Gnr	Doddatto, G.H.	Field 31 Aug 43	WOAS AWL from 1600 hrs 31 Aug 43 until 0845 hrs 5 Sep 43 (Absent 4 days 16 hrs 45 mins) A.A. Sec 15(1)	BSM Dryden Bdr Densmore Documentary	WAT	28 days F.P. 28 days pay Cost of Apprehension £2-14-9	(G.T. Inch) Lieut.-Col 10 Sep 43	11 Sep 43	Pfts 5 days pay FR&I 149(1)(a) Pfts 5 days pay FR&I 149(1)(c) Pfts 28 days pay FR&I 149(2) Total Pftrs 38 days pay Award to run concurrent with award of 28 days F.P. and 28 days pay on 24 Aug 43
				Field 5 Sep 43	WOAS CONDUCT TO THE PREJUDICE, etc. A.A. Sec 40	Documentary					
				Field 5 Sep 43	WOAS CONDUCT TO THE PREJUDICE, etc. A.A. Sec 40 In close arrest from 08 45 hrs 5 Sep 43 until 2359 hrs 9 Sep 43 (4 days 15 hrs 14 mins)						

CERTIFIED TRUE COPY

A/Captain & Lieut

(A.A. Pare) Lieut. & A/Adjt.,
"p" Training Wing, No 1 C.A.R.U.
Officer having custody of Original document.

N.B.—A horizontal line should be drawn the whole length of the Return after each day's offences are entered.

* Serial No. in case of enemy prisoners of war, as allotted on A.F.W. 3000.

8750. Wt. 29203/1438. 15m 10/41. P.I. 51-1422 Forms B. 2069. 14

Offence Report *(Field Service only.)*

Army Form B. 2069.
(In Pads of 50).

Unit

Serial No.

Entries normally entered on A.F.B. 129 (Regimental Conduct Sheet) only to be entered hereon.
When used for enemy prisoners of war all entries on A.F.B. 122 will be entered hereon.

Squadron, Troop, Battery or Company.	Army No. *	Rank	Name	Place and Date of offence	Offence	By whom reported and Names of Witnesses	Initials of Officer Comdg. Company, &c.	Punishment awarded	Signature of Officer by whom ordered and date of award	Date of Entry in Conduct Sheet	Remarks

N.B.—A horizontal line should be drawn the whole length of the Return after each day's offences are entered.

* Serial No. in case of enemy prisoners of war, as allotted on A.F.W. 3000.

8/16. Wt. 29505/1139. 15m. 10/45. P.L. 81-1432. Forms B 2069
14

SUMMARY OF EVIDENCE in the case of B-11944 Gnr DODDATTO, G.H. on strength of No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, the evidence is taken on Oath.

First Witness. For the Prosecution. L-10399 Bdr Rice, K.M., of No. 1 C.A.R.U., having been duly sworn states:

I am L-10399 Bdr Rice, K.M., of "D" Battery, No. 1 C.A.R.U. I called the roll for defaulters parade at 1300hours 25 Sep 43 and B-11944 Gnr Doddatto, G.H., did not answer to his name. I immediately reported his absence to A-35302 L/Sjt Densmore, T.J., the Battery Orderly Sergeant.

The Accused declined to cross examine this witness.

K.M. Rice
L-10399 Bdr Rice, K.M.

Second Witness. For the Prosecution. A-35302 L/Sjt Densmore, T.J., of "D" Battery, No. 1 C.A.R.U., having been duly sworn states:

I am A-35302 L/Sjt Densmore, T.J., Orderly Sergeant for "D" Battery, No. 1 C.A.R.U. B-11944 Gnr Doddatto, G.H. was reported to me by L-10399 Bdr Rice, K.M., as being absent from defaulters parade at 1300 hours 25 Sep 43. I placed his name on the absentee report and he has been marked absent each night and morning since that date until I was informed of his apprehension by the Canadian Provost Corps.

The Accused declined to cross examine this witness.

T.J. Densmore
A-35302 L/Sjt Densmore, T.J.

Third Witness. For the Prosecution. B-45598 L/Cpl Polster, J.A., of the Canadian Provost Corps.

A signed statement of this witness is read to the accused. Having regard to the exigencies of the service, the attendance of this witness in my opinion cannot be readily procured. This statement is included in the Summary of Evidence and marked Exhibit "A".

S.S. Reisman Lt
Lieut S.S. Reisman.

The Accused does not demand the presence of this witness for cross examination.

Fourth Witness. For the Prosecution. A-28209 Cpl Busch, R.E., of the Canadian Provost Corps.

A signed statement of this witness is read to the accused. Having regard to the exigencies of the service, the attendance of this witness in my opinion cannot be readily procured. This statement is included in the Summary of Evidence and marked Exhibit "A".

S.S. Reisman
Lieut S.S. Reisman.

The Accused does not demand the presence of this witness for cross examination.

Fifth Witness. For The Prosecution.

Lieut A.A. Pare, of No 1 C.A.R.U., having been duly sworn, states:

I am Lieut A.A. Pare, A/Adjutant of "P" Training Wing, No 1 C.A.R.U., and as such I produce from Wing Orderly Room files the following documents:
The first and marked Exhibit "B" is attached herewith. It is a Canadian Army Leave pass relating to the Accused. This pass is false.
Attached herewith and marked Exhibit "C" is a statement in accordance with P.C. 2797 of 10 Apr 42, purporting to be signed by the Deputy Assistant Provost Marshall, London Area, relating to the Accused.
Attached herewith and marked Exhibit "D" is an expense voucher relating to the Accused, showing cost of apprehension and return to Unit in the amount of £3-3-5.
Attached herewith and marked Exhibit "E" is a certified True copy of an Offence Report, relating to the Accused, and showing that he was undergoing Field Punishment at the time of his absence.

The Accused declined to cross examine this Witness.

A. Antoine Pare Lieut
(A.A. Pare) Lieut., R.C.A.

The Accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence".

The Accused declines to make a statement and reserved his defence

I certify that the foregoing Summary of Evidence, consisting of two pages and five exhibits was taken down before me in the presence and hearing of the Accused, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

Bordon, Hants.,
23 October 1943.

S.S. Reisman LT
(S.S. Reisman) Lieut., R.C.A.,
Officer detailed to take the Summary of Evidence

EX A

LIST OF WITNESSES

PROSECUTION

1.	L-10399 Bdr Rice, K.M.	No 1 C.A.R.U.
2.	A-35302 L/Sjt Densmore, T.J.	No 1 C.A.R.U.
3.	G-45598 L/Cpl Folster, J.A.	Cdn Provost Corps
4.	A-28209 Cpl Busch, R.E.	Cdn Provost Corps
5.	Lieut A.A. Pare, R.C.A.	No 1 C.A.R.U.

DEFENCE

NIL

LIST OF EXHIBITS

"A" Army Form B 152

"B" X. Canadian Army Leave Pass.

"C" X. Certificate in accordance with P.C. 2797 of 10 Apr 42

"D" X. An expense Voucher.

"E" X. A certified true copy of an Offence Report.

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P. 14(B)

I, B-11944 Gnr Doddatto, G.H., of No 1 C.A.R.U. desire to have Lieut Pickup, of the Queen's Own Rifles of Canada appointed to represent me at my trial by Court Martial if available, otherwise desire to have an Officer appointed by the Convening Officer to represent me.

G H Doddatto

B-11944 Gnr Doddatto, G.H.

~~Cost of Maddaths & Silver~~

Capt	F. R.	Holmes	1 CAR'N
Lt	J. H.	Gordon	"
"	J. S.	Hastings	"
"	C. F.	Cary	"
"	H. H.	Wickett	"
"	D. M.	Conigall	"
"	D. W.	Kidout	"
"	O. E.	Wiler	"

Offices under instruction on
case of 6NB Maddaths, G. H
B 11944

MY

28 Oct 43.

Received from Lt/Col O. K. Redman one Red and Blue U. S. cap marked Exhibit A in the case of Pvt Doddato P.H. to be held for disposal of the Convening Officer

J. H. Kelley Capt.
Mot. C.A.M.U.

Description of Court by which tried, or name of Officer disposing of the charge or dispensing with Trial	Date and place of Trial or summary award or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2nd day of October 1943.

(K.J.C. Ridley) Capt & Records Officer,
No 1 Canadian Artillery Reinft Unit,
Officer having Custody of Regimental Books

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

B-11944 Gnr Doddato, G.H., of the No 1 Cdn Artillery Reinft Unit

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced to the Court with this state-ment but are not to be accepted by the proceedings.

See Para. 604, K.R., 1935.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

*The numbers inserted should correspond with the numbers of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

		*Within last 12 months.		*Since Enlistment.	
For	A.A. Sec 15(1)	7	times	11	times.
For	A.A. Sec 9(2)	1	times	1	times.
	A.A. Sec 24(4)	1		1	
For	A.A. Sec 40	3	times	3	times.
For			times		times.

[redacted]

[redacted]

[redacted]

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Ex B

3. The accused is not under sentence at the present time,

[redacted]

4. The accused has been in confinement, awaiting trial on the present charges

for — 0 — days in Civil Custody,

and — 10 — days in Military Custody.

Total — 10 — days.

Of which — 0 — days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 23 11/12 yrs

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 5 May 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 5/12 yrs

8. The accused is entitled to deferred pay or gratuity in respect of 2 5/12 years' service.

9. The accused is entitled to reckon 2 5/12 years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [redacted]

[redacted]

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number Rank and Name B-11944 Gnr Doddato, G.E., of the No 1 Canadian Arty Reinft Unit

Note.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be attached.

Description of Court by which tried, or nature of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
Field General Court Martial	22 Jan 42	A.A. Sec 15 (1)	90 days detention	
Field General Court Martial	29 Dec 42	A.A. Sec 15(1) A.A. Sec 40 A.A. Sec 40 A.A. Sec 40	6 months detention	28 days

(*Continued overleaf.*)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	31 Aug. 43.	Gnr.		(1)WOAS AWL from 1600 hrs. 31 Aug. 43 until 0845 hrs. 5 Sep. 43 (Absent 4 days 16 hrs 45 mins) A.A. Sec. 15(1) (2)WOAS CONDUCT TO THE PREJUDICE, etc. A.A. Sec. 40 (3)WOAS CONDUCT TO THE PREJUDICE, etc. A.A. Sec. 40 In close arrest 4 days 15 hrs. 14 mins.	BSM Dryden Bdr Densmore	28 days F.P. 28 days pay Cost of Apprehension $5-14-9	10 Sep. 43.	(B.T. Inch) Lt.-Col	Tot. Ffire. 56 days pay

28 Oct 43.

CERTIFIED TRUE COPY -

(K.J.C. Ridley) Capt. & Records Officer,
No. 1 Canadian Artillery Reinforcement Unit,
Officer having custody of Regimental Books.

EXC

MFM 6 (AFB 122) 40/P&S/535 (3458)

No. B11944 Name DODDATTO, O. H. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 6-5-41 | OC Badges | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 3 | Signature OC Company, etc F. H. Kelley Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13 Aug. 43.	Gnr.		WOAS AWL from 1800 hrs. 13 Aug. 43 until 0630 hrs. 17 Aug. 43 (Absent 3 days 12 hrs 30 mins) A.A. Sec. 15(1)	Sjt West Documentary	14 days F.P. 14 days pay	23 Aug. 43.	(H.G.S. Franks Major)	Total Fftre. 14 days pay
Field	23 Aug. 43.	Gnr.		(1)WOAS AWL from 1300 hrs. 23 Aug 43 until 1315 hrs 23 Aug 43 (Absent 15 mins) A.A. Sec 15(1) (2)WOAS DISOBEYING A LAWFUL COMMAND, etc. A.A. Sec. 9(2) (3)WOAS AWL from 1600 hrs. 23 Aug 43 until 1740 hrs. 25 Aug 43 (Absent 1 hr 40 mins) A.A. Sec. 15(1)	Sjt West Bdr McFadden Sjt West Bdr McFadden Sjt West Bdr. McFadden	28 days F.P. 28 days pay	24 Aug 43.	(O.T. Inch) Lieut.-Col	Total Fftre. 28 days pay

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
field	8 May 43	Gnr.		WOAS AWL from 2200 hrs. 8 May 43 until 1845 hrs 9 May 43 (Absent 20 hrs 45 min) A.A. Sec. 15(1)	Sjt Saltmer Documentary	2 days F.P. 2 days pay	10 May 43	(M.C.S. Franks Major)	Tot. forf. 3 days pay.
Field	21 May 43	Gnr		(1)WOAS WILFULLY INJURING GOVERNMENT PROPERTY, etc. A.A. Sec. 24(4) (2)WOAS CONDUCT TO THE PREJUDICE etc. A.A. Sec. 40.	BQMS Connor	7 days F.P. 7 days pay To pay cost of boots. £1-1-6.	28 May 43	(O.T. Inch) Lieut.-Col	Total forf. 7 days pay
Field	25 Jul. 43	Gnr.		WOAS AWL from 2359 hrs. 25 Jul 43 until 0930 hrs. 26 Jul 43 (Absent 9 hrs. 30 mins) A.A. Sec. 15 (1)	Documentary Sjt Best	3 days C.B.	26 Jul. 43.	(O.T. Inch) Lieut.-Col	Tot. Forf. 1 days pay
Field	29 Jul. 43.	Gnr.		WOAS AWL from 1800 hrs. 29 Jul 43 until 0135 hrs. 3 Aug 43 (Absent 4 days 7 hrs. 35 mins) A.A. Sec. 15(1) In close arrest 1 day 22 hrs. 25 mins.	Documentary	14 days F.P. 14 days pay	5 Aug. 43	(O.T. Inch) Lieut.-Col	Tot. Forf. 21 days pay

Sheet No. 2

No. B11944 Name DODDATTO G.H. Sqn, Battery, or Company ____ Corps RCA Date of enlistment 5-5-41 GC Badges ____ Service or Proficiency Pay N/A

MFM 6 (AFB 122) 40/PAS/156 (B438)

Date of last entry in Company Conduct Sheet N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 2 Signature OC Company, etc ??????? Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
In the Field	19 Dec. 43	Gnr.		On 29 Dec 43 was tried by FGCM. Charges:- A.A. Sec. 15(1) A.A. Sec. 40 A.A. Sec. 40 A.A. Sec. 40 Findings:-GUILTY ON ALL CHARGES Sentence:-to undergo 6 months detention CERTIFIED TRUE COPY .....Lt. for .....Lt Col J.P. PHIN O.C. 12th Field Regiment RCA (AF)	Doc.	6 months detention		FGCM Brig N.C. Plow CRA 5 Cdn Div	Forf 219 days pay. £2/-/10 for cost of apprehension. RELEASED from the DETENTION Barrack ..... on May 4 1945 sentence HAVING EXPIRED. Remission earned under "Rules for Detention Barracks and Military Prisons" 28 days COMMANDANTS initials .....

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	20-9-42	Gnr.		AWL from 0650 hrs. 20-9-42 to 1430 hrs. 21-9-42 (1 d 8 hrs) A.A. Sec. 15(1)	L/Bdr. Carson L.	5 days field punishment	22-9-42	Lt.-Col. W.S. HARRIS	Forf. 7 days pay FR&I
In the Field	26-9-42	Gnr.		AWL from 2300 hrs. 26-9-42 until 1245 hrs. 27-9-42 (13 hrs 45 mins) A.A. Sec. 15(1)	Gnr. Dennis C. Bdr. Fox.	96 hrs. field punishment Forf 4 days pay	27-9-42	Col. PHIN	Forf. 1 days pay FR&I
In the Field	4-10-42	Gnr.		AWL from 2300 hrs. 4 Oct. 42 to 0800 hrs. 5 Oct. 42 (9 hrs) A.A. Sec. 15(1)	Doc.	admonished	20-10-42	Col. PHIN	Forf. 1 days pay FR&I
In the Field	5-10-42	Gnr.		AWL from 0930 hrs. 5 Oct. 42 to 1435 hrs. 15 Oct. 42 (10 days 5 hrs 5 mins) A.A. Sec. 15(1)	Document-ary	28 days field punishment	20-10-42	Col. PHIN	Forf. 11 days pay FR&I Close arrest for 4 days 18 hrs 25 m. Forf. 4 days pay under FR&I 149(1)(c)(ii)

PREVIOUS SHEETS DESTROYED 20-8-42 after 5 months service to 5-11-41 no subsequent entries.

MFM 6
(AFB 132)
40/PAS/158 (3436)

No. B11944 Name DODDATTO G.H. | Sqn, Battery, or Company | Corps RCA | Date of enlistment 8-5-41 | GC Badges | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc ????????? | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	28 Feb. 1942	Gnr		On 28 Jan. 42 tried by FGCM Documentary Charges - Sec. 15 (1) A.A. Findings - GUILTY Sentence - to undergo 90 days detention Confirmation - Sentence and Findings confirmed by Brig. E.C. PLOW, C.R.A. 3 Cdn. Div. on 29 June 42. Close Arrest - Placed under close arrest from 2200 hrs. 10 May 42 to 1800 hrs. 21 June 42. (41 days 20 hrs) Forfeitures:-Forf. 90 days pay KR&I 149(1) (b) A.W.L. from 2230 hrs. 28 Feb. 42 to Forf. 42 days pay KR&I 149(1) (c)(i) 1400 hrs. 10 May 42 (70 days 15 Forf. 71 days pay KR&I 149(1) (a) hrs. 30 mins) Total forf.....203 days pay					

(PTO)

19-V.

Sig. DODDATTO, G.H.

Correspondence to be PINNED here.

19.V

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 27th day of December, 19 42

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery 3 Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*[I ~~am unable to appoint~~ :—

*(1.—~~Three Officers to form the Court.~~)

*(2.—~~A Field Officer as President.~~)

for the following ~~reasons, namely~~ :—]

44

Proceedings (Revised 1940)

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	E.W. Scott	8 Cdn Fd Regt.RCA.

Members.

Rank.	Name.	Regiment.
Capt	C.P. Rivas	12 Cdn Fd Regt.RCA.
Lieut.	R.W. Fraser	13 Cdn Fd Regt.RCA.
Waiting Member	Lt. E.C. Coolen	4 Lt.A.A.Regt.RCA

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [R.C. Flow] Brigadier

Commanding CRA. 3 Cdn Division

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B 11944 Gnr. Doddatto,G.E. 12 Cdn Fd.Regt.RCA.	(1) Sec.15 (1) A.A. (2) Sec.40 A.A. (3) Sec.40 A.A. (4) Sec.40 A.A.	Guilty on all charges	Guilty 1 year detention. Recommended to be suspended. Confirmed & Approved E.H. Scott Major 29 Dec. 42	I confirm the finding and sentence of the Court, but remit 6 months detention. E.C. Plow (E.C. Plow) Brigadier, C.R.A., 3 Cdn. Div.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) E.C. Plow (Signed) E.H. Scott major
(E.C.Plow) Brigadier — Commanding C.R.A. 3 Cdn Div (*Convening Officer* (e)) — 12 Fd. Regt. R.C.A. (*President*)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 29 day of December 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 29th day of December 1942.

E.H. Scott major
President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (c) on page 762 M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

* To be omitted unless penal servitude, or imprisonment or detention lasting two years, has been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 7 day of Jan 1943.

E.C. Plow
Confirming Officer.
C.R.A.

Promulgated and extracts taken in the case of B-11944, Gnr. Doddatto G.E.

(a) (Dated) 6 Jan. 43 (Signed) E.C. Plow Lt.-Col.
(J. P. PHIN)

Promulgated and extracts taken in the case of O.C. 12th Field Regiment R.C.A.

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

B2

CHARGE SHEET

The accused B-11944, Gnr. Doddatto G.H., 12th. Field Regiment R.C.A., a soldier of the Canadian Army Overseas on Active Service is charged with:-

FIRST CHARGE
A.A. Sec. 15 (1)

Absent without leave, in that he at Bolney Sussex absented himself without leave from 1330 hrs. 24 Nov. 42 until apprehended in Tower Street, York at 2300 hrs. 19 Dec. 42 (25 days, 9 hrs. 30 mins) incurring costs of apprehension and return to unit of £2-0-10

SECOND CHARGE
A.A. Sec. 40

Conduct to the prejudice of good order and military discipline in that he at York at 2300 hrs. 19 Dec. 42 was in possession of a document purporting to be a genuine leave pass signed by "K. Kelly Capt." well knowing that it was not a genuine pass.

THIRD CHARGE
A.A. Sec. 40

Conduct to the prejudice of good order and military discipline in that he at York on 19 Dec. 42 falsely stated to C.S.M. Mills H.D. and Cpl. Wolfe W.M.,C.M. Police that he was on leave, whereas he was not on leave.

FOURTH CHARGE
A.A. Sec. 40

Conduct to the prejudice of good order and military discipline in that he at York on 19 Dec. 42 he was improperly dressed in a public place. Wearing no headdress in Tower Street.

J. D. Shaw Lt-Col.
Comdg [illegible] Regt. R.C.A.

To be tried by
F.G.C.M.

E.P. Plow
(E.P. Plow) Brigadier
CRA. 5 Cdn Div

In the Field
27 Dec. 42

E. H. Scott Major
Provost

B11944 Gnr. DODDATO G. H.

29.12.42. P. Bernoske Capt.

D.A.A.G. Div.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at H.Q. 12 Fd Regt. R.C.A.

on the 29 day of December 1942 by order of

Brig. E. G. Plow
C.R.A. 3 Can. Div.

Commanding

dated the 27 day of December 1942.

President.

Major E. D. Scott
14 Edn. Fd Regt. R.C.A.

Members.

Capt. C.P. Ruag 12 Edn. Fd Regt
Lieut. R.A. Fraser
13 Edn. Fd Regt R.C.A.

, Judge Advocate.

Trial of* B/11944 Dvr. Doddato G.H.
12 Fd. Regt. R.C.A.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. R.A. Gillies 12 Fd Regt R.C.A.

Counsel‡ or defending officer‡ Lieut J.A. Irvine 12 Fd Regt R.C.A.

At 10.00 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No Sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. W.V. (4824)178. 25,000 pds. 5/42. E. & E., Ltd. G427/111. Form A.9/2.

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Lieut. E. A. C Boden 4 F.A.A. Regt. R.G.A.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (3) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty sir. *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Guilty sir *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Guilty sir. *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Guilty sir. *Answer.*

The accused having pleaded Guilty to all charges the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused B11944 Gnr. Doddato A.F.
19 Fd. Regt. R.C.A.
is found guilty of

†The summary (or abstract) of evidence is read, marked CC1(a and b) signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Yes

Answer. The accused in mitigation of punishment says;—

Address by defaulting Officer:-

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

The first three charges are dependent on one another. Charge 3 is dependent on a statement of the Military Police and don't think adds to the second charge.
The accused has served since Sept 10 46 May 1941 and has been overseas since Aug. 41, The accused is a qualified D.R. but has had little opportunity of driving. As may be seen from his E.F.M. 61, he has got into a lot of trouble and has felt discouraged and unable to be of benefit to the regiment

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Pgd [illegible]

DD

Very foolishly he considered that by going A.W.O.L. he would get to the holding unit where he might get a new start. The accused had no leave since Feb. 1942 which might also have some bearing on his going A.W.O.L. Due to this consideration I plead for leniency in this case.

Do you wish to give evidence yourself or to call any witnesses as to character? No.

Question to the accused.

Answer.

Evidence as to character.

E

Finding.*

**To be struck out except in cases where trial has taken place on a plea of "Not Guilty."*

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction *before Sentence.*

**When the Court is already open this sentence will be struck out.*

**The Court being re-opened, the accused is again brought before it.*

is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* No

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked E 1, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused.

[Instruction.—If by reason of the nature of the offence of the accused or a subsequent entry in evidence, the finding of the Court renders him liable to any additional punishment, or disqualification to which he is entitled to be examined by the Court the prisoner must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused *Sentence.*

to one (1) year detention.

E. H. Scott Major

SUMMARY OF EVIDENCE IN THE CASE OF B11944 - Gnr. DODDATTO, G.H.
12th. Field Regiment, R.C.A. (AF).

1st. WITNESS FOR THE PROSECUTION

Statement by A35318 - Gnr. Gray, D.A., 12th Field Regiment, having been duly sworn states:-

I am equipment repairer in the 43rd. Battery and on the 24th. Nov. 1942 I took the roll call on the 1330 Hrs. Parade. Gnr. Doddatto and Ventry failed to answer. I reported this to B.S.M. Gordon. These were in "D" sub section and it was of this sub section that I called the roll.

The accused declined to cross-examine the witness. R.P. 83 (b) has been complied with.

XXXXXXXXXXXX

.....D.A. Gray.....
(A35318 - Gnr. Gray, D.A.)

2nd. WITNESS FOR THE PROSECUTION

Statement by A35386, B.S.M. Gordon, R.R. having been duly sworn states :-

As a result of the sub section reports at 1330 hrs. report on 24 Nov. 42 I, as B.S.M. declared that Gnr. Doddatto, G.H. and Gnr. Ventry, W.J. were A.W.O.L. from this parade. After the same parade the two a/m Gnrs. could not be found in the Camp area. They were not on leave, pass or in hospital. I did not see them again until the 24th. Dec. 42 when they were brought to the 43 Battery Orderly Room on charges of A.W.O.L. and others laid by the C.M.P. If they had been in the Battery area in the intervening time, I would have seen them. I know that they were not on any parade with the Battery between 24 Nov. 42 and 24 Dec. 42.

The accused declined to cross-examine this witness. R.P. 83 (b) has been complied with.

.....R. Gordon.....
(A35386 - BSM. Gordon, R.)

3rd. WITNESS FOR THE PROSECUTION

B 8027 -Gnr. Cooper, M. 12th, Fd. Regt., RCA having been duly sworn states:-

I am a driver in the 43rd. Battery, RCA. On 24th. Nov. 42 I saw Gnr. Doddatto at lunch time, but did not see him after that. I live in the same room as he does and I did not see him after that noon hour. He was not in to sleep in his bed that night, and from then on until the present date. I would have seen him if he had been there at night.

The accused declined to cross-examine this witness. R.P. 83 (b) has been complied with.

.....M. Cooper.....
(B 8027 - Gnr. Cooper, M.)

SUMMARY OF EVIDENCE IN THE CASE OF B-11944, Gnr. Doddatto G.H.
12TH. FIELD REGIMENT R.C.A. (AF)

Written statement by A-28441 Gnr. Hodgins C.E., and signed by him:-

"I am a gunner in the 43rd. Fd. Bty., 12th. Field Regiment RCA. On 23 Dec. 42 I was on duty as a member of the Regimental Police at R.H.Q. At about 1340 hrs. Gnr. Jarvis C.N. and I were sent to Haywards Heath to pick up Gnr. Doddatto and Gnr. Ventry from the Canadian Military Police. They were turned over to us at the station and I signed a receipt for the two prisoners. There was also at the same time some papers (which are now shown to me pinned together in two pks., one marked "Y" and refbring to Gnr. Ventry and one marked "X" referring to Gnr. Doddatto.) They were both about the same, being Provost Corp charge sheets and typewritten certificates about absence without leave and arrest.

.....
A-28441 Gnr. Hodgins C.E.

" I certify that owing to the exigencies of the service the presence of this witness cannot be readily procured."

.....(Lieut.)
(S.A. GILLIES)
12th. Field Regiment R.C.A.

SUMMARY OF EVIDENCE IN THE CASE OF B-11944 Gnr. Doddatto G.H.
12th. Field Regiment R.C.A.

LIST OF WITNESSES FOR THE PROSECUTION

A-35318,	Gnr. Gray D.A.	- 12th. Field Regiment R.C.A.
A-35386,	BSM. Gordon R.R.	- 12th. Field Regiment R.C.A.
B-8027 ,	Gnr. Cooper M.	- 12th. Field Regiment R.C.A.
A-28441	Gnr. Hodgins C.E.	- 12th. Field Regiment R C.A.
	CSM. Miles H.D.	- C.M Police
	Cpl. Wolfe W.	- C.M. Police

LIST OF WITNESSES FOR THE DEFENCE

NIL

LIST OF EXHIBITS

"X"	(A.F.B. 262
	(A.F.B.295
	(Body Receipt
Pinned	(Pawn Ticket
together	(Cert. 163 (I) (JJ)
	(Expense Acct.
	(Covering letter

CHARGE 151/2/684

GARRISON O[illegible] 5

Army Form B 252

No. 81 (See King's Regulations)

12 Field Regt. Royal Canadian Artillery

Regiment

Battery

Squadron

Troop or

Company

21 DEC 1942

43rd.

CHARGE against No. B 11944 Rank Gunner

Name DODDATIO. G.H

Place Date of Offence

OFFENCE W.O. A.S.

1. Absent from - whilst apprehended by the C.M. Police on the 19-12-42 in Tower St. a/about 23.00 hrs

2. Making false S/Demerit.

3. Being in possession of forged leave passes (A.F.B. 295) Being also found in not wearing Identity Disc

Names of Witnesses :—

CSM. MILLS. H.D. C.M. POLICE

CPL. WOLFE. W. C.M. POLICE

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

R.A.W. Vincent Capt. Adjutant.

GARRISON ADJUTANT

30071. W.L.W.4489/132. 1,500,000. 1/42. K. & H., Ltd.

STATEMENT OF EVIDENCE IN THE CASE OF

No. B/180181 Gnr [illegible] BARBATTO. G. H.

43rd BATTERY

12th FIELD REGT ROYAL CANADIAN ARTILLERY

CANADIAN BASE PO

Pte. of YORK, on the 19 DEC. 1942 at about 2300 hrs I was on duty on TOWER STREET accompanied by Cpl W. WHITE C.M.P. Police when I saw the above named soldier on the complaint of another. I stopped him and enquired why he was not wearing head dress and he replied "I forgot it was a public house". I asked if he was on leave and he said "yes" and produced the attached AT 8295 which was in the name of GOWER, HARRY. Not being satisfied with the answers to my questions I took him to the Duty Sergeants Desk where in answer to any questions that he was not about and that I could check up on him if I wished to do so. Also that he had gone into Saturday night and had given his leave pass away to a civilian. I asked him how he came to be in possession of the leave pass and he replied "a fellow I met there gave it to me". He was badly intoxicated being about from the Effects of liquor. I then arrested him and conveyed him to the MAIN GUARD room. CAVALRY BARRACKS YORK where I handed him over to the NCO in charge of the prisoners together with all of his effects. The attached pass ticket No 4096 was found on his possession.

REMARKS

Walter Wells. C.S.M.
C.M. Police

20. 12. 1942
YORK

Pte:
I have read over and corroborate the above statement.

W. J. Wolfe Cpl
C.M. Police

20. 12. 1942
YORK

RECEIPT.

No. B.11944 Rank. GUNNER

NAME. DODDATTO G. H.

UNIT. 43rd Battery 12th Field Regt Royal Artillery

was handed over to me by the Military Police at about ..... on the 20th day of April 1944 he was SOBER. I detained him.

N.C.O. i/c Guard, 3rd Bn.

PRESENT, NCO i/c Guard

102 Coy. R.A.S.C.,
Military Bks.
York.

B-11944 Gnr. Doddatto, G.H.
43rd. Bty.
12th. Fld. Regt. R.A.

Receipt is acknowledged of the a/m soldier and the following documents.

A.F.B. 250
A.F.B. 205
Body Receipt.
Pass Ticket
Cert. 183 (I) (JJ)
Exp. Acc.
Covering Letter.

London. S/Sgt. Hickson, B.Q.
22/Lec/42

X2 Different Name

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regiment 12 FD. REGT. R.C.A.

PASS

Army Form W295
(In pads of 100)

No. B4711 (Rank) Gnr. (Name) HARVEY. G.

has permission to be absent from his †quarters/duty, from

12/11/42 0800HRS. to 12/25/42. 2359HRS.

(On the purpose of proceeding to)* HULL.

(Station) FIELD

12/16/42

12TH FD. REGT. R.C.A.

R. S. McSmith

* Destination not required unless absence is to exceed 24 hours, unless local condition is such that
owing to local conditions it is necessary to enable purchase of a rail ticket at reduced fare.
† Delete whichever is not applicable.

CROWN COPYRIGHT RESERVED

151/L/584

Certificate under Army Act, Section 153 (1) (ii)

I certify that No B119444 Rank Gnr Name Doddatto G H

12 Fd Regt Royal Canadian ~~Artillery~~, was arrested at YORK

at 2300 hrs on 19 Dec 42 and that at the time

of his arrest he was wearing military uniform.

Signature of Provost Marshal, A.P.M. or other Officer into whose custody the above-named person was taken on arrest } R. N. W. Vincent Capt
GARRISON ADJUTANT

YORK 21 Dec 42

Xbe [illegible]

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. C 11944 Rank Pte Name Hoddetto, G H Unit 12 Fld. Regt

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit ~~from~~ London from York.

Date	Particulars	Amount		
22 Dec 40	Escorts return fare from LONDON To York (½ portion		14	6
	Prisoners single fare to LONDON From York		14	6
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares (½ portion		6	0
	Total £	1	15	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

CMRC 1000/55
40/P & S/469

X64

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. B11944 Rank Gnr. Name Hoddetto, Pte. Unit 12 Fld. Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
23 March	Escorts return fare from LONDON To Haywards Heath		2	11
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Haywards Heath		2	11
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		5	10

I certify that the above statement of Expenses is Correct. and that the amounts are fair and just.

..... Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-35
40/P & S/483

X7 File No. 15/378.....

Officer Commanding,
12th. Fld. Regt. R.C.A.

Re:- B-11944 Gnr Doddatto, G.H.

1. Forwarded for your information and necessary action, please, and disposal under C.A. Routine Order (O) No. 388, dated 29/10/40.

London
22/Dec/42

No Complaints [illegible] Lieut.,
for (Capt. C. Wood) O.C.,
No. 6 Coy., Cdn. Provost Corps.

151/c/584

Note:- When this charge has been dealt with, the A.F.B252 should be forwarded through your usual Military channels to the "A" Branch of the formation by whom you are administered, (i.e. Division, District, Brigade or Area).
Authority:- King's Regulations 1940 para 562 (see also Northern Command Order 1912 of 1942 or local Command Orders).

M.F.M. 6

No. B11944 Name DODDATTO G.H. | Sqn., Battery, or Company | Corps R.C.A. | Date of enlistment 5-5-41 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet 31-10-41 | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed	20-8-42			after 5 months service to 5-11-41 no subsequent entries		5 dys F.P.	22 Sept 42	W.E. Harris Lt.col.	For'ts 7 days pay FR&I
Bordon Hants	20-9-42	Gnr.		AWL in from 0630 hrs 20-9-42 until 1430 hrs 21-9-42 (1 dy 8 h.) A.A. Sec 15(1)	L/Bdr. Carson L.				
In the Field	26-9-42	Gnr.		A.W.L. from 2300 hrs 26-9-42 until 1245hrs 27-9-42 (13h. 45m) Sec. 15(1) A.A.	Gnr. Dennis C. Bdr. Fox. W.	96 hrs. F.P. For'ts 4 days pay		Lt.col.	J.P. Phin

Certified true copy of original

E.W. Harris Lt.-col.
(J. P. PHIN)
for O.C. 12th Field Regiment R.C.A.

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 290

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-11944	Gnr.	Doddatto G.H.	12 Fd. Regt. R.C.A.

1. The following is a fair and true summary of the entries in the Regimental and ~~Squadron~~ Battery Conduct sheets or Company Conductsheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL	3 times	AWL 3 times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct NIL

~~or~~

~~There are no entries in the regimental sheets of the accused~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~

Previous convictions of the accused by a court-martial ~~or by a civil court or of summary awards under Air Force Act / Army Act~~ are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for [illegible] dated the [illegible] day of [illegible]~~

4. The accused has been in confinement awaiting trial on the present charges, for No days in civil custody, and 5 days in military / Air Force custody, making a total of 5 days in custody, of which No days were spent in hospital.

5. The present age of the accused according to his record of service is 23 years

6. The date of his ~~enrolment~~ attestation specified in his record of service is 8 May 41

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon [illegible] for the purpose of determining his period of service~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~any~~ military reward (~~except~~ ~~good conduct pay~~) ~~to which he is entitled~~. State any air force decoration or reward ~~to which~~

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated N/A, and in his regiment (or corps), the rank of

N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of N/A years.

In the rank of N/A years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial ~~or civil court, of summary offences under section 47 of the Army~~ Act, ~~and of cases in which trial has been dispensed with of accused~~ Number B-11944 Rank Gnr. ~~Corp.~~

Name Doddatto G.N. of 12th. Fd. Regt. Regiment RCA

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	Glynleigh Sussex	Sec. 15(1) A.A.	90 days det.	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24th. day of December 42

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

E.J. Partington (Capt.)
(E.J. PARTINGTON)
Adjt. 12th. Field Regiment R.C.A.

SUMMARY OF EVIDENCE IN THE CASE OF B-11944 GNR. DODDATTO G.H.
12TH. FIELD REGIMENT R.C.A. (AF)

I, B-11944 Gnr. Doddatto G.H.
wish to have an officer to
represent me at my trial by
Field General Court Martial.

Doddatto G.H.
.....
B-11944, Gnr. Doddatto G.H.

4/I 73

CPL DODDS JE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K-63163 Cpl (A/Sgt) John Elsworth DODDS, 10 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. 40	NOT GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lass of kit see RP 44 fn 6.)

At present under sentence for [illegible] (beginning on [illegible]) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 29 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be severely Reprimanded

(Sgd) [redacted] 29 Nov 44 (Sgd) J A Farmer Major.

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1)

(1. AA 57A. Delete if not used.)

Date 30 Nov '44 (Sgd) G Francoeur

Commanding 2 CBRG Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
K63163 Cpl (A/SGT) John Elsworth DODDS CBR Scot REGT. 10 C B R Bn.	30 NOV 44	Jno W Varty Lt. Actg Adjt 10 C B R Bn.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 [illegible] 4E 73

RECEIVED 2 DEC 44 JAG BRANCH

CPA56 (To take the place of APA51) 40/P & D/1608 (4070) 4/388

FIELD GENERAL COURT-MARTIAL

Convened by Brig G Francoeur Comd 2 CBRG dated 23 NOV 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 162, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-63163	Cpl (A/Sgt)	John Elsworth	DODDS	10 CBR Bn

PROCEEDINGS REVIEWED [illegible] 2 DEC 44

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS REVIEWED [illegible] Date 5 DEC 44

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 28 NOV 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 14/36.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is [illegible] amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [illegible] brought before the Court. At 1422 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is [illegible] fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to [illegible] as interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to [illegible] as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 31, RP 23, 71, 78, MML p 740.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	J A FARMER	11 C B R Bn
Member	CAPT	A T LUNGLEY	7 C B R Bn
Member	CAPT	R GUERET	11 C B R Bn
Judge-Advocate			
Prosecutor	LIEUT	J W VARTY	10 C B R Bn
Defending Offr	CAPT	G C CLARKE	10 C B R Bn

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 32)

A8. The accused K-63163 Cpl (A/Sgt) DODDS J E. before arraignment makes(s) (no) [illegible] plea. (2)

(1. If a special plea is made for separate trial or one or more charges (RP 62(D), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is [illegible] arraigned (separately) on all charges in the charge sheet.(1) The accused does [illegible] not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A66 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol. 2 p 76

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*ii*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(*1. RP 35(B). 2. RP 37(D) fn 6. 3. RP 37(B) fn 3, para 2, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 2.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defence Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is cleared, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans YES I WISH TO GIVE EVIDENCE ON OATH ..... Do you intend to call witnesses on your behalf? Ans YES ..... Are they witnesses as to character only? Ans YES .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AR5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(5).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.~~
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be returned forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)~~
(*1. AA 54(3) (a), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. AFB 255 or AFB 256. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment.(1) Ans YES .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 336, 563-566, Overseas RO 309, 1323, MML p 860, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4.A.D.

CHARGE SHEET

The accused K-63163 Cpl (A/Sgt) John Elsworth DODDS J E, on the strength of 10 CBR Bn, a soldier of the Cdn Army Overseas, is charged with:

FIRST CHARGE
AA Sec 40

WHEN ON ACTIVE SERVICE - CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, on 30 Oct 44 did create a disturbance in a public place by struggling and fighting with H-19039 Sgt MARK W S of 7 Cdn Pro Coy after being warned to go home.

(F M Mitchell) Lt-col
Comd 10 CBR Bn

In the Field
19 NOV 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
23 NOV 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
K-63163	Cpl	(A/Sgt)	John Elsworth	DODDS	10 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 23 NOV 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	J A PARMER, ED.	A & QMG of C.	11 CBR Bn

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by OC 9 CBR Bn		9 CBR Bn
Lieut	To be detailed by OC 9 CBR Bn		9 CBR Bn

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	To be detailed by OC 11 CBR Bn		11 CBR Bn

~~JUDGE ADVOCATE.~~

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 23 NOV 44

G Francoeur Brigadier (Rank.)
(Signed personally. RP 105 fn 2.)
(G Francoeur)
Commanding 2 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

10 CANADIAN BASE REINFORCEMENT BATTALION

I HEREBY CERTIFY THAT I HAVE THIS MORNING EXAMINED

K63163 Sgt DODD J.E. 10 Cdn Base R/t Bn (CS
(number) (rank) (Name) (Unit)

AND IN MY OPINION HE IS FIT/UNFIT TO UNDERGO TRIAL BY COURT MARTIAL.

DATE 28 Nov 44

STATION Aldershot

(MEDICAL OFFICER)
10 C B R B
28 Nov 44

Notes Re FGCM - K63163 Cpl (A/Sgt) Dodds J.E.

D3 Evidence for the prosecution

1st witness for Pros H19039 Sgt Mark W.S. sworn states

I am H19039 Sgt Mark W.S. of the 7th Pro Coy 1st ~~Div~~ Army Tps

At appx 2220 hrs on 30 Oct 44 I received a complaint that there was a fight in Cafe Louise opposite the Leopold Barracks. I proceeded to the Cafe and on entering saw a few soldiers therein. As I entered two began to leave. Sgt Dodds whom I now recognize but whom was unknown to me at the time was sitting on a chair talking to a lady. I asked all personnel in the Cafe if they knew of the trouble and that all Cafes must close at 2200 hrs. Some said yes and proceeded to leave, and Sgt Dodds proceeded to go upstairs with the girl and Madame of the Cafe stopped him. I told Sgt Dodds he would have to leave the Cafe and he refused. I told him if he refused he would be placed in close arrest. I asked him for his MBM1 and identification and he refused to give it to me. I again asked him for his identification and he produced his MBM1 and opened it up at Rank and Appointment page and tabbing it up in his hand showed it to me and said anything I wanted to know was on that page. Without even giving me an chance to see what was on the page he put it in his pocket. I told him the info on the page was no use to me and that I wanted his proper identification that is his name and number which he refused to give me.

I placed him in close arrest and in escorting him from the cafe he started to fight. He backed and struggled with me and I received a kick in the face. He was subdued and escorted to the guard room at Leopold Bks. At this time I took a bottle of Cognac and MBM1 from his hands while I had him on the floor. After being in the guard room at Leopold Bks I took his particulars and whilst waiting for an escort Sgt Dodds grabbed my whistle web by holding the arms panels and passed the remark that he knew did think most of these white webbed bastards. At the same time he struck me on the face. A few moments later the escort arrived I obtained a body receipt and proceeded back to my quarters.

Examined

Q Do this the bottle you took from Sgt Dodds

A Yes I recognize it and that is my marking and initials on the bottle

Q. How was the accused dressed?
A. He had no badges of rank or distinguishing patches at all and no ribbons.
Q - Did you warned the accused to return to barracks once or more?
A - Twice
Q - Did anyone accompanying you to the Cafe?
A - yes L/Cpl Bowler J also a member of 7 Pro Coy

Cross Exam.

Q - Repeat again exactly what accused was doing when you entered in.
A - He was sitting on a chair by a lady causing no trouble
Q - In your opinion was Sgt Dodds drunk?
A - No sir
Q - Were you aware that Sgt Dodds is almost totally deaf in one ear?
A - I was not
Q - You said you were called to the Cafe because of a fight?
A - There was no fight when I arrived after curfew time.

Exam by Court

Q - Was accused sober
A - Sobered he was.

2nd Witness for Prosecution

M 1102 L/Cpl Bowler J. 7 pro Coy states:
On 20 Oct 45 I was detailed with another L/Cpl for police duty in Utrecht at approx 2200 hrs a soldier came running up and asked if we were the provost. I and J were and he then said there was trouble in a cafe, just then Sgt Mark happened to walk by. I stopped him and told him about the trouble in Cafe Lunet as he and I went off to the cafe. At the Cafe Lunet we noticed 4 or 5 soldiers of which two sgts and another soldier seemed to be having a little trouble with another soldier whom I now recognize as the accused. They were trying to get him out of the premises. The accused refused to leave I spoke him where upon the trouble and got no satisfaction from him. Then Sgt Mark asked him the accused to get out and he refused and backed away and started to go upstairs with a woman. Sgt Mark told the accused he couldn't go up there and first I knew they were in a clinch. I then grabbed accused and tried to keep him from fighting. I then noticed that he had Sgt Marks in the face. I turned around and warned him of serious trouble by striking a Sgt. I spoke him for his part I pay back and accused wouldn't

taken to me at all. This pay book had to be taken away from him by force. We then noticed from his particulars that accused was a sergeant and then he was escorted to the guard room. While particulars were taken at the guard room by the orderly Sgt, accused started another argument with Sgt Marks and struck him in the face again. He was placed under close arrest.

Cross Exam

Q. Was he placed in close arrest before reaching the guard room?

A. As far as I know he was placed under open arrest in the Sergeants Mess by Sgt Mark.

Q. How was Sgt Dodds dressed when you saw him in the Mess? Was he badges of rank.

A He had no badges of rank.

Cross Exam

Q. Did you enter the Mess with Sgt Mark?

A. yes sir

Q. Did you both arrive at the same time?

A yes.

Q when you arrived was accused in process of being ushered out by two sgts and one other?

A yes.

Q Are you sure

A yes.

Q Did Sgt Dodds refuse to show his pay book?

A yes Sgt Mark had to take it by force.

Q Do you believe Sgt Dodds was drunk that night your own personal opinion?

A I don't think he was drunk.

Q How long have you been in the Pro Corps?

A Five years.

Q as a Sgt with five years experience do you think Sgt Dodds actions were the actions of a sober soldier.

A Some do act that way.

Q. Were you aware that Sgt Dodds was partially deaf in one ear?

A No sir.

Cross Exam by Court

Q when you entered the Mess was accused sitting down or standing up

A standing up.

Q who entered the Mess first, you or Sgt Mark.

A I believe I did

Q How soon after you did Sgt Mark enter the Mess.

A Immediately behind me.

First Witness recalled (Sgt Mark)

Exam by court

Q. Did you enter the Cage before, beside or behind L/Cpl Fowler?

A. I cannot remember.

Q. Did the accused rise to his feet as you entered.

A Yes. As I approached from the door to the centre of the floor he stood up.

~~Cross~~ J.A.B.

Prosecution is closed.

D5 The accused 1763162 Cpl (A/Sgt) Dodds, Fr., sworn states:

On the evening of 28 Oct 44 I arrived at Leopold Bks after just coming out of hospital This is the first time I have been away from my battalion and on 30 Oct I drew my pay from the PM and thought I would go out for the evening and relax and get away from the army. I went across the road from the barracks to Cafe Louise and there had considerable to drink. The first thing I remember correctly I was being pushed around and realized I was in a guard house what I had to drink must have gone to my head coming out of hospital I must not have been able to stand it as well as ordinarily

Exam

Q why were you not wearing badges?

A just out of hospital I tried to get draw chevrons etc from the QM but could not get any issued

Q How much money did you have on entering the Cafe

A 1500 francs

Q How much on leaving?

A 500 francs.

Q how long were you in the Cafe

A from 1800 hrs until 2130 hrs.

J.A.B.

Q Do you remember any other soldiers other than provost, trying to persuade you to leave the Cafe?

A No sir.

Q. when pushed around did you realize the provo were doing it?

A No. Not until I got to the guard house.

Q How long were you in hospital

A 4½ wks.

Witness for Defence as to character

Capt Duncan Leslie MACDONALD sworn states

Sgt today I met came to my pl on Sept 40 and was at York Island, Johnson straits until we he served 5 months on

guard duty. During this time he was a very able soldier and never before me for orders.

On return from York Island he continued to serve in my company on the Pacific coast until May '42 at this time he was a Cpl and gave up his stripes to go overseas where he served three years. He served in action and for two months led a platoon in action. He was an able leader and a Lieutenant By Dir was glad to see the last of him.

When he came to 18 Bn he came to see me after coming out of hospital. He was anxious to get back forward. Probably he should have been kept in hospital longer. He went for me after he got into trouble.

He was in action from D'day until Oct and probably after this was shell in the brain. During all my experience there was no better soldier than Sgt Brooks and I would be glad to have him in my own coy again.

Closing address by Prosecution

It has been established by two witnesses, Sgt Mark and Capt Bowles, that the accused, when ordered to go home became unruly, refused to identify himself when ordered to do so, and did create a disturbance in a public place on 20 Oct 44 by struggling and fighting with Sgt Mark.

Therefore he has committed a crime in the army and I believe the court should find him guilty as charged.

Closing Address by the Defence

Two witnesses for the Prosecution have both had long service with the Pro Corps. Unfortunately this service has not made it impossible to give a clear statement of facts. Moreover as two witnesses on own admission during a Cope almost simultaneously have differed upon at least 3 points.

1. What accused was doing when they entered
2. Whether he offered to pay back or did not.
3. When he attempted to go upstairs with the young lady in question.

Therefore gentlemen, if it is possible for two witnesses to give such contradictory evidence would take the court to consider that these witnesses may also have overlooked the fact that the accused was in a far from sober condition. I believe and hope the court will agree with me that after five months at the front, two and a half weeks in hospital and then suddenly let loose in a town with

1500 francs, it is quite possible and quite probable and most likely that after four hours in a cafe the accused would not be in a sober condition, there is every indication he would not recognize a provost and I might add here the accused is hard of hearing in his right ear which would further add to any confusion that might have arisen with the provost.

Therefore I wish you would, cannot believe you will take these facts into ~~consideration~~ account in considering the case of Sgt Dodds who is the recent recipient of the Military Medal.

Address in mitigation of Punishment

E 3.

Sgt Dodds volunteered in the Canadian Army on 14 Sep 40, served with 2 Bn Kdm Scottish and proceeded to England on 1 Jan 41 where he joined 1 Bn Kdm Scottish. On D day he went with that Bns and served with them through the long tough struggle which was finally terminated on 13 Oct 44 by his being wounded. He left hospital on 20 Oct still suffering from an injury to his hearing as a result of his wound. I would like to plead at this time that on the night of the disturbance in the Bofa Canal, Sgt Dodds was drunk as I hope the court will agree the evidence which I brought out in my closing address for the defence proves. The accused is well aware that drunkenness is not an excuse for crime but I trust the court will agree that drunkenness is a very definite reason for mitigation of punishment particularly when it is considered the accused having had four years service has not had a crime appearing on his sheet and the M & M he possession of the award is the only evidence available in that connection. As a gentleman as a soldier, Sgt Dodds has very definitely proven himself as the fact that he won the M.M. points out without any room for rebuttal

Therefore I plead with the Court to take into consideration these pertinent facts in the case of Sgt Dodds and particularly in considering the sentence to be awarded for a crime that I believe and hope you believe would not have happened had Sgt Dodds been in a sober condition

J. Bowie Capt

Ex B 4127.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F.63163	A/Sgt.	DOID J.E.	10 C.I.H. Bn.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 877, K.R., 1940.

* The numbers hereto stated should correspond with the number of entries in the conduct sheets, paramount being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For TEMPORARY SERGT	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted. ~~as~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or The accused at the present time is under sentence for _____ beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for ~~nil~~ Nil days in civil custody, and ~~29 11 days~~ days in military custody, making a total of ~~29 11 days~~ days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 29 yrs 3 mths 17 days

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 4 Sep 1940

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 5 yrs 2 mths 7 dys

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 2 mths 7 days service.

9. The accused is entitled to reckon 5 yrs 2 mths 7 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or is in possession of or entitled to (state any military decoration or reward)*). MILITARY MEDAL. CVSM AND CLASP (Pol). GOC.

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of _____

12. (*In the case of an officer.*) The accused holds in the army the rank of _____ dated _____ and in his regiment (*or corps or department*) the rank of _____ dated _____

(70976) W1.24490/1730 20,000 10/43 A.& E.W.Ltd. Gp.698
(28609) W1.24884/1488 12,500 5.44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ____ Rank ____ Name ____ of ____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28 day of November

Adjt

[illegible] has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ____ years, ____

In the rank of ____ years, ____

In the rank of ____ years, ____

(Instructions—If any soldier in any of the above four categories cannot be found from the regimental books the paragraph must be struck through, except that in the case of a man by field general court-martial the information may be collected from such sources as are available and the authority empowered should be stated accordingly.)

Ex C GAS.

No. K.63163 Name DODDS, J.E. | Sqn, Battery, or Company | Corps C.I.C.(R) | Date of enlistment | GC Badges | Service or Proficiency Pay 3/17 MFM 4/6 (AFB 122) 40/PAY/106 (5a)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No Temp | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing same with Hdqrs	By whom awarded	Remarks
	Temporary sheet issued 1 Nov 44.								
				AWARDED THE MILITARY MEDAL			9 Nov 44	[illegible] MITCHELL Lt Col	
				CERTIFIED TRUE COPY [signature] (D.K.C. Arthurs) Capt. Officer with Custody of Regimental Books					

(PTO)

SUMMARY OF EVIDENCE

In the case of R.63163 A/Sgt DODDS, J E. on the strength of 41 Coy 10 C.B.R. Bn. A soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this evidence is taken on oath.

FIRST WITNESS PROSECUTION

R.19039 Sgt MARK, W.S. on the strength of 7 Cdn Provost Coy having been duly sworn states:

I am R.19039 Sgt MARK, W.S of 7 Cdn Provost Coy. On 30 Oct 44 at approximately 2220 hrs I had occasion to enter the cafe Louise accompanied by L/Cpl FOWLER on a complaint received concerning a fight. On my entering I noticed a few Canadian soldiers, two of which were about to leave the cafe. Sgt DODDS whom I now recognize was seated on a chair talking to a girl. On my entering he got up and started to proceed upstairs with the girl, when the madame stopped him. I asked Sgt Dodds to leave the cafe as it was after closing hours. He refused. I ordered him a second time and he refused again I asked Sgt DODDS for his M.B.M. 1 for identification which he refused to produce. I informed him that if he would not produce his identification M.B.M. 1 I would place him under close arrest. At this he pulled out his M.B.M. 1 and produced it showing only the page of rank and appointment. I informed him that, that was not good enough and he then put the book back in his pocket. I then placed him under close arrest and on escorting him from the cafe he resisted by fighting and kicking at which time I received a kick in the face from one of his boots. I then removed a bottle of liquor and his M.B.M. 1 from his tunic, which I submit herewith as evidence. I escorted him from the cafe to the guard room of 10 C.B.R. Bn. I obtained his particulars and after doing so he struck me in the face again with his fist. I then turned him over to an escort at 10 C.B.R. Bn. I then returned to 7 Provost Coy detach and submitted my report on this matter. On this particular night I was wearing my white webbing. The accused made a remark about this webbing while we were in 10 C.B.R. Bn guard room that is to say " I don't think much of these white webbed bastards".

R.P. 83 (B) complied with

(W S MARK) Sgt R.19039

The accused declined to cross examine the witness. Bottle of liquor accepted as evidence and marked exhibit "A".

SECOND WITNESS PROSECUTION

M.1102 L/Cpl FOWLER J on the strength of 7 Cdn Provost Coy having been duly sworn states:

I am M.1102 L/Cpl FOWLER, J. of 7 Cdn Provost Coy. On the 30 Oct 44 I was on duty in the city of Ghent at approx 2200 hrs I was informed by a soldier that there was trouble in the cafe Louise. Just then Sgt MARK drove up. He was also informed of this trouble so we both went to the cafe Louise as quickly as possible. When I got there I noticed approx 5 or 6 soldiers in the cafe, and two of them were Sgts. The two Sgts were trying to get another soldier the accused that was with them out. I asked the accused that the two Sgts were trying to get out, what all the trouble was about, but I couldn't reason with the accused at all. Sgt MARK ordered the accused to go home. he refused then Sgt MARK asked the soldier for his pay book Part I, the soldier refused to produce it. About then while we were arguing the accused made a break to go upstairs with a woman. Sgt MARK said he couldn't do that and placed the accused under close arrest. The accused started arguing with Sgt MARK and struck Sgt MARK in the face

with his fist. Then I noticed that they were in a clinch. I grabbed the accused and tried to hold him away from Sgt MARK. I told the accused that having struck Sgt MARK he was in serious trouble. About that time two more members of the Provost Coy arrived. With their help we used force to get the accused pay book Part I. Then we found out that he was a Sgt. When his particulars were taken he was escorted to 10 C.B.H. Bn guard room. While in the guard room he struck Sgt MARK again in the face with his fist.

R.P. 83 (B) complied with

(J. POWER) L/Cpl M.1102

Cross examined by the accused

QUESTION — When you alone when the soldier on the the street complained of trouble at cafe Louise.

ANSWER — No I was accompanied by another L/Cpl of the Provost Coy.

QUESTION — When I was asked to produce my Part I pay book did I produce it before it was taken away from me by force.

ANSWER — As far as I saw he did not.

The accused having been cautioned as follows," Do you wish to make a statement or give any evidence on oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used as evidence", having been duly sworn states:

On 30 Oct 44. I went across the street from the barracks to cafe Louise. While there I had quite a bit to drink. And the next thing I recall is that someone was pushing me around. After that the next thing I remember was being in the guard room. While there I thought the Provost Sgt was making a threatening move at me with his hand, so I threw up my arm to ward it off. The reason I threw up my arm so quickly to ward off this threatened blow was because I was wounded in the head and react quickly to any danger of anything striking this wound which is not entirely healed as yet.

J E Dodd
(J.E. DODD) Sgt, R.63163

I certify that the foregoing summary of evidence consisting of (2) pages was taken down by me in the presence and hearing of the accused.

I certify that R.P. 4 (C)(D)(E) and (F) have been complied with.

J. M. Wark
(J.M. WARK) Lieut
Lorne Scots, 10 C.B.H. Bn
Officer Detailed To Take
Summary Of Evidence

LIST OF WITNESSES

For the Prosecution

First Witness: R.19039 Sgt MARK, W.S. 7 Cdn Provost Coy.

Second Witness: M.1102 L/Cpl FOWLER, J. 7 Cdn Provost Coy.

For the Defence

N I L

LIST OF EXHIBITS

Exhibit "A" -- Bottle of Liquor

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE A COPY OF THE SUMMARY OF EVIDENCE, THE CHARGE SHEET, THE LIST OF WITNESS AND A LIST OF EXHIBITS.

I DO DESIRE THE SERVICES OF AN OFFICER TO REPRESENT ME AT MY TRIAL BY COURT MARTIAL

J. Dodd

(DODDS, J.E.) A/Sgt R.63163

AD-56

GNR DODDS P.W.

DD 56

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this Tenth day of April, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Anti-Aircraft Brigade, Royal Canadian Artillery, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable that the trial may not unnecessarily delay the~~ ~~movements of the command~~ ~~[illegible]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*~~Lieut. Col.~~ ~~[illegible]~~

*~~Captain Officer to be the Court~~

*~~Lieut. Officer to be President~~

~~for the following reasons, namely:~~

Proceedings Received 12 Aug 43

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	G.A. Grier	7 Lt.A.A.Regt.RCA.

Members.

Rank.	Name.	Regiment.
Captain	K.H. Brown	7 Lt.A.A.Regt.RCA.
Lieut.	G.N. Smith	11 Lt.A.A.Regt.RCA.
WAITING MEMBER Lieut.	M.L. Thomas	2 H.A.A.Regt.RCA.

*Signed (D.R.Agnew) Brigadier.

Commanding 1 A.A. Bde. R.C.A.

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
F.15232, Gunner Philo Wayne DODDS, 6 H.A.A. Bty : 2 H.A.A. Regt. R.C.A.	First Charge A.A. Sec. 41	not guilty	guilty	Not confirmed DAG
	Second Charge A.A. Sec. 40	not guilty	guilty 11 days detention GHGrier President	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— No

(Signed) D.R.Agnew (D.R.Agnew) Brigadier. *Commanding* 1 A.A. Bde. RCA. *Convening Officer* (*e*)

(Signed) GHGrier Major 7LAA Regt RCA *President*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the thirteenth day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~ GHG
*(4. ~~The officers under instruction~~)

* Omit if not applicable.

were duly sworn.

Signed this 13th day of April 1943.

GHGrier Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929

~~I certify that the terms of A.A.C.I. 570 of 1918 have been complied with.~~ GHG

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19 .

Confirming Officer.

Promulgated and extracts taken in the case of { F15232 Gnr Dodds P.W. / F15363 Gnr Butterfield A.T.

(*a*) (Dated) 20 Apr 43 (Signed) GHG Officer Case

ADJUTANT 2 HY. A. A. REGT. (MOB.) R.C.A. (AF)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] Co., Ltd. Cat. 740-2

CHARGE SHEET

The accused, No.F-15232 Gnr. Philo Wayne DODDS, 8 Hy.A.A.Bty, 2 Hy.A.A.Regt.(Mob.)RCA, a soldier of the Canadian Army(Overseas) is charged with:-

FIRST CHARGE Sec 41 Army Act.

WHEN ON ACTIVE SERVICE

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING

in that he at Rettingdean on 20 Feb 43, stole by finding, one electric motor, property of a person or persons unknown.

SECOND CHARGE Sec. 40. Army Act.

WHEN ON ACTIVE SERVICE

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he in the Field at about 1600 hrs, 20 Feb 43, did use for his own use W.D. vehicle No.C.L.4234217. improperly.

Appended for trial under K.R.(Army) 340
W. Lucas, Lt.Col.
A.J.A.G.
First Cdn Army

In the Field
April 1943.

.....D.A.....
Commanding,
2 Hy.A.A.Regt.(Mob.)RCA.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(D.R.Agnew) Brigadier.
Commanding
1 A.A. Brigade, R.C.A.

Field
11 Apr 43.

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No. F 15237 Name DODDS P.W.

of 8th Battery and in my opinion he

is ~~unfit~~ fit to undergo Trial by Court Martial.

Station Field

Date 13/4/43

J.A. MacPherson Capt.
Medical Officer

PROCEEDINGS OF TRIAL

Accused F-15232, Gnr. Dodds, P.W. 8 Hy.A.A.Bty., 2 Hy.A.A.Regt.R.C.A.

Held in the Field in England on 13 April 1943

	Rank	Name	Unit
President	Majorm	G.A. Grier	7 Lt.A.A.Regt.R.C.A.
Members	Capt.	K.H. Brown	7 Lt.A.A.Regt.R.C.A.
	Lieut	G.M. Smith	11 Lt.A.A.Regt.R.C.A.
Prosecuting Officer	Lieut.R.A. Hollingworth 2 Hy.A.A. Regt.(Mob)RCA	Lawyer?	Ans. No
Defending Officer	Lieut. J.I. Snider 2 Hy.A.A.Regt.(Mob) RCA	Lawyer?	Ans. No

The President produces the Convening Order, Charge Sheets and Summary of Evidence. (Rs.P. 17(e);22(a)

The President,in closed court (R.P. 22 fn 1), reads the Convening Order and the Charge Sheets to the Members, and the Court satisy themselves that it is properly convened (A.A.49;R.P.105) and constituted, that the accused is amenable to Military Law, and that each charge discloses an offence (R.P.108)

The accused is brought before the Court, and at 1010 hours the trial commences.

The Prosecuting Officer produces a Medical certificate under K.R. (Can.) 557 that the accused is fit to undergox trial by Court-Martial. The certificate is initialled by the President, and attached to the proceedings.

President to Accused

Q. Do you object to D-8218, Bdr. Jack, W. as shorthand writer.
A. No Sir.

The names of President and Members of the Court are read to the accused (R.P.110)

President to the Accused.

Q. Do you object to be tried by me, as President or by any other officers whose names you have heard read over?
A. No Sir.

The President, Members, Shorthand Writer ARE DULY SWORN. (R.P.26-27) (Forms of Oath P.E.) The charge sheets are initialled by the President. The Prosecuting Officer informs the Court that the accused has elected trial by Court-Martial. (A.A.46(8)).

President to the Accused before

Q. Do you wish to make any special pleas/xxxxarraingment that is to say, before you plead guilty or not guilty?
A. No Sir.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:-

First Charge - Not guilty
Second Charge - Not guilty.

President to accused.

Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial has not been complied with, and that you have been prejudiced thereby, for prepsring your defence? (R.P. 39(A))
A. No Sir.

President calls upon Prosecuting Officer for opening address.

Prosecuting Officer replies that he has no address.

/Page 2..

FIRST WITNESS FOR THE PROSECUTION

Mr John Edward Hay, Tudor Cottage, Preston Road, Brighton, Sussex, Radio and Electrical Dealer having been duly sworn states;

Q. Do you recognize this motor?
A. Yes it is a direct current motor.
Q. Have you seen this before?
A. I seen it before in my shop.
Q. When did you first see this motor?
A. When a soldier brought it in to sell it to me.
Q. Would you recognize this soldier?
A. Well it's rather a job to say but I might be able to recognize him.

Question by the President:

Q. Is he in the Court Room now?
A. I belive it is the centre one but I can't be sure. (The witness points to Gnr. Dodds)

Question by Prosecuting Officer;

Q. Did he tell you how it came into his possession?
A. Yes he said he had found it.

The Court accepts direct current No. 556974 as Exhibit "A".

Q. Did you query him?
A. Well, I asked him why he wanted to sell it. He replied "What's that to do with you?"

Question by the Court:

Q. At the time did you think it was an unusual article for a Canadian soldier to have in his possession?
A. Yes.

Question by the Defending Officer:

Q. Will you tell the Court what type of electricity is used in Rottingdean?
A. Alternating current in new district and direct current in old district.
Q. Do you know the vicinity of the waterfront where the St. Margaret flats are?
A. Yes.
Q. Would you agree with me if I stated that alternating current power is used in the vicinity of the waterfront?
A. Yes, a lot of alternating current is used down there.
Q. Is it possible that a direct current motor could abandined if alternating current power is used?
A. Yes it is possible, but a direct current motor has some value to the right person.

Question by the Court:

Q. On what day did the soldier bring Exhibit "A" into your shop?
A. On February 20th. (The witness referred to his statement in the Summary of Evidence to verify the date)
Q. Where is you shop?
A. 91 Trafalgar Street, Brighton.
Q. Did you buy the motor?
A. Yes for three pounds (£3)
Q. What did you do on the conclusion of the sale?
A. I entered it into the buying book, and on the following Monday I did what we have to do in these transactions, notified the civil police.
Q. How was the motor delivered to you?
A. In a small sack. At the time there was Government Lorry standing outside my shop but I did not see either of the accused in the lorry.

Question by the President;

Q. Does the Prosecuting Officer wish to cross-examine the witness on the questions asked by the Defending Officer?
A. No Sir, no questions.
Q. Has the Prosecuting Officer any further witnesses?
A. Yes Sir.

/Page 3.....

SECOND WITNESS FOR THE PROSECUTION

No.2614228, C.S.M. Purslow, H., Special Investigation, Branch, South Eastern Army having been duly sworn states:-

Questioned by Prosecuting Officer.

Q. Would you recognize the accused if you saw them?
A. Yes Sir, the two right there.(Indicating Gnrs. Dodds and McNeill)
Q. Do you recognize these two sheets?
A. Yes Sir I took them on the 25 Feb 43.

Prosecuting Officer states that he wishes to submit these two documents as Exhibits "B" and "C".

Question by the Court:

Q. Will the witness please state the circumstances under which these statements were taken from the accused?
A. In consequences of information received and replies given by both the accused, to questions that I put to them, I cautioned them, I told them they could make statements if they wished to do so either by writing it out themselves or I would write it for them from their dictation. They elected that I should write the statements for them. I produced a form upon which the words of caution were typewritten. They each read over the words of caution and signed same. I then wrote down the statements from their dictation. They read over these statements and signed same.

The Court accepts the two statements as Exhibits "B" and "C".

Question by the Defending Officer.

~~Q. Did you recommend that this offence be tried by Military Authorities~~
Q. When you were questioning the accused did they act or speak as if they had wilfully committed a crime?
A. My inquiry covered a period of three days and in the initial stages of my inquiry knowledge of the theft, disposal or misuse of a M.D. vehicle was denied.
Q. Wre you in contact with the Civilian Police?
A. I was Sir.
Q. Can you tell me the results of your contact with the civilian police?
A. The apprehension and charging of the two accused.
Q. Why did you make the arrest and conduct the inquiry?
A. Because the property was subject to discharge, was believed, and later ascertained to have come from property under War Department control.
Q. Can you tell me anything to support the last answer?
A. The statements made by me to the accused.

The Defending asks that the Court examine these statements.

Q. Did you recommend that this offence be tried by Military Authorities?
A. No, the facts were reported to me by the Civilian Police and in conjunction with them I made enquiries. As a result of those enquiries the civilian police decided it was a purely Military matter.
Q. Had the civilian police of an electric motor being stolen or missing?
A. I am afraid I am not in a position to say.
Q. Did you make this statement or did you originate and sign this report?
A. I did, yes.

The Prosecuting Officer states that he wishes to submit confidential report referred to and signed by C.S.M. Purslow as Exhibit "D".

The Court accepts this documents as Exhibit "D"

Question by President to Prosecuting Officer:

Q. Do you wish to cross-examine the witness Mr. Prosecuter?
A. No Sir.

The Prosecution is closed.

/PAGE 4....

The Court informs the accused of his rights under R.P. 76 in view of the fact that the last witness did not testify at the Summary of Evidence; the Defending Officer declares that he does wish for an adjournment.

President to the accused.

Q. Do you apply to give evidence yourself as a witness?
A. No Sir.
Q. Do you intend to call in any other witnesses in your defence?
A. Yes Sir.
Q. Is he witness as to character only?
A. No Sir.

Defence proceeds to call witnesses.

Lieut. R.A. Hollingworth, 2 Hy.A.A.Regt.(Mob.) R.C.A. having been duly sworn states:-

Q. Do you agree with the statements by Gnr McNeill signed on 25th February he was duty driver for "D" Troop?
A. Yes, if the 20th of Feb was the date in question.

Prosecution declines to cross-examine.

F-15188, Sgt. Murphy, J S. 2 Hy.A.A. Regt.(Mob.) RCA having been duly sworn states:-

Q. Would you tell the Court the area in which the duty driver is authorized to travel?
A. The area of Brighton.
Q. Do you remember who the duty driver was on 20th of February?
A. No Sir.
Q. You found an article in the immediate vicinity of where Gnr Dodds has stated that he found a motor apparently abandoned?
A. Yes.
Q. Will you tell the Court on what day it was found?
A. I don't know the exact date. I was in charge of a fatigue party cleaning up the grounds. One of the men on the fatigue party called me over to look at this motor. I picked up the motor and put it in the shed. The shed had no lock on the door and I informed Captain Roberts I had found it.
Q. Could you tell us what esle there was in this vicinity?
A. In the shed where I put the motor was full of an assortment of junk.
Q. Would you say that it was of no use other than salvage?
A. No.

Questioned by President.

Q. When did you find this motor you putin the shed?
A. It was shortly after Gnr Dodds had been arrested, approximately one week I would say.
Q. Could you describe this dump more precisely to give the Court a picture, or is just simply a junk heap?
A. Well it's a small shed, two windows which are broken out, the door is not locked. Inside the shed there is a heap of old cardborad, deck chairs and trimmings, some old curtains and some old tables and other miscellaneous junk.
Q. And outside the house?
A. There was nothing outside, it is all inside.
Q. How far was the motor outside the house?
A. About ten feet sir.
Q. Was it the only motor near the shed which you could see?
A. Yes Sir.
Q. Was it in a sack, in a crate, or any other kind of wrapping?
A. It was in a sandbag.
Q. Did it appear to you that it had been abandoned?
A. It could have been sir. It was still in the shed yesterday.

Defending Officer questioned by President.

Q. Have you any more witnesses?
A. No that is all sir.

/Page 5...

CLOSING ADDRESS OF PROSECUTING OFFICER

The Defence admits that the accused found the motor and are also unable to prove that the accused took any steps to find the rightful owner of the motor or to notify the proper authorites either military or civilian of their finding.

They also admit the accused proceeded to Brighton for the purpose of selling the motor and had actually effected such a sale. It is therefore my opinion in view of the evidence prescribed before this court that the accused is guilty of the charge of stealing by finding.

DEFENCE OBJECTS TO PROSECUTER EXPRESSING OPINION OF FINDINGS.

J.C. Grier

CLOSING ADDRESS OF DEFENDING OFFICER

Gnr. Dodds does not deny selling the electric motor in question nor does the accused deny being in W.D. Vehicle CL.4234217 which was authorized to travel to Brighton area on the 20th of February, but the Defence has attempted to show that the motor in question was not stolen. I would like to ask the Court if they would refer to Page 119, M.M.L. para.3 under para 51, under Offences Punishable by Ordinary Law. We have endeavoured to show this article was abandoned. Efforts by the Defence and those concerned by the Prosecution have been so far unable to locate an owner.

The statements made by the accused tell us that they did not realize what they were doing also since they had been charged that they were willing to repay and replace in its original position, the motor.

Concerning the second charge, we have already noted that the vehicle was authorized to Brighton and statements do not in any way contradict to say that there was such a journey during the afternoon of February 20th. Is it an offence to carry a small article to a destination to which a vehicle is already authorized to go? Would the Court consider honestly with themselves what would have been their beliefs if they had come upon an article such as an electric motor which was on the ground unprotected from damp which was not being used and had not evidently been used in that vicinity for some time. At the present time electrical equipment is especially in demand and therefore it is to the advantage to all to utilize everything of this nature which is apparently of little use and unlikely to be of any use if it is left for very long under the conditions in which the motor was found. Therefore it is reason to believe that these men were honestly under the impression that this article had been abandoned and that they were being of service to all by so putting it into practical use.

J.H. Gries

The Court is now closed to consider the Findings.

The Court being re-opened the accused is again brought before it.

The Findings of the Court of the First and Second charges being subject to confirmation will be promulgated later.

Lieut. R.A. R.A. Hollingworth, 2 Hy.A.A.Regt.(Mob.) R.C.A. sworn states:-

I offer here M.F.M.6 and A.F.B.296, True copies and extracts from Battery Books which are in my custody. Annexed as Exhibits E & F

President to Accused

Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment?
A. I would like to call up Sgt. Murphy for character witness.

Defence questions Witness

Q. How long have you known the accused?
A. Three years and nine months.
Q. Will you tell the Court what their service has been like?
A. In my opinion, as an N.C.O., their conduct has been very satisfactory
Q. Are they capable of carrying out a job of work on their own accord?
A. Yes they are.
Q. What about petty crimes?
A. In my opinion they are no worse than anybody else.
Q. What sort of soldiers are they?
A. They are average soldiers.

No further questions.

Address by Defending Officer

I don't think it is necessary to repeat a great deal of what I said when summarising before the Court came to its finding because I am certain this will be taken into consideration. Further, however, I would like to add that the both the accused have been confined for a period of 49 days although this was done before the trial. I would like the court to seriously consider that confinements before trial is no more pleasant than when serving a sentence. I will further point out that a period of one month has elapsed between the statements made by the accused on Feb 25/43 and the taking of the Summary of Evidence 24 Mar 43. I might also mention that the official character of both the accused up to the present time is good. There is no doubt in my mind that considering these things, the court will see fit to be as lenient as possible.

The Court is closed for consideration of the sentence.

The sentence to be awarded being subject to confirmation will not be announced but will promulgated latter and the proceedings in the open court are accordingly terminated.

G.C. Grier

The Court is now closed to consider the Findings.

The Court being re-opened the accused is again brought before it.

The Findings of the Court of the First and Second charges being subject to confirmation will be promulgated later.

Lieut. R.A. R.A. Hollingworth, 2 Hy.A.A.Regt.(Mob.) R.C.A. sworn states:-

I offer here M.F.M.6 and A.F.B.296, True copies and extracts from Battery Books which are in my custody. Entered as Exhibits E & F

President to Accused

Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment?
A. I would like to call up Sgt. Murphy for character witness.

Defence questions Witness

Q. How long have you known the accused?
A. Three years and nine months.
Q. Will youtell the Court what their services have been like?
A. In my opinion, as an N.C.O., their conduct has been very satisfactory
Q. Are they capable of carrying out a job of work on their own accord?
A. Yes they are.
Q. What about petty crimes?
A. In my opinion they are no worse than anybody else.
Q. What sort of soldiers are they?
A. They are average soldiers.

No further questions.

Address by Defending Officer

I don't think it is necessary to repeat a great deal of what I said when summarising before the Court came to its finding because I am certain this will be taken into consideration. Further, however, I would like to add that the both the accused have been confined for a period of 49 days although this was done before the trial. I would like the court to seriously consider that confinements before trial is no more pleasant than when serving a sentence. I will further point out that a period of one month has elapsed between the statements made by the accused on Feb 25/43 and the taking of the Summary of Evidence 24 Mar 43. I might also mention that the official character of both the accused up to the present time is good. There is no doubt in my mind that considering these things, the court will see fit to be as lenient as possible.

The Court is closed for consideration of the sentence.
The sentence to be awarded being subject to confirmation will not be announced but will promulgated later and the proceedings in the open court are accordingly terminated.

G.H. Greer

"C"

GHGrier

BRIGHTON DETACHMENT.

Special Investigation Section.

South Eastern Army.

Home Forces.

(Date) 25th February 1943

Statement of No F 15232 Gunner P.W. Dodds of 8th Battery 2nd A.A.A. Regt. Royal Canadian Artillery

Who States:-

I have been cautioned by CSM. H. Purslow. Special Investigation Section, South Eastern Army, that I am not obliged to make a statement unless I wish to do so and that anything I say will be taken down in writing and may be given in evidence. I have read over this caution and fully understanding same I wish to make the following voluntary statement.

(Signed). P.W. Dodds.

On Friday 19th. February 1943. I was on a piece of ground at the rear of the block of flats known as St Margarets when I saw a light coloured sack, it appeared bulky and I examined it. I found that it contained an electric motor. I left it lying in its position until the next day.

On Saturday 20th. February 1943 Gunner Ide. Alfred who is a room mate of mine was on duty as "duty driver". I approached him during the morning and asked him if he would assist me & take the electric motor down to Brighton. He agreed to do so and after dinner that day whilst we were waiting the Company we contained on into Brighton where I disposed of the electric motor for £3. To an electrician I realize that this was not my property & dispose of and I am aware that my unit transport should not have been used for this purpose of conveying the electric

motor to Brighton. I did not realise the seriousness of my action at that time. I am sorry and I am willing to repay the £3 cost.

I have read over this statement, I have nothing further to say.

P. W. D

Statement taken & signature witnessed by Sgt H. Purslow. Special Investigation Section. South Eastern Army. Home Forces

CONFIDENTIAL.

Ref. SIS/WEH/19/43.

"D"

BRIGHTON DETACHMENT.

Special Investigation Section.

South Eastern Army.

Home Forces.

27th. February 1943.

To. The Officer in Charge.
Special Investigation Section.
South Eastern Army.

(1). Theft and Sale of D.C. Electric Motor.
(2). Improper use, and unlawful journey with War Department vehicle, No. Cl.[illegible]247.

Sir.

I have to report that information of this offence was brought to the notice of this detachment by information received from Detective Sergeant James, of Brighton Borough Police.

The facts are as follows:- At about 4 p.m. on Saturday, 20th, February 1943, a Mr. J.H. Hay, who is in business as an Electrician and Radio Dealer, at No.91. Trafalgar Street, Brighton, was in his shop when a soldier entered carrying an electric D.C. motor. He offerred this motor for sale in the first instance requesting £5. for it. A sale was eventually effected the soldier agreeing to accept £3. At the close of the transaction, Mr. Hay requested from the soldier who was a Canadian, his name and regimental particulars, in response to this request the soldier submitted his name as SMITH. R.T. No. H.146712. of R.C.A. (A.A.) His suspicions aroused, Mr. Hay observed the soldier get into a W.D. vehicle and drive away, but Mr. Hay obtained from the vehicle a number which was written down as Cl.[illegible]247.

Inquiries were made to trace a soldier of that name and number, but without result. With reference to the vehicle inquiries revealed that there was no vehicle of that number, but there was a vehicle with the number Cl.[illegible]247, and when it was ascertained that this vehicle was on charge to the 2nd. Regt. (H.A.A.) Royal Canadian Artillery, stationed at Nottingham, it was assured that a mistake had been made with the number.

Inquiries were then made at the location of 2nd. R.C.A. Nottingham, and in company with D/Sgt. H. James and Lieutenant Otto, unit R.T.O. inquiries were made respecting this vehicle. It was ascertained that the vehicle in question was normally driven by a No.F.15363. Gunner H. MacNeil and that on the date in question this vehicle was unit 'duty' lorry. MacNeil was interviewed but denied all knowledge of the sale of the electric motor, or of having visited Trafalgar Street, Brighton. An examination of the work ticket revealed that 46 miles had been travelled in the vehicle on 20.2.43, and when questioned about this mileage, MacNeil could only account for approximately 20 miles, this left 26 miles unaccounted for.

Inquiries were continued, and arrangements were going to be made for an identification parade.

On Thursday, 25th, February 1943, in company with D/Sgt. James and Lieut Otto, I again interviewed No.F.15363. Gunner H.T.MacNeil, and No.F.15232. Gunner F.W. Dodds, both of 2nd. R.C.A. I made known the nature of my inquiries and cautioned them, and they both elected to make signed statements which I took down from their dictation. Both admitted the theft and disposal of the electric motor and with improperly using the W.D. vehicle.

Inquiries have been made to trace the owner of the electric motor, but to date without success. The electric motor is alleged to have been found on a piece of ground formerly used as a vehicle park by the unit until bad weather made it unusable. It is apparent that the motor is from requisitioned premises in this vicinity, but owing to damage recently by enemy action to surrounding requisitioned premises it has not been possible to clearly establish which premises the motor has been obtained from. The premises in the vicinity were formerly used for catering business.

/over.

Under the circumstances in view of the fact that the civil police have no crime of this nature outstanding and have no wish to deal with this case themselves, I respectfully suggest that the two accused by dealt with by military law :-

(1). Improper use of a War Department vehicle and petrol.

(2). For being concerned together, did feloniously steal by finding, an electric D.C. motor, the property of some person or persons unknown. Contrary to Larceny Act.1916. Section. 2. (Army Act. Section.41).

Statements obtained in connection with this case are attached herewith.

I wish to express the appreciation of Det/Sergt. James Brighton Police, and of this detachment, for the assistance rendered by Lieutenant Otto in the investigations of this matter.

Company Sergeant Major.
Special Investigation Section.
South Eastern Army.

BRIGHTON.

7 Apr 43

C. O.
2 H.A.A. Regt (Mob.) RCA

With reference to my pending trial by Field General Court Martial I wish that Lieut A. B. Otto, 2 H.A.A. Regt (Mob.) RCA be appointed to act as Defence Officer.

In the event that Lieut Otto is not available I wish that Lieut J. Snider, 2 H.A.A. Regt (Mob.) RCA be appointed to act as Defence Officer.

P. W. Dodds

(P. W. Dodds) Gnr

To: John Edward Hay,
Tudor Cottage,
Preston Road,
BRIGHTON, Sussex.

WHEREAS a Field General Court Martial has been ordered to assemble at Addington, Surrey, on the thirteenth day of April, 1943, for the trial of Gunners DODDS, Philo Wayne (F.15232) and MacNEILL, Reagh Tarquail (F.15363), 8 H.A.A. Bty., 2 H.A.A. Regiment, Royal Canadian Artillery, I do hereby summon and require you John Edward Hay, of Tudor Cottage, Preston Road, BRIGHTON, Sussex, to attend as a witness, the sitting of the said Court at Addington, Surrey on the thirteenth day of April, 1943, at 0930 hours in the forenoon and so to attend from day to day until you shall be daly discharged, whereof you shall fail at your peril.

Given under my hand at Bickley, Kent on the 10th day of April 1943

(D.R.Agnew) Brigadier.
Commanding
1 A.A. Brigade, R.C.A.

He told me that he had found an electric motor lying abandoned on a piece of ground at the rear of 37. Margarets Flats Rottingdean. He asked me whether I would take it down to Brighton with him in my lorry. As I was off duty driver on this day I agreed.

After dinner in company with Dodds I took my lorry, Ford 3 ton No CL 4234217 to this piece of ground and there I assisted him to load the electric motor onto my lorry. This was the first that I had seen of the electric motor. It was lying near to a wooden shack and was contained in a box.

It was my duty as driver on this date to visit the unit laundry in Brunswick Rd. So whilst on that journey accompanied by Mrs. Dodds, I drove the vehicle into Brighton where we made a town of electrical business premises in the town to sell the electric motor. Mrs. Dodds eventually effected a sale of the electric motor for £ 30-0. of which I received £ 1-10-0.

I realize that it was a foolish thing to do, but I acted without caution at that time and I am sorry.

A.G.Pl. at Trial

I certify that the foregoing Summary of Evidence consisting of four pages was taken down by me in the presence of the accused and that Rules 4 (C) (D) 5 (E) and (F) have been complied with.

Page 1

G.G.Grier

Summary of Evidence
in the case of
No. F-15232, Gnr. Dodds, F.W.
No. F-15363, Gnr. MacNeill, K.D.
& Hy. A.A. Bty. 2 H. A.A. Regt. (Mob.) RCA, soldiers of the Canadian Army placed on Active Service

First Witness for Prosecution: John Edward Hay, of Tudor Cottage, Preston Road, Brighton, having been duly sworn states:

I am the Managing Director of Hay & Sons (Brighton) Ltd. Radio and Electrical Dealers, of No. 91. Trafalgar Street Brighton.

About 4 p.m. on Saturday, the 20th February 1943, a soldier came into the shop bringing with him a D.C. Electric Motor. He said: I want to sell it and then I asked him, Is it your property? Why do you wish to sell it? He replied, "Well, what's that to do with you?" I said, "It is necessary, as we keep records for police purposes." He said "That's O.K." I purchased it for £ 3.0.0 although he asked for £ 8.0.0. I then took down his name and number which he gave as F. Smith R.T. No H.14732 of the R.C.A. (A.A.)

After he had given this name, I said "Smith! Is that your name?" He said "Yes"

My suspicions were aroused and as he left the shop I sent my man out to get the number of the lorry which the soldier drove away in, and he

returned and gave it to me as CL 4243217
I later informed the civil police.

John S Hay
(J.S. HAY)

The accused decline to cross examine this witness

The accused were cautioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused elects to give evidence as follows:-

Statement by the accused

The accused No. F. 15232 Gnr. P.W. Dodds 6th Bty. 2nd Bty. N.A.A. Regt. (Mob.) R.C.A. having been duly sworn states:

On Friday 19th February 1943 I was on a piece of ground at the rear of the block of flats known as St. Margarets where I saw a depth charge rack. It appeared faulty and I examined it. I found that it contained an electric motor. I left it lying in its position until the next day.

On Saturday, 20th February, 1943 Gnr. MacNeill, who is a roommate of mine, was on duty as duty driver. I approached him during the morning and asked him if he would assist me to take the electric motor down to Brighton. He agreed to do so and after dinner that day whilst MacNeill was washing the laundry we continued on into Brighton where I sold the electric motor for £3-0-0 to an electrician.

I realize that this was not my property to sell and I am aware that my unit transport should not have been used for this purpose of conveying the electric motor to Brighton. I did not realize the seriousness of my action at that time. I am sorry and I am willing to repay the £3-0-0 cash.

P W Dodds.

The accused No. F. 15303 Gnr. MacNeill R.T. 8th Bty. 2nd Bty. N.A.A. Regt. (Mob.) R.C.A. having been duly sworn states:

On Saturday morning 20th February 1943 I was approached by Gnr Dodds of my unit with whom I am friendly

Sheet destroyed 20-7-42

NF-15232 Name DODDS, P.W. Regt., Battery, 8th Corps (Mob.) RCA. 2 Hy.A.A.Regt. Date of enlistment "F"

Date of last entry in Company Conduct Sheet 26-6-40 No. and date of last drunk Nil Period not reckoning towards freedom from extra fine after 6 mos service Sheet No. Signature O.C. Company, etc. Badges Service or Proficiency Pay Character

M.F.M. 6 (A.F.B. 177) 11M—7-41 (3219-20) H.Q. 1772-35-1452

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Petawawa	15-5-41	Gnr		AWL 0700 hrs 14-5-41 until 0155 hrs, 18-5-41 (AA Sec.15(1)		14 dys CB	20-5-41	Lt.Col Fielding	ffts 4 dys pay FRAI.
(1) In the Fd.	15 Aug 42			Sec.40: at 1415- 15 Aug 42 operated vehicle #CC4218381 without a work ticket	Gnr. Van Iderstine.	Ffts 5 days pay	9 Nov 42	Lt Col Bell-Irving	
(2) "									
	15 Aug 42			Sec 40: Negligently operated vehicle #CC4218381 so as to damage it to extent of $2.5.0.	Gnr. Van Iderstine.	Admonished and placed under stoppages of $2.5.0.	9 Nov 42	Lt.Col. Bell-Irving	

Certified a true copy from Battery Books

Capt & Adjt 8 Hy.A.A.Bty RCA

PTO

Description of Court by which, tried, or cases in Officer disposing of the charge or dispensing with Trial	Date and place of Trial or summary award or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7 day of April 1943

Major
O.C.

"E"

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

F-15232 Gnr DODDS, P.W. of the 8 Hy.A.A.Bty 2 Hy.A.A.Regt.(Mob.)RCA

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets† are to be produced in Court with this statement but are not to be assumed to be the proceedings.

†See Para. 604, K.R., 1940.

*The numbers inserted should correspond with the number of entries in the Conduct sheets, punishments being given in the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for desertion, separate entries for absences over 14 days should be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For Neglect to Prej.	One times	One times.
For Absent without Leave	Nil times	One times.
For	times	times.
For	times	times.

~~There are no entries of any kind or nature recorded against the accused in his Conduct Sheet.~~

~~There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted.

~~There are no entries in the Conduct sheets of the accused.~~

~~There are no entries in the Conduct sheets of the accused by a court martial or a civil court, except those which have been struck out by superior authority as erased. Such erased entries are not to be taken into consideration in any way to the prejudice of the accused.~~

W. A. 4000/1 30,000 5-40 W. S. Ltd. (1—4000)

3. [redacted]

[redacted]

4. [redacted]

for 8 days in Civil Custody.

and 4 9 (Four Nine) days in Military Custody.

Total 4 9 days.

Of which 80 days were spent in hospital.

5. The present age of the accused according to his attestation paper [redacted], is 21 years.

6. The date of his [redacted] specified in his [redacted] attestation paper is [redacted].

7. The [redacted]

8. The [redacted]

9. The [redacted] years [redacted]

10. The accused is in possession of, or entitled to, no military decoration or military reward [or in his [redacted]].

11. (*If the accused has [redacted]*) The accused [redacted]

12. (*If the accused has [redacted]*) The accused's [redacted], and [redacted] days [redacted].

13. The accused has [redacted]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name [redacted] of the [redacted]

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispositions with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

(Continued overleaf.

AA-84

CPL DODDS R.G.

O. H. M. S.

M. F. B. 270

A-A-84

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 23rd day of March, 1943.

Whereas it appears to me, the undersigned, an officer in Command of R.C.A.S.C., 1 Canadian Corps, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

[redacted]

for the following reason, namely:—[redacted]

Proceedings Reviewing Officer

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.J. LABRIE	41 G.T.C.

Members.

Rank.	Name.	Regiment.
Captain	J.V. COOK	1 M.A.C.
Lieutenant	C.K. KEMPSTON	45 G.T.C.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (H.V. McQueen)
(H.V. McQueen) Colonel,
Commanding R.C.A.S.C. 1 Cdn Corps
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B.84302 Corporal Robert Gibson DODDS No 1 D.I.D. RCASC	FIRST CHARGE A.A. Sec 15(1)	Guilty R.P. 35 A. Explained with Rights W. Rabie Capt	Guilty To be reduced to the ignominious rank of Private W. Rabie Major 23 March 1943	Confirmed. WcQ

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) W.V. McQueen (Signed) W. Rabie, Major
(W.V. McQueen) Colonel — Commanding RCASC 1 Cdn Corps — Confirming Officer (*d*) — 1st Cdn Bn Employment Coy — President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 23 day of March 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. ~~The witnesses~~
3. *~~(The interpreter)~~
4. *~~(The officers under instruction)~~

were duly sworn.

* Omit if not applicable.

Signed this 23 day of March 1943.

W. Rabie, Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 24th day of March 1943

E.W. McQueen Col
Confirming Officer.

Promulgated and extracts taken in the case of B84302 Cpl Dodds R.G.

(*a*) (Dated) 25 March 43 (Signed) W.H. Stewart Major

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

C H A R G E S H E E T

The accused No. B/84302 Cpl. Robert Gibson Dodds, No 1 D.I.D., R.C.A.S.C., a soldier of the Canadian Army Overseas, on Active Service, is charged with:-

First Charge
Section 15(1) Army Act.

Absenting himself without leave,

in that he,

In the Field, absented himself without leave from 2300 hrs, 25 February 1943, until 1500 hrs 4 March 1943.

Total time absent - 6 days, 16 hours.

R. Buckner Maj

(R. Buckner) Major,
O.C. 32 Cdn. Corps Troops Coy,
R.C.A.S.C.

Field
20 Mar 43
FAM/CEM.

Signed in the Field,
this 20th day of March, 1943.

To be tried by Field General Court Martial.

(M.V. McQueen) Colonel,
DDAT,
1 Cdn Corps

Field
22 Mar 43

Maj. Stubbs Major Pulsford

MEDICAL CERTIFICATE (N.P. (Can) 557)

I certify that I have this morning examined No. B84302

Cpl. Dodds, R.? of No. 1 D.I.D., RCASC and in my

opinion he is fit to undergo trial by Court-Martial.

Station Field

Date 23 Mar 43

Medical Officer Capt RCAMC

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at 32 C.T.C.

on the 23 day of March 1943 by order of

Colonel M.V. McQueen

Commanding RCASC 1 Cdn Corps

dated the 23 day of March 1943

President.

Major A.J. Labrie.

Members.

Capt J.V. Cook

Lieut C.R. Kempston

, ~~Judge Advocate~~ /

Trial of*

B84302 Gnr Robert Kilburn Dodds

No. 1 D.S.O. RCASC

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ / ~~is not available to serve owing to~~ /.

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieutenant A.S. MacRae 32 Corps Troops RCASC

/ ~~Counsel~~;‡ or defending officer† Capt J.E. Charles 32 Corps Troops RCASC

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

NO

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).

† Here state Rank and Name, and Regiment (if any).

‡ Qualification to be stated.

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Answer. Guilty

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to ~~the~~ ONE OF THE charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been recorded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused B84302 Cpl. Robert Gibson Dodds
is found guilty of the Charge.

†The summary ~~(or abstract)~~ of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

N/D

~~[or hands in a written statement, which is read, marked •] , signed by the President, and attached to the proceedings.]~~

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused

NO sir I will leave that to my defending officer.

Answer

Evidence as to character

Statement by Captain J. G. Christie 32 corps troops RCASC
defending officer of the accused

I have known Cpl R.G. Hodds for a period of forty months — approximately 36 of these months during which Cpl Hodds has worked mostly under myself. During the time Cpl Hodds worked with me and for me I have found him to be very efficient, honest, and a good soldier. On Cpl Hodds transfer, after finding out the nature of the work assigned to him and not liking this work or finding it of interest to him as had been the supply work he applied to his Commanding officer for a transfer to a supply unit. This he did on several occasions and went to the extent of offering to revert to the rank of Pte. in order to get a transfer. This transfer was refused in all cases. It was only the hope of being transferred that Cpl Hodds went to the extreme and spoiled an otherwise good record. I feel that under the circumstances the sentence of the court should, sir, be as lenient as possible. I might add, that Cpl Hodds would be an asset to any supply Coy. in detail.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

~~The Court being re-opened, the accused is again brought before it.~~

Lt F A Manning 3rd Coy. ~~is duly sworn.~~

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* No F. H. 6 M.F.S. 3 Yrs

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* YES

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* YES

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* YES

[Cross-examination by or on behalf of the accused, or the omission of the accused to ask questions, or evidence in reply, or statement, or making of the Court, omitted from notes as not necessary, considered to be of doubtful relevancy, or to be addressed to the Court or to be answered by the Court (in consequence whereof the attendance of the Court in the dock, and the Court being cleared, were the notes and questions of and answers proceeded.]

Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? *Answer.* By DD Defending officers Statement

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused B 84302 Chl Dodds R.G.
32 Bn Corps Troops Coy.
R.E.A.E.F.

Sentence.
To be reduced to the permanent rank of Private, and in addition this court recommends that the accused be transferred to a unit of his arm, a Supply unit.

A. Prentice Major
President.

Summary of Evidence in the case of B/84302 Cpl. Dodds R.G., No. 1 D.I.D., R.C.A.S.C.

By direction of the Commanding Officer, Summary of Evidence is taken on Oath.

1st Witness for the Prosecution

B/83964 Cpl. Stuart J.W. No. 1 D.I.D., R.C.A.S.C. having been duly sworn states:-

"On the night of 25 Feb 43, at 2300 hrs, I was the Orderly Cpl. , and I called the roll and B/84302 Cpl. Dodds was not in his bed and was not anywhere around the lines and I marked him absent."

The accused declines to cross-examine the Witness.

B83964 Cpl. Stuart J.W.

2nd Witnesr for the Prosecution

C/11435 Cpl. Harthen L., 32 Cdn. Corps Troops Coy. RCASC having been duly sworn states:-

"I was witnes s to the accused returning back to his Unit on 4th March, 1943, at 1500 hrs, when I went across to D.I.D. billets to pick up personnel and return them to 32 Coy for evening meal. Cpl. Dodds reported to me stating he was A.W.L. from his Unit. I then put him under arrest. The man was properly dressed, sober, and conducted himself as a soldier. That is all, sir."

The accused declines to cross-examine the Witness.

L. Harthen Cpl. C/11435

B/84302 Cpl. Dodds R.G., No. 1 D.I.D. R.C.A.S.C. makes the following statement:-

"I had been in the C.T. Supply Column as an issuer for supplies. I was transfered Dec. 1 1942 to No. 1 D.I.D., and after working on supplies for 2½ years, I did not like the work in the new unit as I was away from my old supply job. I asked for a transfer which I could not be granted, and very anxious to get back on supplies I was discontented. On Feb 25 1943, I received a letter stating that a friend of mine was very sick, and this letter, together with my discontent, resulted in my leaving Unit lines to try and get away by myself and think things over. I had full intentions of returning, which I did voluntarily." R.G. Dodds B84302

Certified that rules of procedure 4 (c) (d)(e) (f) and (g) have been complied with.

Taken down by me in the presence and hearing of the accused this 20th day of March, 1943, at H.Q. 32 Cdn Corps Troops Coy. R.C.A.S.C.

A MacRae

(A.J. MacRae) Lieut
32 Cdn Corps Troops Coy.,
R.C.A.S.C.

Field
20 Mar 43
FAM/CBM

Summary of Evidence in the case of B/84302 Cpl. Dodds R.G., No. 1 D.I.D., R.C.A.S.C.

By direction of the Commanding Officer, Summary of Evidence is taken on Oath.

1st Witness for the Prosecution

B/83964 Cpl. Stuart J.W. No. 1 D.I.D., R.C.A.S.C. having been duly sworn states:-

"On the night of 25 Feb 43, at 2300 hrs, I was the Orderly Cpl. , and I called the roll and B/84032 Cpl. Dodds was not in his bed and was not anywhere around the lines and I marked him absent."

The accused declines to cross-examine the Witness.

B/83964 Cpl Stuart J.W.

2nd Witness for the Prosecution

C/11435 Cpl. Marthen L., 32 Cdn. Corps Troops Coy. RCASC having been duly sworn states:-

"I was witness to the accused returning back to his Unit on 4th March, 1943, at 1500 hrs, when I went across to D.I.D. billets to pick up personnel and return them to 32 Coy for evening meal. Cpl. Dodds reported to me stating he was A.W.L. from his Unit. I then put him under arrest. The man was properly dressed, sober, and conducted himself as a soldier. That is all, sir."

The accused declines to cross-examine the Witness.

L. Marthen Cpl. C11435

B/84302 Cpl. Dodds R.G., No. 1 D.I.D. R.C.A.S.C. makes the following statement:-

"I had been in the C.T. Supply Column as an issuer for supplies. I was transfered Dec. 1 1942 to No. 1 D.I.D., and after working on supplies for 2½ years, I did not like the work in the new unit as I was away from my old supply job. I asked for a transfer which I could not be granted, and very anxious to get back on supplies I was discontented. On Feb 25 1943, I received a letter stating that a friend of mine was very sick, and this letter, together with my discontent, resulted in my leaving Unit lines to try and get away by myself and think things over. I had full intentions of returning, which I did voluntarily." R.G. Dodds Cpl B84302

Certified that rules of procedure 4 (c) (d)(e) (f) and (g) have been complied with.

Taken down by me in the presence and hearing of the accused this 20th day of March, 1943, at H.Q. 32 Cdn Corps Troops Coy. R.C.A.S.C.

A MacRae

(A.J. MacRae) Lieut
32 Cdn Corps Trops Coy.,
R.C.A.S.C.

Field
20 Mar 43
AJM/CHM

B/84302 Cpl. Dodds R.G. of No. 1 D.I.D. R.C.A.S.C., wish an officer, Capt. J.G. Christie, 32 Cdn. Corps Troops Coy. R.C.A.S.C. to defend me at coming trial by Field General Court Martial.

Cpl. Dodds R.G.

Field
20 Mar 43
FAM/CBM

W.J. Bulkley, Major
President

M.F.M. 6 (A.F.B. 172) (12334—7-41 (1210-39) H.Q. 1772-52-1672)

No. B84302 Name Dodds, R.G. Sqn., Battery, or Company Corps R.C.A.S.C. Date of enlistment 15-9-39 G.C. Badges N/A Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In accordance with O/Seas R.O. 2084, previous sheet was destroyed on completion of six months service from date of attestation. Sheet destroyed 15-3-40. Last entry Nil Cases of Drunkeness Nil . Last instance Nil.									
						(R.Buckner.) Major, & O.C. 32 Cdn C.T. Coy., RCASC			
Field	31-7-40	Pte		Sec 15(1)A.A. A.W.L. 22¾ hrs.	Cpl Commings	3 days C.B.	2-8-40	R.Buckner Capt	1 days pay FRI 149(1)(a)
Field	23-10-41	Pte		Sec 15(1)A.A. A.W.L. from 1200 hrs 28 Oct 41 to 1915 hrs 11 Nov 41. T.A. 14 days 7½ hrs.	Cpl Sheehan.	15 days Field Punishment	12-11-42	Lt-Col S.H.Coombes	15 days pay FRI 149(1)a.

CERTIFIED TRUE COPY (F.A.Manning) Lieut & Adt., 32 Cdn C.T. Coy., RCASC

(P.T.O.)

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B84302	Corporal	Dodds, R.G.	No.1. D.I.D.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental and Squadron, Battery ~~Conduct sheets~~ Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For Sec 15(1)A.A.	Nil times	2 times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct Nil

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~by~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

The accused at the present time is under sentence for Nil beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 15 days in military custody, making a total of 15 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper is 34 years

6. The date of his commission specified in his record of service is attestation attestation paper 15 Sep 39

7. The service which the accused is allowed to reckon towards discharge is 3 yrs. 6 mos. 6 days

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is military military ~~in possession of entitled to~~). State any air force decoration or reward.

10. ~~If the accused is a warrant officer, the accused holds no warrant other than~~ the ~~regimental~~ rank of

11. (In case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

1 March, 1942 Date of promotion.

In the rank of L/Cpl. 5 months ~~years.~~

In the rank of Cpl. 7 mos.21 days ~~years.~~

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number..... Rank.....

Name.....of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of March, 1943 R. Buckner Major

O.C., 32 Can. C.T. Coy. R.C.E.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

LLL-41

PTE DODGE A-F

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C79044 Pte A F DODGE 2 Cdn Gen Hosp

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present ~~under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of ninety (90) days.

(Sgd) ..... Judge-Advocate, if any. 15 May 44 Date awarded. ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding & sentence but I remit forty (40) days detention.

~~I do not confirm the finding and sentence but direct that the accused be tried again by another court.~~ (1. AA 57A. Delete if not used.)

Date 16 May 44. (Sgd) J.H. Roberts

J. H. ROBERTS, Maj-Gen.,
Comd. Cdn. Rft. Units.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
C-79044 Pte DODGE, A.F. No. 2 Cdn. Gen. Hospital	18 May 44.	[signature] Capt Br. Cst. Adv.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160a 222-41

RECEIVED 2 JUN 1944 JAG BRANCH C.M.H.Q.

CFAIR (To form of AFAIR) 40/P.M.B./1605 (40/01)

FIELD GENERAL COURT-MARTIAL 4/38B

Convened by Order of Maj Gen JH Roberts, DSO MC Comd Cdn Rft Units dated 13 May 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rsnk or A/apprnt, if any, see AA 182, 183, fns. KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apprnt, A/R. or A/Apprnt.	Full Christian Names.	Surname.	Unit.
C79044	Pte	Archibald Francis	DODGE	2Cdn Gen Hosp

PROCEEDINGS REVIEWED 27 May 44

W. C. Dunbar Lieut-Col

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 15 ~~Apr~~ May 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 102, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)

The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1)

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... no interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... no shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No

(1. RP 110. 2. If no objection, ~~waiting member retires~~. RP 68(3). If objection, see procedure AA 51, RP 23, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.L.	REDMAN	MC CAM.
Member	Capt	G.S.N.	BOWELL	2 CAMC
Member	Lt.	H.G.	McWILLIAMS	2 CAMC
~~Judge-Advocate~~				
Prosecutor	Lt.	J.R.	DAVIS	2CAPU-attd 2CGH
Defending Offr	Lt	C.L.	GAMBLE	4CIRU-attd 2CGH

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~no~~) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or on bar of trial (RP 36), or as to accused's mental fitness to attend trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~no~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~retires and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 5

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. Nil Stmt.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (1) "The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly."~~
(*1. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 'A', initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial afterwards proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the Finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (a), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. Nil
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Ex Def Offr - Nil Stmt.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(5), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 363-366, Overseas 80 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 40(2), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. C79044 Pte. DODGE, Archibald Francis, 1 CIRU, on the strength of No. 2 Cdn Gen Hosp, RCAMC, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Sec. 15(1) A.A. ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at No. 2 Cdn Gen Hospital, RCAMC, did absent himself without leave from 1700 hrs, 30 Mar 44 till he reported back at 2359 hrs, 5 May 44.

36 days 6 hrs 59 mins

Bramshott, Hants.
10 May 44.

(D.A. Warren), Colonel, R.C.A.M.C.,
O.C., No. 2 Cdn Gen Hosp (Bramshott).

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
13 May 44

(J.H.Roberts)Maj Gen
Comd
Cdn Rft Units

2

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
C79044	Pte	Archibald Francis	DODGE	2 Cdn Gen Hosp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on this date endorsed by me, (~~or the Judge Advocate on my staff for me~~), " To be tried by Field General Court-Martial ".
(date)

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~a. I am unable to appoint (b) three Offrs to form the Court, (b) a Pnl Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~b. I have appointed a Judge Advocate to act at the Offr summoned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-col	DL Redman VD		HQ CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	from and to be detailed by OC of		2CARU
Lieut	from and to be detailed by OC of		2CARU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 13 May 44

J.H. Roberts (Signed personally. RP 105 fn 2.)

(J.H.Roberts)

Commanding Cdn Bft Units Convening Officer.

Maj Gen (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (Para 12a (iii) of AFAS) 40-P & S/1947 (1st Rev.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Con 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Con) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 42 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 82(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 86(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn 10*)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 2, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 81.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 86(E), KR Con 565(a).*)

(vii) Summing up by JA, if any. (*RP 82.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Con 567.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to submitting as evidence a certified copy in lieu of original see KR Con 566. As to certified copies of regimental books see AA 163 (1) (g) (ii).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part 3 of Schedule on p 4 after minute of sentence awarded. (*AA 52(9), RP 113(C), MML p 709.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

Medical Officers' Certificate.
KR(Can) para 557.

I certify that I have this Morning examined;

No. C75944 Rank Pte Name DODGE A.F.

Unit CIC posted to No. 2 Cdn. General Hospital RCAMC

and in my opinion is ~~UNFIT~~ FIT to undergo trial by Court Martial.

STATION BRAMSHOTT Sgd [signature] Rank Capt.

(W.P. Marshall) Captain, R.C.A.M.C.

DATE 15 May 44 ~~Unit Medical Officer RCAMC.~~

(of Court Martial)

Plea of Mitigation to

President of the Court and Members.

In plea of mitigation on behalf of C 79099 Pte Dooley AF
I would like to point out the disadvantage under which this man
is placed due to lack of education. The accused can neither read
nor write and due to this illiteracy I feel he did not at the
time he committed the offence realize just how serious it was.
~~He did not realize~~ Family trouble recently the illness of his
wife & the distress only to encouraged his friendship deans. I
hope the court will take these things into consideration

Gamble, Lt.
E-3
AFM

Appendix "A".

RECORD of the Declaration of a Court of Inquiry assembled at BRAMSHOTT ENGLAND on the 22nd day of APRIL 19 44 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. C79044 Pte DODGE A F CIC 2 Cdn Gen Hospital RCAMC

DECLARATION

The Court declare, that, No. C79044 Pte DODGE A.F. CIC 2 Cdn Gen Hosp RCAMC., illegally absented himself without leave., did not return from privilege leave, at BRAMSHOTT, ENG, at 1700 hrs on 30th day of MAR 1944, and that he is still so absent, and that on the 21st day of APR 1944, he was deficient, and that he is still deficient of the following articles;

DEFICIENCIES OF KIT.

		75%	VCCAB.
Blouse B D	1	$ 3.94	5.25.
Boots ankle	1 pr	4.14	5.46
Drawers wool	1	.90	1.20
Gloves wool	1	.36	.47
Greatcoat	1	8.40	11.31
Jersey pulover	1	1.35	1.79
Trousers B D	1	4.05	5.39
Shirts drab	1	.90	2.03
Badges cap	1	.06	.09
Badges CANADA	1 pr	.02	.03
Brasses cleaning	1	.03	.04
Brushes shaving	1	.28	.37
Brushes tooth	1	.08	.11
Combs hair	1	.03	.04
Holdall	1	.15	.19
Razor	1	.04	.06
Haversack W E	1	1.35	1.79
Capes A/G	1	1.92	2.76
		$ 28.00	38.38

CERTIFIED that the price of the article listed, is the value of unexpired wear of each item deficient.

(SGD) R M MACFARLANE Capt & QM
2 Cdn Gen Hosp RCAMC.

Total Deficiencies.

£6.5.3. $28.00

Names of President and Members:

(W C WHITESIDE) Major PRESIDENT
11 Cdn Gen Hosp RCAMC att 2 C G H

(C L GAMBLE) Lieut MEMBER
4 CIRU att 2 Cdn Gen Hosp RCAMC

(J W STRONG) Lieut MEMBER
1 CGRU att 2 Cdn Gen Hosp RCAMC.

Signature of Commanding Officer

(D A WARREN) Colonel
Comdg 2 Cdn Gen Hosp RCAMC

Certified true copy (H I PALMER) Major REGISTRAR 2 C.G. H. RCAMC
Signature of Officer having custody of original record.

LIST OF WITNESSES FOR THE PROSECUTION

A27002 QMS. Tipping, C.J.
No. 2 Cdn Gen Hosp RCAMC.

B63716 Cpl. Dreppenstedt, H.J.
No. 2 Cdn Gen Hosp RCAMC.

LIST OF WITNESSES FOR THE DEFENCE

NIL.

I, C79044 Pte. Dodge, A.F., desire to have an officer assigned to represent me at my trial by Court Martial.

Dodge A.F.

.....

C79044 Pte. Dodge, A.F.

Summary of Evidence in the case of C79044 Pte. DODGE, Archibald Francis, 1 CIRU, on the strength of No. 2 Cdn Gen Hospital, RCAMC, a soldier of the Cdn Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

First Witness: A27002 QMS Tipping, C.G. on the strength of No. 2 Cdn Gen Hospital, RCAMC, having been duly sworn, states: "I am Chief Clerk on the strength of No. 2 Cdn Gen Hospital, RCAMC, and the accused, also on the strength of this unit, was granted seven days privilege leave as from 1000 hrs 23 Mar 44 to 1700 hrs 30 Mar 44. He did not return at the expiration of his leave, absenting himself without leave until he reported back at 2359 hrs 5 May 44. I present herewith MFB 375, Record of the Declaration of a Court of Inquiry, duly certified, (Appendix "A") pertaining to the accused, showing him to be deficient of his clothing and equipment in the amount of Twenty-eight Dollars ($28.00)."

The accused declines to cross-examine this witness.

.....C.G. Tipping QMS.....

Second Witness: B63716 Cpl. Dreppenstedt, H.J., on the strength of No. 2 Cdn Gen Hospital, RCAMC, having been duly sworn, states: "I am a corporal on the strength of No. 2 Cdn Gen Hospital, RCAMC, and on the 5 May 44 I was on duty as Night Orderly Corporal. The accused, whom I now recognize, reported to me at 2359 hrs on 5 May 44, stating that he was an absentee. He was sober and properly dressed."

The accused declines to cross-examine this witness.

.....H.J. Dreppenstedt Cpl.....

The accused was cautioned as follows: "Do you wish to make any statement, or to give evidence on oath? You are not obliged to say anything, or give evidence, unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing, and may be given in evidence".

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down be me in the presence of the accused, and that Rules of Procedure 4(c), (d), (e), (f), and (g) have been complied with.

Bramshott, Hants.
9 May 44.

Signature.....
Officer detailed to take the Summary of Evidence.

E + A

Summary of Evidence in the case of C79044 Pte. DODGE, Archibald Francis, 1 CIRU, on the strength of No. 2 Cdn Gen Hospital, RCAMC, a soldier of the Cdn Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

First Witness: A27002 QMS Tipping, C.G., on the strength of No. 2 Cdn Gen Hospital, RCAMC, having been duly sworn, states: "I am Chief Clerk on the strength of No. 2 Cdn Gen Hospital, RCAMC, and the accused, also on the strength of this unit, was granted seven days privilege leave as from 1000 hrs 23 Mar 44 to 1700 hrs 30 Mar 44. He did not return at the expiration of his leave, absenting himself without leave until he reported back at 2359 hrs 5 May 44. I present herewith MFE 375, Record of the Declaration of a Court of Inquiry, duly certified,(Appendix "A") pertaining to the accused, showing him to be deficient of his clothing and equipment in the amount of Twenty-eight Dollars ($28.00)."

The accused declines to cross-examine this witness.

C.G. Tipping QMS

Second Witness: B63716 Cpl. Dreppenstedt, H.J., on the strength of No. 2 Cdn Gen Hospital, RCAMC, having been duly sworn, states: "I am a corporal on the strength of No. 2 Cdn Gen Hospital, RCAMC, and on the 5 May 44 I was on duty as Night Orderly Corporal. The accused, whom I now recognize, reported to me at 2359 hrs on 5 May 44, stating that he was an absentee. He was sober and properly dressed."

The accused declines to cross-examine this witness.

H.J. Dreppenstedt Cpl

The accused was cautioned as follows: "Do you wish to make any statement, or to give evidence on oath? You are not obliged to say anything, or give evidence, unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing, and may be given in evidence".

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down be me in the presence of the accused, and that Rules of Procedure 4(c), (d), (e), (f), and (g) have been complied with.

Bramshott, Hants.
9 May 44.

Signature.....
Officer detailed to take the Summary of Evidence.

E + A

APPENDIX "A"

RECORD of the Declaration of a Court of Inquiry assembled at BRAMSHOTT ENGLAND on the 22nd day of APRIL 1944 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. C79044 Pte DODGE A F CIC 2 Cdn Gen Hosp RCAMC.

DECLARATION

The Court declare, that, No. C79044 Pte DODGE A.F. CIC 2 Cdn Gen Hosp RCAMC., illegally absented himself without leave, did not return from privilege leave, at BRAMSHOTT, ENG, at 1700 hrs on 30th day of MAR 1944, and that he is still so absent, and that on the 21st day of APR 1944, he was deficient, and that he is still deficient of the following articles;

DEFICIENCIES OF KIT

			75%	VOCAB.
Blouse B D	1	$	3.94	5.25
Boots ankle	1	pr	4.14	5.46
Drawers wool	1		.90	1.20
Gloves wool	1		.36	.47
Greatcoat	1		8.40	11.31
Jersey pulover	1		1.35	1.79
Trousers B D	1		4.05	5.39
Shirts drab	1		.90	2.03
Badges cap	1		.06	.09
Badges CANADA	1	pr	.02	.03
Brasses cleaning	1		.03	.04
Brushes shaving	1		.28	.37
Brushes tooth	1		.08	.11
Combs hair	1		.03	.04
Holdall	1		.15	.19
Razor	1		.04	.06
Haversack W E	1		1.35	1.79
Pipes A/G	1		1.92	2.76
			$ 28.00	38.38

Total Deficiencies.

£6.5.1 $28.00

CERTIFIED that the price of the article listed, is the value of unexpired wear of each item deficient.

(SGD) R M MACFARLANE Capt & QM
2 Cdn Gen Hosp RCAMC.

Name of President and Members:

(W C Whiteside) Major PRESIDENT
11 Cdn Gen Hosp RCAMC att 2 C G H

(C L Gamble) Lieut MEMBER
4 CIRU att 2 Cdn Gen Hosp RCAMC

(J W Strong) Lieut MEMBER
1 CGRU att 2 Cdn Gen Hosp RCAMC.

Signature of Commanding Officer.....
(D A WARREN) Colonel
Comdg 2 Cdn Gen Hosp RCAMC

Certified true copy.(H I PALMER) Major REGISTRAR 2 C G H RCAMC
Signature of Officer having custody of original record.

Summary of Evidence in the case of C79044 Pte. Dodge Archibald Francis 1 C.D.A.H. on the strength of No.2 Gen. Hospital, R.C.A.M.C., a soldier of the 6th. Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on Oath.

First Witness: A27002 Q.M.S. Tipping C.J. on the strength of No.2 General Hospital, R.C.A.M.C., having been duly sworn, states:

"I am Chief Clerk on the strength of No.2 Gen. Hosp. R.C.A.M.C. and the accused, also on the strength of this unit, was granted seven days privilege leave as from 1030 hrs. 22 March 1944 to 1700 hrs. 30 March 1944. He did not return at the expiration of his leave absenting himself without leave, until he reported back at 2359 hrs. 5 May 44. I present herewith NFB 375, Record of the Declaration of a Court of Enquiry, duly certified (Appendix "A") pertaining to the accused, showing him to be deficient of his clothing and equipment in the amount of Twenty Eight dollars ($28.00).

The accused declines to cross-examine this witness.

A.J. Tipping A/Sgt.

Second Witness: B63716 Cpl. Dreppenstedt A.J., on the strength of No.2 General Hospital, R.C.A.M.C., having been duly sworn, states:

"I am a corporal on the strength of No.2 Gen. Hosp. R.C.A.M.C. and on the 5 May 1944 I was on duty as Night Orderly Corporal. The accused, whom I now recognize, reported to me at 2359 hrs on 5 May 1944, stating that he was an absentee. He was clean and properly dressed.

The accused declines to cross-examine this witness.

A.J. Dreppenstedt Cpl

The accused was cautioned as follows: "Do you wish to make any statement, or to give evidence on oath? You are not obliged to say anything, or give evidence, unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing, and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused, and that Rules of Procedure 4(c), (d), (e) (f), and (g) have been complied with.

Bramshott, Hants.
9 May 44.

[signature]
Capt.
Officer detailed to take the Summary of Evidence

M.F.M. 6
(A.F.B.122)
40/F.&/8136 (2065)

No. C79044 Name Dodge A.P. | Sqn., Battery, or Company | Corps C.I.C. | Date of enlistment 21 Mar 42. | G.C. Badges | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet 9 Jun 43 | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature O.C. Company, etc. Herbert G. Mason, Major. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
First sheet destroyed on completion of six months service - Last entry 9 June 42 J.H. Ackerman Lieut. Cases of drunkenness Nil - July 12/43.									
Field	5 Sep 43	Pte		WOAS AWL from 2359 hrs 5 Sep 43 till 1130 hrs 6 Sep 43. Absent 11 hrs 31 mins. AA Sec 15(1)	Sgt Runnels Documentary	Admonished	7 Sep 43	GF Clingan Lt.Col. J.B.	Forf 1 days pay FAI 149(1)(a) Forf 1 days pay.
Field	10 Oct 43	Pte		WOAS AWL from 2359 hrs 10 Oct 43 to 1030 hrs 11 Oct 43. TIA 10 hrs 31 mins. AA Sec 15(1)	Cpl. Cavallini	2 days pay	13 Oct 43	Lt.Col. GF Clingan	Forf 1 days pay FAI 149(1)(a) Forf 2 days pay FAI 149(2) Total forf 3 days pay. JHA.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7 Nov 43	Pte		WOAS AWL from 2359 hrs 7 Nov 43 to 1130 hrs 10 Nov 43. TTA 2 days, 11 hrs, 31 mins. AA Sec 15(1).	Cpl. Robertson Documentary	10 days F.P. 10 days pay	11 Nov 43	Lt.Col. GF Clingan	10 days pay FRI 149(1)(b) 3 days pay FRI 149(1)(a) Total forf 13 days pay.
Field	29 Dec 43	Pte		(1st charge) WOAS AWL from 2359 hrs 29 Dec 43 till 0900 hrs 1 Jan 44. TTA 2 days, 9 hrs, 1 min. AA Sec 15(1)	Cpl Guilbault Documentary Cpl. Kerr	3 days pay	6 Jan 44	Lt.Col. GF Clingan	JHA. Total forf 3 days pay FRI 149(1)(a)
Field	4 Jan 44	Pte		(2nd charge) WOAS AWL from 1130 hrs 4 Jan 44 till 1020 hrs 5 Jan 44. TTA 22 hrs, 50 mins. AA Sec 15(1)	Cpl. Guilbault Documentary Cpl. Kerr	7 days F.P. 7 days pay	6 Jan 44	Lt.Col. GF Clingan	Forf 1 days pay FRI 149(1)(a) Forf 7 days pay FRI 149 (1)(b). Total forf 8 days pay. JHA.

M.F.M. 6
(A.F. B.127)
40/P & S/8136 (2965)

No. C79044 Name Dodge, A.F. | Sqn., Battery, or Company | Corps C.I.C. | Date of enlistment 21 Mar 42. | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. H.I. Palmer, Major. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Feb 44	Pte		A.A.15(1) WOAS A/L from 1200 hrs 14 Feb 44 till 1500 hrs 29 Feb 44. TTA 15 days, 3 hrs.	RSM Coats J Documentary	15 days F.P.1	1 Mar 44	Col. D.A. Warren	Forf 16 days pay FAI 149 (1)(a). Forf 15 days pay FAI 149(1)(b) Total Forf 31 days pay.

Certified true copy of the original document in my possession:

H.I. Palmer Maj

(H.I. Palmer), Major, RCAMC,
Registrar, No. 2 Cdn Gen Hosp RCAMC.
Officer having charge of the regimental books.
..1..May 44.

(P.T.O.)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C79044	Pte.	DODGE, A.F., 1 CIRU, Cdn Gen Hosp, RCAMC.	on the strength of No.2

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be appended to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec. 15(1) AWL — 6 times.

For N/A — times.

For N/A — times.

For N/A — times.

Date of last entry in Field Conduct Sheet 14 Feb 44

2. [illegible]

*3. [illegible]

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for [illegible] days in military custody, [illegible] 10 days in close arrest ; [illegible]

5. The present age of the accused is 22 years, 5 months

6. The date of his attestation 21 Mar 42

7. The service which the accused is allowed to reckon is as above

8. [illegible]

9. [illegible]

*State the military description (if any) held by accused.

EX B

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W'L.26870/606 100,000 8/42 A.A.S.W.Ltd. Gp.698 Forms/B.296(War)/2
(32459) W'L.29224/1671 40,000 8/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
			N/A	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 15th day of May 1944

H. Palmer Major

H. PALMER, MAJOR, R.C.A.M.C.
SENIOR MED. OFF. No. 1 CANADIAN GENERAL HOSPITAL

4R-130

Pte Dodge b.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A-28548 Pte Hodges C. First Cdn Army Tps Wksp RCEME.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 29)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	GUILTY	
2nd	NOT GUILTY	GUILTY	
3rd	NOT GUILTY	GUILTY	
4th	NOT GUILTY	GUILTY	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ Nil beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which 2 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer field punishment for 90 days and to forfeit all ordinary pay for a period of 90 days

(Sgd) Gordon H. Jermyn 16 Jan 45 (Sgd) [signature] President. (RP 45, 50.)
Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED

~~I direct that the accused be not committed to prison or detained in military custody until further ordered.~~ (1)

(1. AA 57A. Delete if not xtd.)

(Sgd) [signature] Brigadier

Date 27 Jan 45 (JRR Gough)
Commanding A Tps Area, First Cdn Army
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 573-577.)

Accused.	Date.	Signature of Offr.
A-28548 Pte DODGE C	27 Jan 45	(J.W. Blatchford) Major OC First Cdn A Tps Wksp RCEME

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4A-130

CP 1400 (To Item of AFA 33) 40/3 or 15/1608 (40/10)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Brig J.R.B. Gough. Comd A Tps Area First Cdn Army. dated 13 Jan 45

15 FEB 1945 REVIEWED

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A-28548	Pte	Clifford	Hodges	First Cdn Army Tps Wksp RCEME

[signature] 27-1-45 REVIEWING OFFICER, JAG BRANCH CMHQ

A.D.J.A. Hdqrs 1 Cdn Corps Sec G.H.Q. 2nd Echn 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 16 Jan 45.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member~~, JA, ~~if any, and Offrs under instr~~, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(s)~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For ~~elect~~ see KR Con 563(e). Delete, if not applicable.)

A5. President to accused: Do you object to ~~Lt~~ as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....

~~The shorthand writer is sworn.~~ (1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 23, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G.M. Hunter	2 Cdn Inf Tps Wksp RCEME
Member	Capt.	J.N. Crain	1 Cdn Sen Tps Wksp RCEME
Member	Lt.	R.W. Naylor	4 Cdn Armd Tps Wksp RCEME
Judge-Advocate	Capt	G.H. Jermyn	HQ A Tps Area, First Cdn Army.
Prosecutor	Capt.	W. Riddard	1 Cdn A Tps Wksp. RCEME
Defending Offr	Capt.	F.E. Stewart	HQ. RCEME. 1 Cdn A Tps.

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO.(2)

(1. RP 2n, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3b) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~a~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~not~~ arraigned (~~separately~~)) on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 20, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D + E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO SIR.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~no~~) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s) and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~ 95.

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans I will do neither. Do you intend to call witnesses on your behalf?

Ans yes sir. Are they witnesses as to character only? Ans No sir

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any,~~ ~~is~~ Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) ~~The President announces that the accused is found not guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~ 96.

(1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative pronouncement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans yes sir.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(3)

(1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans yes sir by my defending officer.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or add anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. When several accused tried substantially see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO JOY 1252, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

A-28548 Private DODGE, C.

FIRST CANADIAN ARMY TROOPS WORKSHOP RCEME

a soldier of the Canadian Army Overseas placed

on Active Service

is charged with:

FIRST CHARGE
AA SEC 40

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

in the field at about 2100 hrs 8 Jan 45 threatened C-120307 Pte Allen, R.W., L-41385 Pte Bannerman, D.C.A., D-96193 Pte Mowatt, W.R. and M-64665 Pte Lubiniecki, F., occupants of his billet by pointing a loaded Sten gun at them and threatening to fire.

SECOND CHARGE
AA SEC 9(2)

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

In that he

in the field at about 2100 hrs 8 Jan 45 when ordered by B-37162 Sgt Fairburn, C. to surrender his Sten gun did not do so.

THIRD CHARGE
AA SEC 8(2)

WHEN ON ACTIVE SERVICE OFFERING VIOLENCE TO HIS SUPERIOR OFFICER

In that he

in the field at about 2100 hrs 8 Jan 45 pointed a loaded Sten gun at B-37162 Sgt Fairburn, C and threatened to fire.

FOURTH CHARGE
AA SEC 8(2)

WHEN ON ACTIVE SERVICE OFFERING VIOLENCE TO HIS SUPERIOR OFFICER

In that he

in the field at about 2100 hrs 8 Jan 45 pointed a loaded Sten gun at C-34770 L/Cpl Budd, H and threatened to fire.

(G.W. Painter) Major
Officer Commanding
First Cdn A Tps Wksp RCEME

In the field
14 Jan 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(JRR Gough) Brig
Comd A Tps Area
First Cdn Army

In the field
15 Jan 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
A.28548	Pte	Pte	CLIFFORD	DODGE	First Cdn Army Tps Wksp RCEME

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, a person being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on 15 Jan 45 (*date*) endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	G.M. HUNTER		2 Cdn Inf Tps Wksp RCEME

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	J.N. CHAK		1 Cdn Gen Tps Wksp RCEME
Lieutenant	R.W. FUGLER		4 Cdn Armd Tps Wksp RCEME

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Captain	G.H. JERMYN, ADJA		HQ A Tps Area

On Active Service in the Fd

in Belgium (*Country.*)

Date 15 Jan 45

(Signed personally. RP 105 fn 2)

(JRR Gough)

Brigadier (*Rank.*)

Commanding A Tps Area, First Cdn Army

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

3.

MEDICAL OFFICER'S CERTIFICATE
(K.R.(Can) para 557)

I certify that I have this morning examined Number A.28548 Pte DODGE, C. of First Cdn A Tps Wksp RCEME and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station: Field

Date: 16 Jan 45

MEDICAL OFFICER

Prosecution

First witness

C-34770 C/Sgt Rudd. N. First Cdn A Tps sworn states,

On 9 Jan 45 I was in mess hall to get coffee. I saw Sledge there. Then we went to the billet. Sledge came in with a dixie of coffee & said who wants coffee. No one said anything. He picked the dixie up and dropped it three times. I tried to talk to him. He threw the dixie to the end of the room. I started out the door for the guard cmdr. & how I got to the door to called me. I turned. He had a can of jam in his hand & looked as if he was going to throw it. I went & got the O.C.

After about 10 minutes I went back to billets. ~~It~~ As how I opened the door I stepped to pick up the coffee dixie and Sledge said stop where you are. I then saw him sitting on his bed with a Sten pointed at me. I got behind an iron post. He ordered me out from behind the post saying he was going to let me have the whole mag. I turned round and walked out. I warned the others not to try to go in. The mag. was on the Sten gun.

Sledge was out on a trip that day to Pirmenstein & was late getting back. I was there when the Sten gun was unloaded. There was a shell in the breech. The barrel had to be taken out as the gun had been jammed.

I have never had any previous trouble with P/O Sledge. We have had one argument back in Eng when he threatened & beat me up.

This is a sketch of the room. Accuse has no objection. EXHIBIT A

Cross-examination

The bullet taken out was similar to this one. "I m.m. bullet" produced for identification. There was a mag. on the gun when he pointed it at me. I couldn't say then whether there were bullets in the mag.

R.P. 93 (b) complied with.

Second Witness

B-37162 Sgt Fairburn, R. First Cdn A Tps sworn, states,

On night of 8 Jan 45 after the above I was in Capt office. Capt Rudd came up. I went to the billets. I started up the room. about half way up I was ordered to stop by P/O Sledge. He was sitting on the corner of his bed with a Sten gun in his hand pointed at me. He ordered me not to make another move. I stood & reason with him. Then I ordered him to lay down his Sten. He refused and did not. The Sten was loaded, cocked, his finger was on the trigger & he had it pointed at me. I thought I might get closer but he stood up and took a threatening attitude with the weapon. He ordered me out of the room.

I reported to S/Sgt Kenney. We then stood by the door. The men in the room came out one by one. P/O Sledge supported he was the last so we closed the door & sat down to watch the windows. The lights in the billet went out. There was noise but no shots. ~~Sgt~~ Lt. Pott then started a conversation with Sledge & finally persuaded him to come out without his gun. He was taken to the guardroom.

When we went into the room & the light bulbs were broken and the room was in disorder. Capt Rudd handed me P/O Sledge's Sten. There was a round in the barrel and another round was handed to me by P/O Cudmore

[illegible] are the rounds.

The round I found in barrel EXHIBIT B.

The round handed to me by Lubiniecki EXHIBIT C.

The mag in was loaded but was not on the gun when it was handed to me.

I authorized PO Hodges to go to Parramatta that day. This is the work ticket EXHIBIT D.

I was a Sgt with experience and know when a gun is loaded and cocked. I could see it was cocked. It was an order to lay down his sten.

Cross-ex

I don't know how many bullets were in the mag. either before the incident or after. I cant say that this bullet Ex 'C' was in the mag at any time. This one was in the chamber Ex B. The firing pin has struck it. I don't know when it was fired. If a gun is cocked and not on safe. That means of the firing pin might have been made at any time by bumping the gun. I had to pry this round out of the gun. The extractor would not do it.

There was definitely something wrong with PO Hodges.

I am in charge of Sgt. He (Hodges) is a driver. He is a very good driver.

R.P. § 3(h) complied with.

Third witness

L-41385 PO Bannerman, D.C.A. Asst Adm A Tps Wksp RICME sworn states.

I am in room called XX PO Hodges. On 9 Jan 45 PO Hodges came into the billet with a dixie of coffee. He dropped it on the floor. I got Rudd out to [illegible] me. Hodges picked up [illegible] coffee. I got Rudd left the room.

PO Hodges then grabbed his sten & said he was going to go after Sgt Rudd. I ran after. I pull & my self disarmed him. Right away he was peaceful. He started & take off his overalls. Next thing I knew he had his sten gun up again and threatened the room. He ordered Sgt. Critchley & I pull out of the room. I was standing just at the door. I went towards my bed. I was halted at the point of bayonet at the door. I went towards my bed. I was halted at the point of the weapon. Hodges then jumped on his bed and cocked the weapon. I went back to the door. Hodges then ordered me out of the room. I complied with. He said he'd give me to count of 4 to move. He started to count and got to 3 when something at the door distracted him. Then Sgt. Bannerman came in. He was halted in the centre of the room. He went to room with Hodges but was ordered out of the room. PO Allen was washing his feet & put on shoes. Hodges ordered him to stand up pointing the sten at him. He then told Allen to go & shut the door. Allen did so but jumped outside while closing it. Hodges called him back and I heard the action of the gun. I called him a damn fool. He then ordered me out of the room again. I went out.

PO Lubiniecki & I went over in the small room off the main room.

When I was counting to 3 the weapon pointed at me. It had the mag in on.

I don't know whether the action was forward or backward when I heard it while he was pointing it at Allen.

heard Sgt. Farnham tell Hodges to put his weapon down. Hodges did not do so.

I didn't hear Hodges threaten to fire at Sgt Farnham.

Cross-examination:

I was there when Budd came in. I heard Hodges threaten Budd. I told Budd to get out. He kept the post between him and Hodges. I wasn't comfortable when Hodges was counting. I don't know whether or not there was a round in the barrel.

By the Court

I don't think he was drunk. He knew him for some time. I have never known him to act this way before. He acted like he was out of his head. But he quietened down in between time. There was no ill feeling against him in the billet that I know of.

Fourth Witness

D-96193 PC Mowatt, W.R. Provost Corps A Tps W Regt R.P.C.M.E. sworn & states.

On night of 8 Jan I was in room adjoining Sgt. Billets. Saw PC Hodges throw the dishes in. Saw Sgt Farnham come in. Heard him order Hodges to put down the gun. Hodges did not do so.

NO Cross-examination

R.P. § 3 (a) complied with.

Fifth Witness

H-64665 PC Lubieniecki, F. Provost Corps A Tps W Regt sworn states.

I was in small room off Sgt billets on night of 8 Jan. Heard Hodges tell Allen to close door. At same time saw action of Allen told by Hodges go forward. He pointed the gun at PC Mowatt and myself when he discovered us he made us put our hands up and get out.

Cross-examination

Could see Hodges through the door which is a staple type. i.e. iron bars. Besides door open when door shown in sketch. I heard sound of action or Sten gun & saw it going forward. He was pointing it in the direction Allen had gone i.e. towards the door. The light is fairly good. Hodges was in a half crouch about a step away from the bed.

R.P. § 3 (a) complied with.

Sixth Witness

C-130307 PC Allen, R.W. Provost Corps A Tps W Regt.

On 8 Jan 45 I shave my private 5 A Tps H.Q. at about [illegible] hrs I saw PC Hodges. He was just leaving for the mess. The night time I saw him was about 2100 hrs in the mess hall. I spoke to him & left. I returned & my billet about half an hour later Hodges came into the room with a dish of coffee. He dropped it on the floor at the foot of my bed. Sgt Budd told him to question down or he would step in the guard room overnight. Hodges picked up the dish & dropped it again. Then he picked it up & threw it against the door at the other end of the room. Sgt Budd left the room

Pte Sledge went over to his bed & got his sten. He placed the mag & cocked the gun. and headed out to find Cpl Budd as he was going by I threw my arms around him. Pte Bannerman & Gnr Paull took the gun away from him & put it back on his bed. Sledge grabbed down, & sat on the side of his bed removing his overalls. I was shaving at the time. Sledge stood up. Grabbed his sten. Placed the mag. & cocked it. He pointed the gun towards me in the room telling me not to move. He then ordered Pte Critchley to go & bring in Cpl Budd at the point of his sten. Cpl. Budd entered the room. There is a post between Budd & Sledge. Sledge ordered Budd out from behind the post. Cpl Budd then backed out of the room keeping the post between him & Sledge. Then Sgt Fairbairn came in. Pte Sledge ordered him to halt. Sgt Fairbairn tried to reason with him but wasn't successful. Sledge ordered him out of the room. I reaching for sten at him. I sat down on my bed. Sledge ordered me to stand up, pointed his sten at me. I thought to distract his attention by offering a cig with. I put one in my mouth. He ordered me to drop it or he would pull the trigger. I then saw a cain on the floor. I offered it to him. He would not take it. He ordered me to close the door but not to go out. I went to the door. I q leaned back & saw the gun was still pointing at me. As I pulled the door I threw myself outside. I went into Cpl office and reported. The door is a sliding type. when we disarmed him I didn't take the mag off. Pte Bannerman did. I heard Sgt Fairbairn order him to put the weapon down. He did not do so.

No cross examination

R.P. § 3(b) complied with.

[redacted] Sgt

[redacted]

defence.

Final witness

H-59646 Cpl Pobl, A. Final Coln A Tps W hop sworn states.

I was with 10 blogs in T umbert on 8 Jan 45. I was in a café with him for about an hour. We were all drinking. We started out in rounds. We all bought a round. There were four of us. It was [illegible] egnac. It is possible he had more than five drinks but he had at least five.

Later on the evening. I was called to help get Sledge out of the billets. He told me to come in. I told him I didn't know how to open the door. So he came out.

He looked like he had a very big jag on. But he was steady on his feet. I have known him fairly well for about two years.

Cross examination

He was drunk of the evening. He drove back from T umbert. We kept a man on at the exit in turns. Pte Sledge didn't stay outside. I am not sure whether he went out at all or not. I cannot say how much drinking with him and don't know how it affects him.

[redacted] RP § 3 (b) complied with.

Second witness

B. 52586 Cfn Pte Adam, R.C. Fmst Cdn A Tpo W hosp sworn states.

I was with the party in Turnhout on 8 Jan 45. We were in the café about an hour. We were drinking by rounds. Sledge bought round by round.

Cross-ex.

I don't know whether PO Sledge took his turn at attending the pub. I don't know whether he was in the café all the time or not.

Third witness

D-46792 PO Brown, R.S. Fmst Cdn A Tpo W hosp sworn states.

Jan the cook. I was on duty night of 8 Jan 45. PO Sledge came into the kitchen between 2000 hrs & 2030 hrs. I could smell liquor on his breath. He didn't act natural. He demanded something to eat. He doesn't usually do that. He hung around for 15 or 20 minutes. He was duty driver. I told him to take the grenades lunch & coffee to them in the grenadroom. He went out with them.

cross-examination

He demanded something to eat. I gave him something to eat. Then away he went with the grenades lunch. He was fiddling around the kitchen. He seemed to be feeling pretty good. Ordinarily he is very quiet. I thought he was fit to take the grenades lunch to him.
R.P. 7 3(b) complied with.

Def. offer closing address

No proof gun loaded. Mag attached but no one says it was loaded.

Prosecuting offr closing address

accused guilty of charge laid. Evidence shows that action went forward and then was a round jammed in the breech.

Summing up by J.A.

Functions of Court and J.A. Facts. Credibility and weight for Court to decide
Elements of charged under AA 9(2) and 9(2)
Burden of proof on prosecution
Reasonable doubt defined.

J.A. Mr. President, are there any further matters on which you wish me to advise the Court?

Pres. NO

J.A. Mr. Prosecuting Officer, are there any further matters on which you wish me to advise the Court?

Pros. NO

J.A. Mr. Defending Officer, are there any further matters on which you wish me to advise the Court?

Def. NO

Character Evidence

Capt. A.O. Hayesdale. Asst Cdn A Tpo w hsp. sworn states.

I have known the accused since I came to the unit about a year ago. I consider him one of our best drivers. He is very conscientious and careful in his driving & maintenance. Reg in actually he was exemp. He takes great pride in his ability to complete an exercise and is very disturbed if he can not keep the schedule. On instance last spring he was carrying ammo & was overdue. When he got in after a lot of engine trouble you could see he felt the had let the unit down. He appeared emotionally upset.

I think great pain to L Bdr he had his first charge after a trip to Oland. Since that time he has been very disturbed and upset. He was I/C a veh. They stopped in Ghent. His co driver went off with the veh. & decided return. Hodge searched Ghent but couldn't find the veh. The overall time was about 2 days. On L Bdr he was still awaiting trial on that charge and was upset about it.

I know T/Sgt Budd. I would say they would be average men. I can't say I recall any particular instance.

No cross examination

R.P. 83 (b) complied with.

Capt. J.W. Blatchford. Asst Cdn A Tpo w hsp. sworn states

I have had considerable experience in working with and handling Indians. Hodge is of Indian Blood. Indians are in certain conditions have a tendency & are in principle complex which may break out at times. Under the stimulus of alcohol this reaction is very bad. This is the reason for the law in Canada forbidding sale to Indians of spirits. They still appear to have full control of their physical powers but it affects their mental reactions very considerably.

No cross examination

R.P. 83 (b) complied with.

self offn in Mitigation

accused is a full blooded Panmee Indian not used to the restrictions of the army. But for 4 yrs acc is has given good service to the army. He was disturbed over the previous difficulty. He was very worried. He had been drinking considerably. You have the evidence of his condition. An Indian cannot be safely tried. Refer court to para 78 P 35 of M.C.M. Ask Court to take these things into consideration. It would be easy to prevent this man's rehabilitation by a heavy sentence giving him with his peculiar temperament a definite grudge.

J. Army Legal
J.A.

EXHIBIT 'A' II.

South

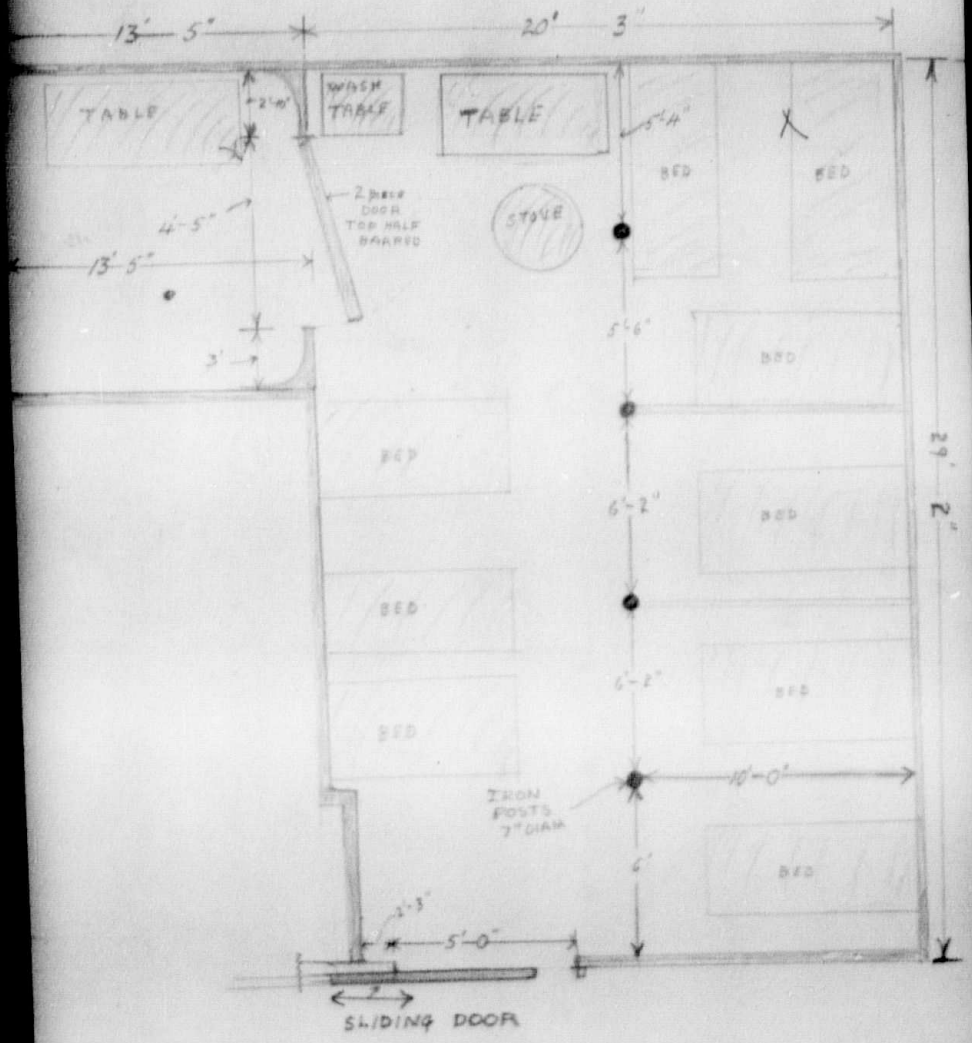


EXHIBIT "A"

TRANSPORT WORK TICKET

No.

MAKE OF VEHICLE: FORD — TRUCK 15 CWT — UNIT: FIRST CDN ARMY TPS WKSP RCEME — SECTION: HQ — DRIVER'S NAME: [illegible] — W.D. No.: CL 4256057 — MONTH & YEAR: Jan/45

DATE (1)		FOR WHOM JOURNEY IS PERFORMED (2)	DETAILS OF LOAD (3)	ROUTE From (4)	ROUTE To (5)	ROUTE Via (6)	SIGNATURE OF PERSON AUTHORIZING JOURNEY (7)	LUBRICATING OILS Type (8)	LUBRICATING OILS Pints (9)	FUEL GALLONS At Start (10)	FUEL GALLONS Drawn (11)	FUEL GALLONS At End (12)	FUEL GALLONS Used (13)	TIME Out (14)	TIME In (15)	SPEEDOMETER In (16)	SPEEDOMETER Run (17)	SPEEDOMETER Day (18)
	A			Brought forward from Work Ticket No. 28				—						2079				
1/6	B	WKSP	Stores	Unit HQ	Alfonsine Area		Sgt Fairbairn							0845		2079	1	
2/6	C	WKSP	Stores	Unit HQ	Fusigno	Area	Sgt Fairbairn							0930		2086	9	
4/6	D	WKSP	Pers	Unit HQ	2 CCS	Area	Sgt Fairbairn							1320	1400	2095	7	1
7/8	E	WKSP	Mail	Unit HQ	Mail Pt	Area	Sgt Fairbairn							1000	1200	2095	10	11
8	F	WKSP	Pers	Unit HQ	[illegible]	Area	Sgt Fairbairn									[illegible]	4	12
	G																	
	H																	
	J																	
	K																	
	L																	
	M																	

MPG for week ____ or totals carried over ____

DATE (1)		FOR WHOM JOURNEY IS PERFORMED (2)	DETAILS OF LOAD (3)	ROUTE From (4)	ROUTE To (5)	ROUTE Via (6)	SIGNATURE OF PERSON AUTHORIZING JOURNEY (7)	LUBRICATING OILS Type (8)	LUBRICATING OILS Pints (9)	FUEL GALLONS At Start (10)	FUEL GALLONS Drawn (11)	FUEL GALLONS At End (12)	FUEL GALLONS Used (13)	TIME Out (14)	TIME In (15)	SPEEDOMETER Id (16)	SPEEDOMETER Run (17)	SPEEDOMETER Day (18)
	N			Brought forward from Reverse			N	—						—	—			
	O						O											
	P						P											
	Q						Q											
	R						R											
	S						S											
	T						T											
	U						U											
	V						V											
	W						W											
	X						X											
	Y	MPG for week	or totals carried to Work Ticket No.				Y	—						—	—			

LINE	SPECIAL INSTRUCTIONS TO DRIVER	DATE	DRIVER'S REPORT OF BREAKDOWNS, ACCIDENTS AND DEFECTS	SIGNATURE OF DRIVER	COUNTERSIGNATURE
				Dodge	
					Rank

EXHIBIT D 13

M.F.B. 350
40/P & S. 675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A.28548	Pte	DODGE, C.	FIRST CDN A TPS WKSP RCEME

1. The following is a fair and true summary of the entries in the Field Service ~~and General Regimental and Squadron, Battery~~ Conduct sheet ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	AA 40	one times	AA40	one times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct Nil

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ A.F.A. 73 Section 47 of the Army Act and dispensations with trial under ~~A.A.~~ 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

The accused at the present time is under sentence for ~~beginning on the~~ day of

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 5 days in military custody, making a total of 5 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation paper is~~ 28 Years of age

6. The date of his commission specified in his record of service is ~~attestation~~ ~~attestation paper~~

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force ~~military~~ decoration, or air force ~~military~~ reward (or is in possession of or entitled to). State any air force ~~military~~ decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number A26548 Rank Pte
Name DODGE, C. of FIRST CDN A TPS WKSP RCEME Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Nil				

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14th day of January, 1945 (C.W. Palmer) Major
OC - FIRST CDN A TPS WKSP RCEME

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

EXHIBIT E

MFM 6
(AFB 122)
40/PAS/156 (3428)

No A.28548 Name DODGE, C. | Sqn, Battery, or Company | Corps RCEME | Date of enlistment 10 Apr 43 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk Nil | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc GW Painter, Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				OLD SHEET DESTROYED ON COMPLETION OF TWO YEARS SERVICE 10 APR 43					GWP
				Nil Entries					GWP
				Awarded Canadian Volunteer Service Medal and Clasp wef 15 Jan 44 EO 5 d/4 Feb 44					GWP
				Awarded one Good Conduct Badge wef 10 Apr 43 EO 10 d/17 Mar 44					GWP
Field	6 Dec 44	Pte		AA40 Did not return to unit directly with veh after delivering another soldier at destination at Ostend	Documentary Court of Inquiry	7 days CB & 7 days sum forf of pay	9 Jan 45	Maj GW Painter	GWP

CERTIFIED TRUE COPY OF ORIGINAL
14 Jan 45

(G.W. Painter) Major
OC - FIRST CDN A TPS WKSP RCEME

(PTO)

SUMMARY OF EVIDENCE

in the case of

A-28548 Private Dodge, C

FIRST CANADIAN ARMY TROOPS WORKSHOP RCEME

a soldier of the Canadian Army Overseas placed on

Active Service

Convened in the Field 12 Jan 45 for the purpose of reducing to writing the evidence concerning the following charges:

First Charge Sec 40 Army Act — WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

in the field at about 2100 hrs 8 Jan 45 threatened C-120307 Pte Allen, R.W., L-41385 Pte Bannerman, D.C.A., D-96193 Pte Mowatt, W.R. and H-64665 Pte Lubiniecki, F., occupants of his billet by pointing a loaded Sten gun at them and threatening to fire.

Second Charge Sec 9(2) Army Act — WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

In that he

in the field at about 2100 hrs 8 Jan 45 when ordered by B-37162 Sgt Fairburn, C. to surrender his Sten gun did not do so.

Third Charge Sec 8(2) Army Act — WHEN ON ACTIVE SERVICE OFFERING VIOLENCE TO HIS SUPERIOR OFFICER

In that he

in the field at about 2100 hrs 8 Jan 45 pointed a loaded Sten gun at B-37162 Sgt Fairburn, C and threatened to fire.

Fourth Charge Sec 8(2) Army Act — WHEN ON ACTIVE SERVICE OFFERING VIOLENCE TO HIS SUPERIOR OFFICER

In that he

in the field at about 2100 hrs 8 Jan 45 pointed a loaded Sten gun at C-34770 L/Cpl Budd, H and threatened to fire.

THE COMMANDING OFFICER HAS DIRECTED THAT THE EVIDENCE BE TAKEN ON OATH

The charges and the court procedure having been explained to the accused the first witness was called.

FIRST WITNESS: B-37162 Sgt Fairburn, C. First Canadian Army Troops Workshop RCEME having been duly sworn states:-

On Jan 8th, 1945 at 1230 hours I authorized a trip for Pte Dodge, C A-28548 to take the leave personnel to the Paymaster at Army Tps HQ, in vehicle No. CL-4256057 Ford 15 cwt (work ticket No 28 is submitted as evidence) That is the last I saw of him. I was at lunch when the vehicle departed. At approximately 2015 hours (after the movie show had finished) I saw Pte Dodge in the Mess.

During the afternoon Sgt Warhaft contacted me with regard to Pte Dodge's return with the leave personnel. Sgt Warhaft said the guards had been notified to be on the look out for Pte Dodge.

After leaving the kitchen I stopped to talk to S/Sgt Cox and then returned to my billets. On returning to the billets I was met by L/Cpl Budd who informed me that Pte Dodge was in his room with a loaded Sten gun and was threatening the personnel there. I walked into the room and started to approach Pte Dodge who was sitting on the bed at the far end of the room. He had a Sten gun loaded, cocked and his finger was on the trigger. He stopped me when I was about 10 feet away from him and warned me not to make another move. I tried to talk to him and get him to lay down his Sten, but his actions and his manner and words were very defiant. He started to ease up a little and I made a move forward, then he brought his Sten up into position and stood up telling me not to make a move towards him and to get out of the room. I went out of the room and reported the situation to SQMS Kenny.

The Guard Commander and myself were standing outside the room and could see the drivers coming out one by one: Pte Allen, Pte Bannerman, Pte Lubiniecki and Pte Mowatt. After the last man (Pte Mowatt) left we closed the door and watched the windows so he could not get out. All the lights went out, and there was a racket in the room where Pte Dodge was. Cfn Pohl, in company with SQMS Kenny returned and after talking to Pte Dodge through the door, finally persuaded Pte Dodge to come out. He came out unarmed and was taken to the Guard Room.

When we examined the room all the beds had been shoved around and the two electric light bulbs had been broken. That is all I know

Q-1 Would you say that Pte Dodge had been drinking?

A-1 Yes, I would say that he had been drinking.

Q-2 Did you order Pte Dodge to lay down his weapon?

A-2 Yes Sir.

Q-3 Did Pte Dodge obey this order?

A-3 No Sir.

Q-4 Did you examine Pte Dodge's Sten gun when you entered the room after he had been taken to the Guard Room?

A-4 Yes Sir.

Q-5 What did you find when you examined Pte Dodge's Sten gun?

A-5 There was a round in the barrel and the action was cocked.

Q-6 Had that round been fired?

A-6 Yes, I think it had.

Q-7 At any time while you were in the room with Pte Dodge did he actually threaten to shoot you?

A-7 Yes.

Q-8 Did you find any further evidence that the Sten gun had been fired?

A-8 Yes, the other round was handed to me by one of the other boys.

CROSS-EXAMINED BY THE ACCUSED

Q-1 Sgt Fairburn, have you even seen me really drunk?

A-1 Yes.

Q-2 What were my actions when intoxicated?

A-2 Your actions when I saw you before were mostly friendly and carefree, not antigonistic.

Q-3 Then would you say I was drunk or mad?

A-3 Well mad covers a great many things. I would say of a highly emotional and keyed character.

Q-4 Have your any idea what was bothering me if I was mad or drunk?

A-4 No.

C Fairburn

B-37162 Sgt Fairburn, C

SECOND WITNESS: C-120307 Pte Allen, R W. First Canadian Army Troops Workshop RCEME having been duly sworn states:-

On the afternoon of Jan 8th, 1945 I drove Major Painter to Army Troops HQ. While waiting there for him I saw one of our vehicles, I opened the door of the vehicle and saw Pte Dodge. This was at approximately 1600 hrs. I talked to him for a few minutes and then he drove off with the leave party to return to the unit. I did not see him again until I went into the Mess for dinner at about 2000 hrs. I talked to him and then left the mess and went to my billets. A half hour later Pte Dodge came in with a dixie of tea. He slapped it down on the foot of the bed. L/Cpl Budd was there and he told him to quiet down. Pte Dodge picked the dixie up and slammed it down again, then he threw it against the

door. L/Cpl Budd left the room and Pte Dodge went over to his bed and got his Sten gun, loaded and cocked it. As he passed me heading towards the door with the Sten gun in his hand I threw my arms about him and Pte Bannerman and Cfn Paull came up and assisted me in removing his weapon. Pte Dodge quieted down and then sat on his bed and removed his coveralls.

Suddenly he flared up and grabbed his Sten gun again and ordered Cfn Crichtly to bring L/Cpl Budd back into the room. Cfn Crichtly left the room and in a few minutes L/Cpl Budd appeared. L/Cpl Budd walked in behind the centre post (Which is in the centre of the room) and Dodge ordered him out into the centre of the room where he could see him. L/Cpl Budd backed out of the room, keeping the post between Pte Dodge and himself. A few minutes later Sgt Fairburn entered the room and started walking towards Dodge. Pte Dodge ordered him to halt, which he did, and then Sgt Fairburn tried to reason with him. Pte Dodge would not listen to reason and ordered Sgt Fairburn out of the room and pointed his gun making threatening gestures with it.

Pte Bannerman, Pte Mowatt, Pte Lubiniecki and myself were left in the room. Pte Dodge sat down with his gun in his hand, so I finished shaving. I sat down and started to change my boots. Pte Dodge asked me what I was going to do. I told him that I was going to change my boots. He ordered me to stand up. After standing up I thought I would offer him a cigarette to draw his attention from his weapon. I placed a cigarette in my own mouth and as I did he ordered me to drop the cigarette. He was standing facing me about 10 feet away with his Sten pointed at me and said "If you don't drop that cigarette all I have to do is pull the trigger". I dropped the cigarette and noticed there was a twenty-five cent piece on the floor which Pte Dodge had dropped. I offered to give it to him. He would not listen and ordered me to go and close the door but not to go out. I went, but while pulling on the door I glanced back and saw that the weapon was still pointed at me. I saw it was my only chance, so I dashed through pulling the door shut after me. As I swung out of the door I heard Pte Dodge call "Allen". I went into the Transport Office and picked up a coat and left. I returned later when the rest of the drivers were back in the room.

Q-1 Would you say Pte Dodge had been drinking?

A-1 Yes, I would say he had been drinking, but I would not say he was drunk.

Q-2 Did you hear Sgt Fairburn order Pte Dodge to put down his weapon?

A-2 Yes Sir.

Q-3 Was this order obeyed?

A-3 No sir.

Q-4 Did you hear or see Pte Dodge threaten Sgt Fairburn with a Sten gun?

A-4 Yes Sir.

Q-5 Did you hear any argument between Pte Dodge and L/Cpl Budd during the evening?

A-5 No Sir.

CROSS-EXAMINED BY THE ACCUSED

Q-1 Allen, you and I used to drink quite a lot together back in England, did you ever see me get mad while drinking?

A-1 No.

Q-2 Am I a heavy drinker or a light drinker?

A-2 I would say a medium drinker.

Allen R W

C-120307 Pte Allen, R W

THIRD WITNESS: L-41385 Pte Bannerman, D C A., First Canadian Army Troops Workshop RCEME having been duly sworn states:-

On Jan 8th, 1945 while the unit moving picture was still going on I was in the kitchen and I saw Pte Dodge, and Pte Allen standing there by the stove talking. I spoke to them and then returned to my billets alone. When I got there there was two of our fellows there and shortly after the rest of our boys returned from the show. We were all in the room when Pte Dodge made his appearance. He had a large dixie of coffee. We were all standing around the stove and he said "Who wants some coffee?" and he dropped the dixie on the floor. L/Cpl Budd told him to behave himself. He made no answer but picked up the coffee again and then threw it down once more, spilling the contents over everyone. L/Cpl Budd told him he had gone too far and that he would spend the night in the Guard Room. His answer to that was to pick up the dixie and throw it to the far end of the room. L/Cpl Budd left the room. The next thing I remember Pte Dodge had his Sten gun in his hand with a magazine on and he said he was going to go and look for L/Cpl Budd. Pte Allen, Cfn Paull and myself disarmed him. Right away he was very peaceful and had no more to say.

We dismantled the weapon and placed it on his bed. He sat down on his bed and took off his coveralls. The next thing I noticed he had the weapon assembled and four magazines. He came to his feet and threatened the room. I was toasting a piece of bread with a fork and I noticed my knife on my own bed. I figured if I could get close to that I might be able to disarm him again, so I hid the fork and I walked over towards my knife. Pte Dodge halted me at the end of my bed at the point of his weapon. I ignored him and tried to reach my knife. He jumped up on his bed and cocked his weapon and ordered me over to where I was before, which I did. He got down from his bed and ordered Cfn Paull and Cfn Critchley out of the room. I heard voices out in the hall and Sgt Fairburn made his appearance. He tried to approach Pte Dodge but was halted at about the middle of the room, where he was told that if he had anything to say, to say it from there. He then was ordered out of the room. He also went. He then turned to me and he said "I'll give you the count of four to get out". I paid no attention to him and he started to count. He counted up to seven and then something at the door distracted him. He forgot me then and turned to Pte Allen. Pte Allen was reaching for his shoes and Dodge made him straighten up and drop his cigarette.

He then ordered him to shut the door which Allen did. When Allen went to shut the door he closed the door with both hands and jumped out. Dodge seeing his actions yelled his name and said "Come here Allen". Allen paid no attention. I had my eyes on Pte Allen when I heard the bolt action work on Pte Dodge's Sten gun. He also had the weapon up to his shoulder. I then called him a damm fool and rose to my feet. Dodge pointed the weapon at me and said "Get out", which I did. All this time Pte Lubiniecki and Pte Mowatt were in our small adjoining room and Pte Dodge did not appear to know of their presence. As I left I closed the door behind me. I met L/Cpl Newns and he asked me if we shouldn't try to lock the door in some way, in order to keep him in. I got a jeep and placed the left front wheel against the door. I then left.

Q-1 Would you say that Pte Dodge had been drinking?

A-1 Yes, he had been drinking.

Q-2 Did you hear Sgt Fairburn order Pte Dodge to surrender his Sten gun?

A-2 No Sir.

Q-3 Did you see Pte Dodge threaten Sgt Fairburn or L/Cpl Budd with his Sten gun?

A-3 Yes, I saw him threaten L/Cpl Budd.

Q-4 Did you see or hear anything that would make you believe Pte Dodge attempted to fire his Sten gun at Pte Allen?

A-4 I heard the bolt action of the weapon.

Q-5 When you re-entered the room after Pte Dodge had been taken to the Guard Room did you notice any damage to the room?

A-5 I was the last one to come back, but I noticed one light bulb had been smashed.

CROSS-EXAMINED BY THE ACCUSED

Q-1 Are you sure you saw everything that happened in that room that night?

A-1 Yes, as far as my statement is concerned.

L. Bannerman.
L-41385 Pte Bannerman, D C A

FOURTH WITNESS: H-59646 Cfn Pohl, A., First Canadian Army Troops Workshop RCEME having been duly sworn states:-

On Jan 8th, 1945 along with other members of the leave party we left at 1230 hrs to go to HQ, Army Tps to see the paymaster. We arrived at HQ at approximately 1500 hrs. We waited around there for from half to three quarters of an hour and then we got paid. Some members of the group had money to exchange and it seemed about about 1600 or 1630 hrs when we got into the truck to return to the Unit.

We started back and the truck gave us trouble. It coughed and finally stopped. I took off the flexible line, blew it out and then put it back on again. This happened a second time and it finally got us into Turnhout.

It was blowing quite hard and cold for the fellows in the back, so we stopped at a cafe in Turnhout. We stayed in the cafe for awhile, one man being left behind in charge of the vehicle at all times. We stayed there for a period of between one-half to one hour. We left there and ran into fuel trouble again between Tilburg and Turnhout. I fixed the fuel line again and then we returned to the Unit. We arrived in camp and went to the billets. The movie show was on and so we did not get anything to eat.

I was in the billets and S/Sgt Orr, R came for me. He said Pte Dodge was on the rampage and I went to the Guard Room. SQMS Kenny was there and from there I went to the Transport Office. I went and stood off from the door and asked Pte Dodge to come out. He told me to come in, I told him I did not know how to open the door, so he came out himself and gave me three xxxx magazines. He said you had better take them from me. SQMS Kenny and I walked him down to the Guard Room.

Q-1 While you were in the cafe in Turnhout how many drinks would you say the group had?

A-1 I really couldn't say Sir.

Q-2 Have you an approximate idea?

A-2 I would say a few.

Q-3 Were you sitting in the front seat of the vehicle with Pte Dodge on the return home?

A-3 Yes.

Q-4 How did Pte Dodge appear to you on the way home, was he in full control of the vehicle?

A-4 He was in full control of the vehicle.

Q-5 How long did the vehicle stop at the cafe in Turnhout?

A-5 I would rather not answer that question.

ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS

a Pohl

H-59646 Cfn Pohl, A

FIFTH WITNESS: D-114607 SQMS Kenny, K. First Canadian Army Troops Workshop RCEME having been duly sworn states:-

At approximately 2130 hrs on Jan 8th 1945 I was Orderly Officer. I was called by the field phone by L/Cpl Budd. He stated that Pte Dodge was in the transport billets and was drunk, and raising a fuss by throwing things all over the room. He stated that he wanted him placed

under close arrest as he could not be controlled. Immediately I informed the Guard Commander to go to the transport billets with two or three men to bring Pte Dodge into custody. About ten minutes later the Guard Commander returned stating that he could not get Pte Dodge out of his room because he threatened to shoot them if they entered. I then reprimanded the Guard Commander and ordered him the second time to bring Pte Dodge to the Guard Room. I then left personally for the transport billets and on reaching there I was stopped at the door by Sgt Fairburn and L/Cpl Newns, who stated that if I went in the room I would be sprayed with lead. I listened in the door and heard Pte Dodge crying and talking in a hysterical and upset manner. His manner warned me that the man was not himself. I was advised that Pte Mowatt and Pte Lubiniecki were being held under threat in the room by Pte Dodge who had cocked his Sten gun.

I decided to leave these men in the room with him for awhile, with the hope that they could pacify him. My next action was to get information from the men who proceeded to CREME with Pte Dodge in the afternoon. I managed to get Cfn Pohl and I asked him what he knew of the condition of Pte Dodge. He denied any knowledge of Dodge's behaviour. As I knew that Cfn Pohl had been co-driver of the vehicle I decided to use him as a ruse to get Pte Dodge disarmed and out of the billets. I told Pohl to go to the transport billets and attempt to get Dodge out of the room. Pohl proceeded and I left right after him to the transport billets. On reaching the billets some of the NCOs and drivers had shut the door and placed a jeep against it to confine Pte Dodge. When learning that nine men were out of beds by Pte Dodge's behaviour I decided that we must get him out. I had Cfn Pohl call through the door to Pte Dodge while other drivers and guards hid in the shadows of the hall to apprehend Dodge. Dodge responded to the call of Pohl saying "Is that my friend Pohl"? Pohl asked him to open the door and I signalled the drivers to pull the jeep away from the door. Pte Dodge came to the door them and opened it and started to cry and tell Pohl his troubles. I then saw Pte Dodge had no weapons and walked quickly to his side and grabbed his left arm. He appeared quite upset, his eyes were blood-shot and his face was streaked with tears. I asked him what all the trouble was about and he kept repeating that he would kill L/Cpl Budd if he ever got his hands on him. He stated that L/Cpl Budd had been riding him ever since the jeep was lost, and that he has been mad ever since the jeep was lost. On asking him to come along he said "Remove the magazines", we removed two or three loaded Sten gun magazines from his blouse. He then accompanied me without resistance to the guard room where I took all his money off him as well as his pay book, and turned him into the custody of the Guard Commander at 2155 hrs. This is all I have to say.

Q-1 Would you say that Pte Dodge was under the influence of liquor?

A-1 Pte Dodge appeared to me to be under the influence of liquor but I could not say to what extent. Physically he was not affected by liquor, it was more of a mental state.

ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS

D-114607 Sgt Kenny, K

SIXTH WITNESS: C-34770 L/Cpl Budd, H. First Canadian Army Troops Workshop RCEME having been duly sworn states:-

On Jan 8th 1945 at approximately 1230 hrs I gave Pte Dodge his work ticket and log book and told him to report to the Orderly Room to pick up the men who were going to HQ Army Tps to be paid.

After the show when I returned to my billets I joined the fellows around the stove making toast. Pte Dodge came in and he had a dixie of coffee, asking "Who wants coffee", no one answered. Then he walked down to the stove where we all were and lifted the dixie of coffee up in the air and dropped it. He did that three times. I tried to reason with him to quiet him down and to find out what was the matter with him. He said he didn't give a fuck for anything. He picked the dixie up again and pitched it down to the end of the room. When I saw I could not reason with him I turned around and walked out of the room. When I got to the door he called me to turn around. He had a can of jam in his hand that he looked as if he were going to throw at me. I closed the door then and went to the Transport Office. I called the Orderly Officer and told him that Pte Dodge was raising a row in the billets, throwing stuff all over the room and that he had better send down a couple of guards to get him.

I waited in the transport office for about ten minutes and then went back into the billets. When I came in the door I bent down to pick up the dixie and Pte Dodge told me to stop where I was. When I looked to see where he was he was on his bed and had his Sten gun pointed at me. As soon as I saw that I got behind an iron post that is there. He ordered me out from behind the post saying he was going to let me have the whole magazine. I turned around and walked out, and saw Sgt Fairburn and two guards. I explained the situation to them and waited for awhile.

Q-1 Would you say that Pte Dodge had been drinking?

A-1 Yes Sir.

Q-2 Did you in any way taunt or criticise Pte Dodge about the trouble he had had on the road?

A-2 I did not know he had any trouble on the road.

Q-3 Did you check the lights in the billets after Pte Dodge was gone?

A-3 Both lights were broken when I entered the room.

Q-4 On the night of Jan 8th, 1945 did Pte Dodge at any time threaten you with his Sten gun?

A-4 Yes Sir.

Q-5 Did Pte Dodge by word of mouth threaten to shoot you?

A-5 Yes Sir.

CROSS-EXAMINED BY THE ACCUSED

Q-1 L/Cpl Budd, you have often seen me drunk, haven't you?

A-1 Yes Dodge.

Q-2 Have you ever given me any reason to get mad at you, at any time?

A-2 No.

Q-3 Is it not true that you have been picking on me for some time?

A-3 No. It is not true.

Q-4 Did I ever offer to drag you off the back of a truck to knock the daylights out of you?

A-4 Yes.

H/Budd

C-34770 L/Cpl Budd, H

SEVENTH WITNESS: B-2888 S/Sgt Orr, R R. First Canadian Army Troops Workshop RCEME having been duly sworn states:-

On the 8th of Jan 45 at approximately 2040 hrs, in my capacity as Guard Commander I was in the Orderly Room talking to the Orderly Officer SQMS Kenny.

After he had answered the phone he instructed me to proceed to the Transport Office with three guards for the purpose of placing Pte Dodge under close arrest. On arriving at the Transport Office I was met by L/Cpl Budd who explained that Pte Dodge was in a room with a loaded Sten gun, with a threatening attitude. I at once considered it proper that I notify the Orderly Officer. By that time I had spoken to Sgt Fairburn and told him that I would leave the three guards in his charge until my return with the Orderly Officer. Returning to the Orderly Officer I explained the situation as it was told to me, to the Orderly Officer. He told me that I was to bring the man to the Guard Room so I returned to the Transport Office and made further inquiries. I found that the door was closed in the men's billets and a jeep placed against the door. Upon looking around the Orderly Officer was present. He asked me to get in touch with - or summon Cfn Pohl, which I did. The Orderly Officer questioned him. We then went to Cfn MacAdam and the Orderly Officer questioned him.

On my way whilst looking for Cfn Pohl I summoned the Sr picquet to go to the Transport Office with a pair of hand-cuffs and to take charge of the three guards. As I was proceeding out the door to the Transport Office, the Orderly Officer, Cfn Pohl and Pte Dodge were met at the Guard Room entrance, followed by the corporal of the guard and three guards. Whereupon an entry was made on the Guard Commander's report under Section AA 19 as ordered by the Orderly Officer.

Q-1 Would you say that Pte Dodge was under the influence of liquor when apprehended?

A-1 In my opinion he had been drinking, but was not drunk.

ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS

B-2888 S/Sgt Orr, R R

EIGHTH WITNESS: D-96193 Pte Mowatt, W R. First Canadian Army Troops Workshop RCEME having been duly sworn states:-

On the night of Jan 8th 1945, I, in the company of H-64665 Pte Lubiniecki, F. was in the adjoining room to the transport billets.

The first time I knew there was any trouble was when I heard a commotion. I looked through the door and saw Pte Dodge dropping the dixie of tea, or coffee, on the floor of the room. He then threw it out towards the door. I remained in the adjoining room and went on drinking my tea. I heard some one say "Put the Sten gun down". Then I looked out again and two or three fellows went to take the Sten gun away from Pte Dodge. They succeeded, placed it back on his bed. I continued drinking my tea.

The next time I looked out I saw Pte Dodge standing by his bed with his Sten gun in his hand. Sgt Fairburn came in and tried to persuade Pte Dodge to lay the Sten gun down. Pte Dodge said he wanted to see L/Cpl Budd. Sgt Fairburn said he would go and get L/Cpl Budd. Pte Dodge told Pte Allen to shut the door, then Pte Dodge told Bannerman to leave the room too.

Pte Dodge saw Pte Lubiniecki and told him to come out of the room we were in. I came out with Pte Lubiniecki. He told us to put our hands up and when our hands started to lower Pte Dodge said to keep our hands up. Pte Lubiniecki said his arms were getting tired and I repeated the same thing. Pte Dodge told us to go out of the door. I stood outside the transport for approximately five or ten minutes and then I went to my own billets.

Q-1 Did you hear Sgt Fairburn order Pte Dodge to surrender his Sten gun?

A-1 Yes.

Q-2 Did you hear or see anything that would indicate that Pte Dodge attempted to fire at Pte Allen.

A-2 No Sir.

ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS

D-96193 Pte Mowatt, W R

NINITH WITNESS: H-64665 Pte Lubiniecki, F. First Cdn A Tps Wksp RCEME having been duly sworn states:

Q-1 Is it true on the night of the 8th of Jan 45 that you were in the small adjoining room to the transport billets with Pte. Mowatt?

A-1 Yes Sir.

Q-2 During the evening did you see or hear any thing that would indicate that Pte. Dodge had fired a Sten gun at Pte. Allen?

A-2 Yes, Sir. I was sitting on the table and the door was open and when Pte. Dodge told Pte. Allen to close the door he had his Sten gun pointed in the direction of the door, but I could not see Pte. Allen. I could not see Pte. Dodge's trigger hand but I saw the action of the Sten gun go forward.

Q-3 What happened then?

A-3 Pte. Bannerman said "Dont be a fool Dodge" and then Pte. Dodge ordered him out.

Q-4 Did you hear or see Sgt. Fairburn order Dodge to surrender his Sten gun?

A-4 No, Id do not recall that.

Q-5 Did you hear Pte. Dodge threaten Sgt. Fairburn or L/Cpl. Budd with his Sten gun?

A-5 He told Sgt. Fairburn not to come one step forward or he would fire. He said he would shoot L/Cpl. Budd, but ~~he did not say~~ it in L/Cpl Budd's presence.

THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS

F. Lubiniecki

H-64665 Pte. Lubiniecki, F.

QUESTION TO THE ACCUSED:

DO YOU WISH TO MAKE ANY STATEMENT OR GIVE EVIDENCE ON OATH? YOU ARE NOT OBLIGED TO SAY ANYTHING OR GIVE EVIDENCE UNLESS YOU WISH TO DO SO, BUT WHATEVER YOU SAY OR ANY EVIDENCE YOU GIVE WILL BE TAKEN DOWN IN WRITING AND MAY BE GIVEN IN EVIDENCE.

ANSWER BY ACCUSED:

I DO NOT WISH TO MAKE ANY STATEMENT

C.W. Dodge

A.28548 Pte DODGE, C.
FIRST CDN A TPS WKSP RCEME

I CERTIFY THAT THE FOREGOING SUMMARY OF EVIDENCE CONSISTING OF THIRTEEN PAGES WAS TAKEN DOWN BY ME IN THE PRESENCE OF THE ACCUSED IN THE FIELD THIS 12TH DAY OF JANUARY, 1945, AND THAT THE RULES OF PROCEDURE 4 (b) (c) (d) and (e) WERE COMPLIED WITH.

A.O. Drysdale Capt

(A.O. Drysdale) Captain,
FIRST CDN A TPS WKSP RCEME

14 Jan 45

DEFENDING OFFICER

1. Capt. W.J. Stewart, Padre, HQ RCEME First Cdn A Tps is arranging for a Defending Officer to defend me at my trial by Court Martial.

C Dodge

A.28548 Pte DODGE, C.
FIRST CDN A TPS WKSP RCEME

LIST OF WITNESSES FOR THE PROSECUTION AND DEFENCE

In the case of

A.28548 Pte DODGE, C., FIRST CDN A TPS WKSP RCEME

WITNESSES FOR THE PROSECUTION

B.37162	Sgt	FAIRBURN, C.	FIRST	CDN	A TPS	WKSP RCEME
C.120307	Pte	ALLEN, RW	"	"	"	"
L.41385	Pte	BANNERMAN, DCA	"	"	"	"
H.59646	Cfn	POHL, A	"	"	"	"
D.114607	SQMS	KENNY, K	"	"	"	"
C.34770	L/Cpl	BUDD, H	"	"	"	"
B.2888	S/Sgt	ORR, R.R.	"	"	"	"
D.96193	Pte	MOWATT, W.R.	"	"	"	"
H.64665	Pte	LUBINIECKI, F.	"	"		

WITNESSES FOR THE DEFENCE

NIL

LIST OF ORIGINAL EXHIBITS

In the case of

A.28548 Pte DODGE, C., First Cdn A Tps Wksp RCEME

Exhibit No.	Description
"A"	2 rds 9mm amn belonging to Pte Dodge

NOTE: The above Exhibits are available at HQ First Cdn A Tps Wksp.

4A-131

Sgn. Doerhaus. A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H.65125 SIGMN ISAAC DOERKSEN 7 BN 2CBRD.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd	NOT GUILTY	NOT GUILTY	
3rd	NOT GUILTY	GUILTY	
4th	NOT GUILTY	NOT GUILTY	
~~5th~~			
~~6th~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 32 days, of which 8 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be imprisoned with hard labour for one (1) year.

(Sgd) R. B. Bate Capt — 4 OCT 44 — (Sgd) J M Tierney

Judge-Advocate, if any. — Date awarded. — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 52, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) EWH

(1. AA 57A. Delete if not used.)

(Sgd) E.W. Haldenby Brig

Date 5 Oct 44 — Commanding COMMANDER 1 CDN BASE RFT GROUP Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H65125	Sigmn. Doerksen, I	9 Oct 44 — L.W. Pope Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECD 25 OCT 1944 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 HA-131

FIELD GENERAL COURT-MARTIAL

CFA506 (to form of AFA51) 40/P.M.R./1686 (40/10)

4/38B

Convened by Order of BRIG E.W. HALDENBY Comd 1 CBRGp. dated 1 OCT 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H.65125	SIGMN		ISAAC	DOERKSEN	7 BN 2CBRD.

~~PROCEEDINGS REVIEWED~~

L. 10 Oct 44 K Livermore Lt

~~REVIEWING OFFICER, JAG BRANCH C.M.H.Q.~~

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 4 OCT 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns 80s. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 142.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 22, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0950 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused is directed to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. Fill in effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....

The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO SIR. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJ.	A.M. RUSSELL	(CoC)	1 BN 1 CBRD
Member	CAPT	T.G. BLACKSTOCK	(C1C)	3 BN 1 CBRD
Member	CAPT	T. HULME	(C2C)	2 BN 1 CBRD
Judge-Advocate	CAPT.	W.B. BATE	ADJA	HQ 1 CBRGp.
Prosecutor	CAPT.	J.M. TIERNEY	(C1C)	7 BN 2 CBRD
Defending Offr	LT.	H.R. VINCENT	(RCSigs)	7 BN 2 CBRD

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Q1 p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~no~~ plea(s). NIL (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP titled. Insert, in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 26, 112. See para 1 of Instrs p 2. 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AB6 to record proceedings. 3. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 80, 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1); and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans YES SIR (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 2, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the 1st charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A4, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO SIR. (1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(1) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans GIVE EVIDENCE, SIR. Do you intend to call witnesses on your behalf? Ans NO SIR. Are they witnesses as to character only? Ans

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the third charge is, being subject to confirmation, will be promulgated later.(1) Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(2) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans NO SIR.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex I and Ex J respectively.(3)

(1. *AFB 355 or AFB 296.* 2. *AFB 6.* 3. *RP 46, KR Con 158. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans NO SIR.

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), KR 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. *When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges or all charge sheets on which accused found guilty. AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas AO 309, 2323, RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3)(b), 98(1), KR Con 564.* 2. *RP 50. As to release from utmost by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

ORDER

FGCM - 4 Oct 44
M.65125, Sigman DORRSEN, I.
7 Bn, 2 CBRD

1. Pursuant to Army Act 75 (1), I hereby order that one Ronson Cigarette Lighter (being Exhibit "C" to the m/n proceedings) be restored to B.27116, Spr POLLINGTON, W.A., 7 Bn, 2 CBRD, the person appearing to be the owner thereof.

E.W. Haldenby

(E.W. Haldenby) Brig
Comd 1 Cdn Base Rft Gp
Cdn Army - CMF
Convening Offr

In the Field in Italy

5 October, 1944.

CHARGE SHEET

W.B.B.

The accused, H 65125 Signalman Isaac DOERKSEN, R C Sigs, 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field in Italy did absent himself without leave from 0250 hours on the 30th day of August, 1944, until 1045 hours on the 2nd day of September, 1944, when he was arrested at NAPLES by the Military Police. Total time absent - 3 days, 7 hours and 55 minutes.

SECOND CHARGE
Section 40
Army Act

WHEN ON ACTIVE SERVICE, AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field at Cliffside Barracks, Avellino, Italy, on the 21st day of August, 1944, was in improper possession of W D Property, namely, one pair of Binoculars.

THIRD CHARGE
Section 15(4)
Army Act

WHEN ON ACTIVE SERVICE, STEALING GOODS THE PROPERTY OF A PERSON SUBJECT TO MILITARY LAW

in that he

in the field at Cliffside Barracks, Avellino, Italy, on or about the 19th day of August, 1944, stole a Ronson Cigarette Lighter, the property of B 27116 Sapper Pollington W A, Corps of R C E, 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a person subject to Military Law.

FOURTH CHARGE
ALTERNATIVE CHARGE
Section 40
Army Act

WHEN ON ACTIVE SERVICE, AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field at Cliffside Barracks, Avellino, Italy, on the 21st day of August, 1944, was in improper possession of one Ronson Cigarette Lighter, the property of B 27116 Sapper Pollington, W A, Corps of R C E.

Approved for trial
under K.R. (Can) 540
L. B. Bate Capt
ADJA HQ 1 CBRDep

E R Gill

(E R Gill) Lt-Col,
Officer Commanding,
7 Cdn Base Rft Bn,
2 C B R D, CMF.

In the field
this 1st day of September, 1944.

TO BE TRIED BY FIELD GENERAL ~~COURT~~ MARTIAL

E W Haldenby

In the Field
In Italy
1 Oct 44

(E. W. HALDENBY) Brigadier
Comd 1 Cdn Base Rft Gp
Cdn Army - CMF

W66.

CFA95 (In lieu of AFA3)
40/PAS/1027 (2662)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H65125	Sigmn		Isaac	DOERKSEN	7 Bn 2 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet~~s~~ attached and on (date) 1 Oct 44 endorsed by me, ~~or by an offr of my staff for me~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~s~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint: (a) three Offrs to form the Court, (b) a Pd Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)			(Unit.)
Major	A M HUNGELL (Must be named. RP 106.)	(CIC)	1 Bn 1 CBRD

MEMBERS.

(Rank.)			(Unit.)
Capt	T HULME	(CIC)	2 Bn 1 CBRD
Capt	T G BLACKSTOCK (Named or detailed. RP 106.)	(CIC)	3 Bn 1 CBRD

WAITING MEMBER.

(Rank.)			(Unit.)
Lieut	J J MURPHY (Named or detailed, if any. RP 106.)	(CIC)	2 Bn 1 CBRD

JUDGE-ADVOCATE.

(Rank.)			(Unit.)
Capt	W B BATE (Must be named, if any. RP 106.)	ADJA	HQ 1 C P R Gp

On Active Service in the Fd

in Italy (Country.)

Date 1 Oct 44

E W Haldenby (Signed personally. RP 105 fn 2.)

(E. W. HALDENBY)

Commanding 1 Cdn Base Rft Gp-CMF

Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

7 CANADIAN BASE REINFORCEMENT BATTALION

Certified that I have examined No. H.65135 ..... Rank SIGMN .....

Name... PORRKSON, I. ..... and in my opinion is .....

to undergo trial by Field General Court Martial.

In the Field
this 4th day of Oct 1944

.....
(Signature of Medical Officer)

Offr. under Instruction

Re. G.G. Nursery (CIC) 2 Bn (CBRD.

3.

Trial Witness. } A. 2109 Sgt. Horner S. 7 Bn 2CBRD.
Pros. } duly sworn is exam. by Pros.

On 20 Aug. 44 I was Duty Sgt in A. Coy 7 Bn. stationed at Cliffside Nr. Aultbea. Cpl. Jamieson the Coy Orderly Cpl. reported to me that there had been a series of thefts. We made an investigation & received a list of the various articles that had been lost by the soldiers in the billets. From information received we interviewed two men suspected of trying to sell a pr of binoculars throughout the billets. On 21 Aug 44 I talked to Sqmn Harriman & Sqmn Hansen & as a result of what they told me I located the accused, whom I recognise. I questioned the accused about the binoculars. He admitted having them but not on his possession at that time. At my request he went away & then came back with the binoculars. They were WD. Hensholdt make & were scratched in an attempt to eliminate the serial numbers. I produce the pair of binoculars which I took from the accused (1 pr. binoculars marked (KERSHAW) serial no. 99149 a with broad arrow - admitted & marked Ex. F.). Then I was approached by Sapper Pellington of B Coy. with respect to a Ronson lighter he had lost. The accused was present during this conversation. I still had the binoculars in my hand. I asked the accused to turn out his kit. He claimed he knew nothing about it & refused to turn out his kit. I then turned out the contents of the accused's kit bag & his small pack in the presence of the accused & Sqn. Pellington. A Ronson lighter which was identified by Sqn. Pellington was found among the contents of the kit bag. The lighter was a pocket Ronson, with an Engineers crest on one side & a regimental number on the other side. I produce the Ronson lighter taken from the accused's kit bag. (Ronson cigarette lighter, regimental, with R.E. crest & No. B27116 admitted & marked Ex. G.). The accused made no explanation as to his possession of the lighter

I then placed him under arrest.

Cross-exam:

The two men I interviewed were not suspected of selling the binoculars. They had been offered the binoculars for searchlighting. The info. they gave me made me suspect the accused. I checked the accused's kit just once on 21 Aug 44. The accused first denied having the binoculars but later admitted he had them - not in his possession but that he could get them for me. This conversation took place outside our MIR. The kit inspection took place at the MIR. The accused was awaiting admission to hospital.

Re-exam:

I went through all the kit the accused had. His complete kit was in front of the MIR. I have no idea where the accused got the binoculars.

By the D.A.:

Accused's kit bag was tied securely with rope but not locked. Accused brought his own kit to the MIR. All these were in the kit bag were some cigarettes & other loose articles - not very much - no clothing. The lighter was alone with the rest of the articles when the contents were dumped out on a table.

By the Court

There were no markings on accused's kit bag. Accused admitted the bag was his. The accused said "I had the binoculars. I wasn't going to get them but I can get them." R.P. 93(B) complied with.

Second Witness - Cpl. } R84192 RQMS Matthews W.A. Then 2/28 Aust Sig Section on oath. Examined by Court.

I am RQMS. Then I keep a record of our controlled stores, such as binoculars & a record of all persons to whom they are issued. I have never issued binoculars to Signalman Dearborn & he is not entitled to be in possession of any binoculars.

No cross-exam:

By the D.A.:

These binoculars (Ex F.) - Hensham make are W.D. property on charge to Can Post - & Can Post property. I identify them as such by the broad arrow.

R.P. 93(B) complied with.

Third Witness } B.27116 Spr. Pallington W.A. Then 26 ECO
Pros. } Duly sworn on oath Key Pers.

On Sat morning 19 Aug 44 between 0600-1000 hrs. I found that my lighter had disappeared from my bedside. I was off duty & leaving on my bed at this time. I reported my loss to the Orderly Room. My lighter is a Ronson, chrome-plated. It has my regt'l no. B 27116 engraved on one side & RCE crest on the other. I recognise this lighter (Ex 2) as mine. One morning of 21 Aug 44 around 0830-0930 hrs I overheard a conversation between Lieutenant Sgt. Horner, the accused & another soldier regarding a pr. of binoculars. The accused slept on the same floor as I did, so I asked Sgt. Horner if he had found my lighter. I accompanied them repatriation where the accused's kit was inspected. The contents of his kit bag were dumped out on the floor. The first thing that fell out was my lighter (Ex 2). I was present when the accused returned with the binoculars. There was no lighter on the ground when the accused's kit bag was dumped out. I was present during the conversation between Sgt. Horner & the accused after the latter returned with the binoculars, but I was standing back a bit.

Cross-examn.

I slept on the 4th. floor of Cliffords Hotel.

No re-examn.

By the Court.

Prior to this incident I did not know the accused, though I had seen him around. The acc. was present when his kit bag was emptied.

By the I.O.

I last saw my lighter at 0300 hrs 19 Aug 44 when I got up & lit a cigarette. I never gave the acc. permission to use or borrow my lighter. The accused's kit bag was not locked but tied with a cord. When Sgt. Horner first wanted to unpack the kit the accused tried to make out there was no need for the inspection.

R.P. 53 (B) complied with.

Pros. is closed.

Christ Wilson (H.65125 Sapper Doerksen J., the accused, Def. (duly sworn is exam. by Defence Offr.

On Sat morn 19 Aug 44 I was detailed to sweep the hallways with four other men. I started to work on the 4th floor. I found a lighter while sweeping the hall. This was about 0830 hrs. I put it in my pocket. On Mon 21 Aug 44 I went on sick parade. The MO told me to get my stuff as I was going to hospital. I had just arrived from Corps Depot on Fri. All I had was my small pack & large kit-bag. I was waiting outside the MIR for the ambulance with my kit beside me. Sgt. Horner came up & asked me where my kit was. This was shortly after 0900 hrs. I showed it to him. He emptied it out. After he finished he asked me where the binoculars were. I told him I had none. He told me I was overheard admitting I had them in my possession & gave me 5 mins to produce them. I knew where they were so I produced them. Sgt. Horner took them to A Coy Orderly Room. About 15-30 mins afterwards he came back with Spr. Pettington & asked me if I would turn out my kit bag & he would do it for me. I told him to "go ahead". He searched my kit again - dumping out the contents - & found the lighter. Sgt. Horner kit checked me twice on 21 Aug 44

Cross-Exam:

I took no steps to return the lighter to its owner although I noticed the Cdn crest on it. I did not try to convince Sgt. Horner there was no necessity for inspecting my kit. When I brought the binoculars to Sgt. Horner I did not steal them from anybody. I got the binoculars from another soldier. I cannot say this offhand a pr. of binoculars for sale. But I knew that someone else had. He did not sell them to me. nor give them to me. He was not offering them for sale on my behalf. I would rather not say who gave me the binoculars. I found the lighter near the fire drawn in the hallway, about 15' from where Spr. Pettington sleeps. I kept the lighter in my possession after I found it.

No re-exam.

R.P. 93(8) complied with.

Pros. Address.

Re first charge. Pros. has proved acc. was not entitled to binoculars & that he was in possession. His story that he was given them is not to be believed. On 3rd. charge Pros. has proved Sgn. Pellington lost his lighter & acc. has admitted he found it. But did not so admit to Sgt. Horner on morning of 21 Aug 44. Acc. had possession of recently stolen property. I submit acc. is guilty of 2nd & 3rd charges.

Defence Offr. Address.

Re 2nd. charge I submit accused has not admitted possession of the binoculars. He merely volunteered to & did get them. Knowing a search was on acc. friend naturally would surrender them. If acc. intended to have the binoculars they would have been found in his kit. As to 3rd. charge Pros. has produced two witnesses to prove acc. stole the lighter. Who actually took it? Acc. found it but did not steal it. Sgn. Pellington's evidence supports the accused's story so far as the kit inspection is concerned. Accused admits the lighter was in his possession which covers the 4th charge.

J.A. Summing Up.

(a) Accused innocent until proved guilty. Burden of proof on Pros.
(b) Accused entitled to benefit of reasonable doubt. "Reasonable doubt" defined.
(c) Court sole judge of facts. DA advises re law.
(d) On 2nd charge Cl. must find there was improper possession of the binoculars & was unfit to prejudice of both good order & military discipline. Summary re 4th. charge.
(e) Theft defined - MML Chap. VII para 60. p. 118
(f) Recent possession - MML Chap VII para 66 p. 124
(g) Stealing by finding - MML Chap VII para 51, sub-para 7 p. 119.
(h) Accused may not be found guilty of 3rd & 4th charges but only one of them. May be found not guilty of both.

B2. "Accused's statement":

I was in hospital under open arrest. I could not understand the reason for this. I tried to find out from the hospital authorities. But could not. So I decided to go AWL.

~~EXHIBIT "A"~~

Summary of Evidence in the case of H 65125 Signalman Isaac DOERKSEN, R C Sigs, 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that all evidence will be taken upon oath.

FIRST WITNESS for the prosecution

A 2109 Sergeant Samuel HORNER, R C Sigs, 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, having been duly sworn, states:-

"On Sunday, 20th of August, 1944, I was duty Sergeant of "A" Company, 7 Bn 2 CBRD. I received several complaints from personnel in the Company, of articles of kit being missing from their quarters. I made an investigation and from the results of that, I questioned the accused, Signalman Doerksen I, on Monday, 21st of August, 1944, with respects to the W D Binoculars, which I had heard he had in his possession. He admitted having the binoculars and produced them at my demand. I produce herewith the W D Binoculars in question taken by me from the accused. The serial number of the binoculars is 99649, make Kershaw, 1941 patent. At that time I was approached by a Spr Pollington of B Company who informed me that he had lost a Ronson Lighter around the same period. I questioned the accused in respect to this and instructed him to turn out his kit. On turning out his large kit bag, a Ronson Lighter was found. I produce this lighter, the description of which is as follows: It is a Ronson Lighter with a R C E Crest mounted on one side and bearing the Regimental number B 27116 on the other. The accused on being further questioned, made no statement. I placed him under close arrest."

The accused questions this witness:

Q. When you questioned me regarding the binoculars, did you not search my kit, and not find them?

A. No, I did not search your kit until after you gave me the binoculars.

The foregoing statement and questionaire are read back to this witness in the presence and hearing of the accused.

The accused declines to further cross-examine this witness:

S Horner

(S Horner) Sergeant.

The W D Binoculars referred to by this witness, produced, shown to the accused, tagged as exhibit A, signed by me and attached hereto.

The Ronson Lighter referred to by this witness, produced, shown to the accused, tagged as exhibit B, signed by me and attached hereto.

J M Tierney

(J M Tierney) Captain and Adjutant,

Officer detailed

to take the Summary of Evidence.

(Continued on Page Two)

SECOND WITNESS for the prosecution

B 27116 Sapper William Arthur POLLINGTON, Corps of R C E, 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, having been duly sworn, states:-

"I am a member of "B" Company, 7 Battalion, 2 C B R D. On the morning of the 19th of August, 1944, I found my lighter which has been on a stool beside my bed to be missing. I asked the Corporal in the room if he had seen it and he said no, but that it had been there when he made his bed up in the morning. I then reported this loss to my Company Orderly Room. The lighter is a Ronson lighter, bearing my Regimental Number, B 27116, on one side, and on the other side, the RCE Crest. On Monday morning I overheard a conversation between Sergeant Horner and another Signalman whom I do not know, with regard to a pair of binoculars that was reported to have been stolen. I overheard it said that one man in the Company was to be kit inspected and I inquired whether or not they had found a lighter. They said the man had not been kit inspected yet so I went along with them. They took me upstairs to the veranda outside the QM Office and Sergeant Horner inspected the kit of Signalman Doerksen, the accused, whom I now recognize. The first article to fall out of the kit was a Ronson Lighter. I inspected the lighter which I identified as my own. Sergeant Horner placed the accused under close arrest."

The foregoing statement is read back to this witness in the presence and hearing of the accused:

The accused declines to cross-examine this witness:

W A Pollington

(W A Pollington) Sapper.

THIRD WITNESS for the prosecution

K 71883 Corporal John Gordon STACE-SMITH, C A C, 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, having been duly sworn, states:-

"I am Corporal Stace-smith J G, a clerk of 7 Battalion. I produce herewith this certified true copy of X-List Royal Canadian Corps of Signals Part II Order No 101 dated the 21st of September, 1944, and direct attention to Page two, para 8 (a), insofar as it pertains to the accused, Signalman Doerksen, I. I also produce herewith this Certificate of Arrest in accordance with Army Act 163 (1) (jj), purporting to be signed by Lieutenant J W Reardon, Commanding 510 Provost Coy, C M Police, insofar as it pertains to the accused, Signalman Doerksen, I. Each of these two documents is initialled by me for purpose of identification."

The foregoing statement is read back to the witness in the presence and hearing of the accused.
The accused declines to cross-examine this witness:

J G Stace-smith

(J G Stace-smith) Corporal.

The Part II Order and the Certificate of Arrest referred to by this witness, produced, read over to the accused, marked as exhibits C and D respectively, signed by me and attached hereto.

J M Tierney

(J M Tierney) Capt & Adjt,
Officer taking Summary of Evidence.

(Continued on Page Three.)

WARNING TO THE ACCUSED - You may make a statement or give evidence on oath, but you do not have to make a statement or give evidence on oath unless you wish, but if you do, it will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence on oath, and he reserves his defence.

Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

I certify that the foregoing Summary of Evidence was taken down by me in writing, in the presence and hearing of the accused, this 21st day of September, 1944.

.....

(J M Tierney) Capt & Adjutant,

Officer detailed

to take the Summary of Evidence.

In the field
this 21st day of September, 1944.

This is exhibit C referred to in the Summary of Evidence in the case of H 65125 Signalman Isaac DOERKSEN, RC Sigs, taken before me this 21st day of September, 1944.

.....
(J M Tierney) Capt & Adjt,
Officer taking Summary of Evidence.

Last Order No. 100 18 Sep 44 | X-LIST ROYAL CANADIAN CORPS OF SIGNALS Part II Order Issued By CANADIAN SECTION GHQ 2nd ECHELON, A.A.I. | THIS ORDER No. 101 21 Sep 44

"A" OFFICERS

1. STRENGTH INCREASE
(a) TOS X-3 List from 1 Cdn Corps Sigs 14 Sep 44

Lieut D.G. Armstrong

(b) TOS X-3 List from 1 Cdn Corps Sigs 15 Sep 44

Capt W.J. Stevenson

2. STRENGTH DECREASE
(a) SOS X-4 List (4 Bn) to 5 C.A.D. Sigs 13 Sep 44. Auth: 5CD/141 8/10 Sep 44

Lieut H.P. St. Pierre

"B" OTHER RANKS

3. STRENGTH INCREASE
(a) TOS X-3 List from units shown dates shown:

B31604 Sgmn Bowers, G. Op W/L "C" 5 CADS 13 Sep 44
D21007 Sgmn Chatigny, J.E.C. X-3 List 15 Sep 44
B38843 Sgmn Dowdall, G.S.L. 5 CADS 17 Sep 44
Lineman "B"
B32201 A/Cpl Ferris, H.C. 5 CADS 16 Sep 44
Op W/L "B"
D26195 Sgmn Glen, G.D. 1 C.C.S. 15 Sep 44
Lineman "B"
B136261 Sgmn Hills, C.J. 1 CDS 15 Sep 44
B58821 Sgmn Hayes, V.J. 5 CADS 15 Sep 44
M38793 Sgmn Howe, T. 5 CADS 19 Sep 44
Dvr Mech (HV) "C"
D24156 Sgmn Meunier E. 1 CDS 17 Sep 44
Op W/L "C"
L7213 Sgmn O'Rourke, F.H. 5 CADS 13 Sep 44
Dvr Op "C"
B49308 Sgt Payne, R.I. 5 CADS 15 Sep 44
Clerk "B"
H103888 Sgmn Rose, R.B.J. 5 CADS 14 Sep 44
Instr Mech "C"
B39009 Sgmn Schofield, J.R. 1 CDS 14 Sep 44
Cipher Op "C"
B32525 Sgmn Tait, S.W. 1 CDS 18 Sep 44
Op W/L "C"
H101148 Sgmn Taylor, A.C. 5 CADS 16 Sep 44
K34756 Cpl Waddell, D.S. 5 CADS 13 Sep 44
Op W/L "B"
D21553 Sgmn White, E.C.F. 5 CADS 16 Sep 44
D.R. "C"
D116226 Sgmn Williams, F. 5 CADS 14 Sep 44
Op W/L "B"
K45556 Sgmn Franklin, J.A. 1 CDS 13 Sep 44
Op W/L "C"

3. STRENGTH INCREASE (Cont'd)

(b) TOS X-4 List (4Bn) from 1 Cdn Corps Sigs 17 Sep 44.
Auth: 2 ECH/LO/T/1251 d/15 Sep 44

B32820 Sgt Cassel, V.C.

(c) TOS X-4 List (4Bn) from 1 Cdn Corps Sigs 14 Sep 44.
Auth: 2 ECH/LO/T/1215 d/12 Sep 44

C36154 Sgmn Richmond, C.B. Clerk "C"

(d) TOS X-4 List (7Bn) from P.E. 7 Bn 2 CBRD 8 Sep 44 on transfer from CIC to RCCS. Auth: CECH/44/Trans Gen/13(A7) d/6 Sep 44.

K57705 Sgmn Nicol, J.R.

(e) TOS X-5 List from 1 Cdn Corps Sigs 19 Sep 44 on proceeding on Dvr Mechs' Course

L66556 Sgmn Hetherington, H.H.

4. INTERNAL POSTINGS

(a) Posted from X-3 List to X-4 List (4Bn) 12 Sep 44

F50393	Sgt	Cassidy, F.L.	Cipher Op "C"
K80591	Cpl	Critchley, E.V.	Elect "B"
D21057	Sgmn	Ferguson, J.H.	Swbrd Op "C"
L22957	Sgmn	Lane, K.	Instr Mech "B"
C38352	Sgmn	Morton, L.G.	
F77140	Cpl	Snow, G.E.	Elect "A"
D21143	Cpl	Stead, J.	Lineman "B"
B32637	Sgmn	Willis, J.R.	Op W/L "C"

(b) Posted from X-3 List to X-4 List (7Bn) 16 Sep 44

G27307	Sgmn	Knox, R.E.	
B31372	Sgt	Tremblett, J.F.	Fitter "B"

5. ABSENT WITHOUT LEAVE

(a) AWL from 0250 hrs 30 Aug 44
Apprehended by CMP at 1045 hrs 2 Sep 44
(Absent 3 days, 7 hrs,55 min.)

H65125 Sgmn Doerksen, I. X-3 List (15 CGH)
(Posted from X-3 List to X-4 List 7 Bn 9 Sep 44)

(b) AWL from 2200 hrs 8 Sep 44. Still absent at 2200 hrs 16 Sep 44 (8th day)

H38565 Sgmn Boehler, W.M. X-4 List (7Bn)

6. PUNISHMENT

(a) On 6 Sep 44 awarded a forf of 3 days pay for (1) an off under AA 40 (2) AA 11. Forf 3 days pay under FR&I 149(2)

H38565 Sgmn Boehler, W.M. X-4 List (7Bn)

6. PUNISHMENTS (Cont'd)

(b) Amendment: Part II Order No. 60 d/19 May 44 parell(b) insofar as it refers to the u/n is amended to read: "107 days remission earned"

G16162 Sgmn Daily, H.C.

7. NEXT-OF-KIN

(a) N-of-K verified as shown: Mrs Marjorie Steeves (guardian for daughter, Marjorie Irene Draper)
131 Kane Ave.,
Toronto, Ontario, Canada

B32221 Sgmn Draper, G.A.E. X-4 List (73n)

8. STRENGTH DECREASE

(a) SOS X-4 List (42n) to 5 CAD Sigs 13 Sep 44. Auth: 5CD/141 d/10 Sep 44

H101431 Sgmn Atkinson, W.G. Op M/L "C"
L51147 Sgmn Bloor, A.C. Dvr Op "C"
B116163 Sgmn Cuillier, J.W.J. Op M/L "C"
K76531 Sgmn Corner, R.E. Op M/L "C"
B32249 Sgmn Harris, L.H. Op M/L "C"
B18612 Sgmn Hurson, H.M.
B32237 Sgmn King, W.G. Op M/L "C"
K74720 Sgmn Sparks, L. Op M/L "C"
B31247 Sgmn Smith, V.D. Op M/L "C"

(b) SOS X-4 List (7Bn) to Hq 1 Cdn Corps Sigs 9 Sep 44 Auth: CECH/Demand 1021

H57705 Sgmn Nicol, J.R.

(c) Amendment: Part II Order No.100 d/18 Sep 44 para 7(e) insofar as it refers to the u/n is cancelled

H51822 Sgmn Shaw, G.V. Dvr Mech (MV) "C"

/JCF

J. Campbell Capt
for (W.H. Langelaan) Lieutenant
for Officer i/c
Canadian Section GHQ 2nd Echelon, AAI

Certified true copy of original

for O.i.c Can Sec GHQ 2
2nd Echelon AAI.

This is exhibit Dreferred to in the Summary of Evidence in the case of H/66125 Signalman Isaac DOERKSEN, R C Sigs, taken before me this 21st day of September, 1944.

.....
(J M Tierney) Capt & Adjt
Officer taking Summary of Evidence.

CERTIFICATE OF ARREST.

Certificate in accordance with the Army Act Section 163 (1)(ii).

I certify that:-

No. H. 66125 ..... Rank. SIGMN. .... Name. DOERKSEN .....

Unit. Royal Canadian Corps of Sigs. .... was arrested at

NAPLES .... at 1900 ..... hours on the 2nd Sept. 44 44

Signature of PM, APM or other officer into whose custody the above named was taken on arrest. .....
Commanding
No. Provost Coy. R.C. Corps

Date 2nd September 44 44

Notice is hereby served that in accordance with Rules of Procedure 76, B84192 RQMS Wilfred Ambrose MATTHEWS, RCASC, on the strength of 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, will state that

the accused, H65125 Signalman Isaac DOERKSEN, R C Sigs, has not been issued with W D Binoculars, that there are no WD Binoculars on charge to him, and that Signalman Doerksen is not entitled to have them in his possession.

.....

(J M Tierney) Capt & Adjt,
Officer taking Summary of Evidence.

I, H65125 Signalman Isaac DOERKSEN, R C Sigs, have received the above notice in accordance with Rules of Procedure 76.

.....

(Isaac DOERKSEN) Signalman,

Witnessed by: .....

EXHIBIT 1.

Army Form B 200.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
H 65125	Signalman	Isaac DOERKSEN	7 Cdn Base Rft Bn, 2 C E R D, R C Sigs.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:—

	* Within last 12 months.		*Since Enlistment.	
For	AA Sec 15 (1)	five times	eight	times.
For	AA Sec 40	one times	three	times.
For	AA Sec 11	one times	two	times.
For	AA Sec 10	NIL times	one	times.
For	N/A	times	N/A	times.

XXXX

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. H 65125 Rank Signalman Name DOSKESEN I of 7 CBRBn, 2CBRD Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted
		WOAS AA Sec 18 (4) Stealing cigarettes from a person subject to military law.	6 months detention	21 days.
F G C M	6 Feb 43			

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25th day of September, 1944.

(J M Tierney) Capt & Adjt.
7 Cdn Base Rft Bn, 2 CBRD.

In the rank of N/A Date of Promotion N/A

In the rank of N/A years N/A

In the rank of N/A years N/A

(Insert here any matter in any of the above paragraphs which is struck from the regimental books the particulars must be given and the paragraphs corrected accordingly.)

MFM 6 (AFB 122) 40/PAS/136 (3428)

No H65125 Name Doerkson I J | Sqn, Battery, or Company | Corps C.R.L.U. R.C.A. | Date of enlistment 2 Jul 41 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character EXHIBIT J.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 2 Jan 43 Last entry 6 Nov 41 Nil cases drunkeness					
Field	16Jan42	Pte		Sec 40 AA Failing to comply with an order given by an NCO	A/Cpl Badler RU	3 days CB	16 Jan 42	Capt P Francis	
Field	16Jan42	Pte		Sec 10 AA When a defaulter breaking out of barracks	Cpl Lapierre	14 days detention	17 Jan 42	Capt P Francis	
Field	14Mar42	Pte		Sec 15(1) AA AWL from 1620 hrs 14 Mar 42 till 2200 hrs 4 Apr 42	Pte Cassidy	28 days detention	7 Apr 42	Lt Col DA Guildford	Total forf 52 days pay
Field	28Jan43	Gnr		Sec 18(4) AA Stealing cigarettes from person subject to mil law.	Sgm Lariviere Cpl Adamson W	6 months detention	6 Feb 43	FGCM	

RELEASED from DETENTION BARRACKS on Jul 14 1943 Sentence having expired. Remission of 21 days.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5 Aug 43	Sigmn		AA. SEC 15(1) AWL from 2359 hrs 5 Aug 43 until 2240 hrs 11 Aug 43 (Absent 5 days 22 hrs 40 mins)	Documentary	14 days FP	12 Aug 43	Major FJ Isbister	Forfs 6 days pay FR&I 149(1) a
Field	20 Aug 43	Sigmn		AA Sec 40 WO's Conduct to the prejudice etc. Failed to arise at Reveille after having been warned	A/Cpl Brant TA	Forf 3 days pay	20 Aug 43	WO Peffers Lt-Col	
Field	22 Aug 43	Sigmn		AA SEC 15(1) WO's AWL from 1810 hrs 22 Aug 43 until 2230 hrs 22 Aug 43 (Absent 4 hrs 20 mins)	Cpl Christensen A Cpl Davis L/Sgt Chithas	7 days pay 7 days FP	23 Aug 43	Major A Gillingham	
Field	11 Sep 43	Sigmn		AA Sec 15(1) WO's absented himself without leave from 2200 hrs 11 Sep 43 until 2330 hrs 12 Sep 43. Absent 1 day 1 hr 30 mins.	A/Cpl Savage J	5 days pay	13 Sep 43	Major A Gillingham	Forfs 2 days pay FR&I 149(1)a
Field	29 Nov 43	Sigmn		AA Sec 15(1) WO's AWL from 1400 hrs 29 Nov 43 to 1800 hrs 29 Nov 43 (Total absence 4 hrs)	Cpl Munro AM	Dismissed	29 Nov 43	CO	

No H65125 Name Doerkson I J | Sqn, Battery, or Company | Corps RCCS | Date of enlistment 2 Jul 41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFD 122) 40/PAS/136 (5438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	8Dec43	Sgmn		AA Sec 15(1) WO-S AWL from 0845 hrs 8 Dec 43 from sick parade after being warned to attend	Capt Portnuff	7 days CB	14 Dec 43	Capt ED Fulton	
Field	11Dec43	Sgmn		AA Sec 40(1) WO-S Conduct [illegible] prejudice to the order of good law and military discipline in that he did leave his mess tins in a shape for unfit use and contrary to good sanitation.	Sgt Egolf G	7 days CB	14 Dec 43	Capt ED Fulton	
Field	1 May43	Sigmn		AA 11 Failing to report at PA centre after contact with VDG while undergoing treatment for VDS	Capt Portnuff	28 days CB	3 May 44	JD Macbeth Lt-Col	Forfs 28 days pay

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13Mar44	Sgmn		WOAS Aa 11 Neglecting to obey CBRGp Standing Orders Republished in 7 Bn Part I Order #57 d/4Mar pars 9.	Capt Portnuff Documentary	28 days detention	3 May 44	JD Macbeth Lt Col	Forfs 28 days pay
Field	16Jul44	Sgmn		Aa 15(1) AWL from duty 9 hrs 30 mins.	Sgt Cooper	14 days CB	18Jul44	Major HA Millen	1 days Forf of pay FR&I 149(1)a
Field	18Aug44	Sgmn		Aa 15(1) AWL from 2025 hrs till 2235 hrs 18 Aug 44.	L-Cpl Jemieseon	7 Days CB	19 Aug44	GN Chaplin Lt	

CERTIFIED TRUE COPY from ~~records in my custody~~ Regtl Books in My Custody.

.....
RECORDS OFFICER
21 Sep 44

LIST OF EXHIBITS

Exhibit A - W D Binoculars Serial number 99649, Make Kershaw, 1941 Patent.

Exhibit B - Ronson Lighter with a RCE Crest mounted on one side and bearing the Regimental number B 27116 on the other.

Exhibit C - Certified true copy of X-List Royal Canadian Corps of Signals Part II Order No 101 dated the 21st of September, 1944.

Exhibit D - Certificate of Arrest in accordance with Army Act Section 163 (1) (jj), pertaining to the accused, Signalman Doerksen I.

7 CANADIAN BASE REINFORCEMENT BATTALION

Received this 25 day of Sept., 1944.

(a) One Copy of Summary of Evidence

(b) One Copy of Charge Sheet.

I have no preference for the Convening Officer to appoint any particular officer to act as my defence, and will accept whoever is delegated.

Signed by the Accused .....

Signed by a Witness .....

LIST OF WITNESSES FOR PROSECUTION

FIRST WITNESS - A 2109 Sergeant Samuel HORNER, R C Sigs, on the strength of 7 Canadian Base Reinforcement Battalion, 2 Candian Base Reinforcement Depot.

SECOND WITNESS - B 27116 Sapper William Arthur POLLINGTON, Corps of R C E, on the strength of 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot.

THIRD WITNESS - K 71883 Corporal John Gordon STACE-SMITH, C A C, on the strength of 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H-65125 Sigmn Isaac DOERKSEN 7 HM 2 CHRD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
	NOR	NOR	
2nd	GUILTY	GUILTY	
	NOR		
3rd	GUILTY	GUILTY	
	NOR	NOR	
4th	GUILTY	GUILTY	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for:~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting, present trial—a total of 32 days, of which 0 days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be imprisoned with hard labour for one (1) year.

(Sgd) "W.E. Bate Capt" — Judge-Advocate, if any. 4 Oct 44 — Date awarded. (Sgd) "A.R.Russell Maj" — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED.

I direct that the accused be not committed to prison or detention barracks until further orders.(1) "EWB"

(1. AA 57A. Delete if not used.)

(Sgd) "B W Haldenby" Brig.

Date 5 Oct 44 — COMMANDING Commanding 1 CDN ARMD RCT GROUP — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H65125 Sigmn Doerksen, I.	9 Oct 44	"EW George Major"

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY

4A-131

FIELD GENERAL COURT-MARTIAL

CFA66 (To Direc of AFA81) 40/P & R/1868 (40001) 4/38B

(D.M. Owen) Capt.

Convened by Order of Brig E.W. Haldenby Comd 1 CDN Gp. dated 1 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.65125	Sigmn	Isaac	DOERKSEN	7 HM 2 CHRD

Proceedings Reviewed 12 Oct 44 "W.F. Taylor Maj" DJA

PROCEEDINGS OF TRIAL. Gen Sec GHQ 2 Con AAI.

Held in the Fd in (country) ITALY on (date(s)) 4 OCT 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (A) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and "WEB" each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0959 hours trial commences. "WEB"

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2) "WEB"

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~[illegible]~~ as interpreter? Ans

The Interpreter is sworn.(1) Do you object to ~~[illegible]~~ as shorthand writer? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(8). If objection, see procedure AA 31, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJ.	A.M. RUSSELL	(CIC)	1 HM 1 CHRD
Member	CAPT.	P.O. MACKSTOCK	(CIC)	3 HM 1 CHRD
Member	CAPT.	J. HULME	(CIC)	2 HM 1 CHRD
Judge-Advocate	CAPT.	W.E. BATE	ADJA	HQ 1 CDN Gp.
Prosecutor	CAPT.	J.M. TIERNEY	(CIC)	7 HM 2 CHRD
Defending Offr	LT.	H.R. VINCENT	(ROSigs)	7 HM 2 CHRD

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment make(s) (no) (~~a~~) plea (1) "WEB"

(1. If a special plea is made for separate trial on one or more charges (RP 63(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 115), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB name and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) "WEB" not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2 "WEB"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (ii); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

WEBB B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

WEBB B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans Yes Sir.[5]

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 25(B) fn 3 para 2, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his WEBB (~~not~~) plea(s) of Guilty to Not Guilty on the 1st charge(s). The accused is (~~not~~) so informed, and he (~~is~~) (~~not~~) changes his plea(s) to Not Guilty on the charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

WEBB B4. On the charge(s) to which the plea(s) of Guilty is (~~not~~) changed the President records finding(s) of Guilty in Part I of the Schedule.[1]

(1. *RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex P, initialled and read aloud by the President.[1]

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by vsn of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(1. *RP 37(A) (E).*)

WEBB C2. The charges on which accused pleaded GUILTY are read to him (~~again~~), and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO SIR.[1]

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

WEBB D2. The Prosecutor makes (~~an~~) (no) opening address.[1]

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Give evidence, Sir. Do you intend to call witnesses on your behalf? Ans No Sir. Are they witnesses as to character only? Ans WEBB

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court (~~is~~) (are) recorded in Part I of the Schedule.[2] The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the third charge(s), being subject to confirmation, will be promulgated later.[1]

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]

(1. *AA 54(3) (b), RP 45, 120(A).* 2. *AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?[1]

Ans No Sir.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

WEBB E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service[1], and certified true copy (~~copies~~) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's name, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.[3]

(1. *MFB 355 or MFB 294.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?[1] Ans No Sir.[2]

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges or all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 109, 1923, MML p 60, 750-758. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

ORDER

R2CB - 4 Oct 44
[redacted]
7 Bn, 2 CBRD

1. Pursuant to Army Act 75 (1), I hereby order that one Ronson Cigarette Lighter (Being Exhibit "G" to the m/n proceedings) be restored to S.27115, Spr POLLINGTON, W.A., 7 Bn, 2 CBRD, the person appearing to be the owner thereof.

In the Field in Italy
5 October, 1944.

"E W Haldenby"
(E. W. Haldenby) Brig
Comd 1 Can Base Hft Gp
Can Army - Italy
Convening Offr

"WEBB" "ADJR"

CHARGE SHEET

The accused, H65125 Signalman Isaac DOERKSEN, R C Sigs, 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement depot, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE
Section 15(1)
Army Act

in that he

in the field in Italy did absent himself without leave from 0250 hours on the 30th day of August, 1944, until 1045 hours on the 2nd day of September, 1944, when he was arrested at NAPLES by the Military Police. Total time absent - 3 days, 7 hours and 55 minutes.

SECOND CHARGE WHEN ON ACTIVE SERVICE, AN ACT TO THE PREJUDICE OF GOOD
Section 40 ORDER AND MILITARY DISCIPLINE
Army Act

in that he

in the field at Cliffside Barracks, Avellino, Italy, on the 21st day of August, 1944, was in improper possession of W D Property, namely, one pair of Binoculars.

THIRD CHARGE WHEN ON ACTIVE SERVICE, STEALING GOODS THE PROPERTY OF A
Section 18(4) PERSON SUBJECT TO MILITARY LAW
Army Act

in that he

in the field at Cliffside Barracks, Avellino, Italy, on or about the 19th day of August, 1944, stole a Ronson Cigarette Lighter, the property of S 27116 Sapper Pollington W A, Corps of R C E, 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a person subject to Military Law

FOURTH CHARGE WHEN ON ACTIVE SERVICE, AN ACT TO THE PREJUDICE OF GOOD
ALTERNATIVE ORDER AND MILITARY DISCIPLINE
CHARGE
Section 40
Army Act

in that he

in the field at Cliffside Barracks, Avellino, Italy, on the 21st day of August, 1944, was in improper possession of one Ronson Cigarette Lighter, the property of S 27116 Sapper Pollington, W A, Corps of R C E.

Approved for trial
under K.R. (Can) 540
"W. E. Bate Capt"
ADJA 8 Can Inf Bde Gp

"E W Gill"
(E.W. Gill) Lt-Col,
Officer Commanding,
7 Cdn Base Rft Bn,
2 C B R D, CMF

In the Field
this 27 day of September, 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
1 Oct 44

"E W Baldesby"
(E.W. BALDESBY) Brigadier
Comd 1 Cdn Base Rft Gp
Cdn Army-CMF

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H65125	Sjgn	Isaac	DOUCETTE	7 Bn 2 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 2 Oct 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	A A PURNELL (CIC)	1 Bn 1 CBRD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	T BUTLER (CIC)	2 Bn 1 CBRD
Capt	T C BLACKSTOCK (CIC)	3 Bn 1 CBRD

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	J J MURPHY (CIC)	2 Bn 1 CBRD

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	W B RAMM AJAG	HQ 1 C B R GP

On Active Service in the Fd

in Italy (Country.) "M H Baldenby" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 1 Oct 44 Commanding 1 Cdn Base Rft Gp-CMP Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (Page 1 to 2pp of AFA3 AG.P.& S/1067 (6621)) (*See overleaf for oaths and notes for use on trial.*)

7 CANADIAN BASE REINFORCEMENT BATTALION

"ARMY" "WEB"

Certified that I have examined No H 65135 Rank Sigmn

Name DOMERSON I and in my opinion is fit

to undergo trial by Field General Court Martial.

In the Field
this 4th day of Oct 1944

"E.B. Edwards Maj"
(Signature of Medical Officer)

Offr under Instructions

Lt G.G. Murphy (CIC) 2 MIR 1 CMRD

D 3.

First Witness (A.2109 Sgt Horner S. 7 Bn 2 CMRD
Pros (duly sworn is exam. by Pros.

On 20 Aug 44 I was Duty Sgt in A Coy 7 Bn. stationed at Cliffside Brs Avellino. Cpl Jamieson the Coy Orderly Cpl. reported to me that there had been a series of thefts. We made an investigation and received a list of the various articles that had been lost by the soldiers in the billets. From information received we interviewed two men suspected of trying to sell a pr of binoculars throughout the billets. On 21 Aug 44 I talked to Sigmn Herrman & Sigmn Hansen & as a result of what they told me I located the accused, whom I recognise. I questioned the accused about the binoculars. He admitted having them but not on his possession at that time. At my request he went away and then came back with the binoculars. They were WD Kershaw make and were scratched in an attempt to eliminate the serial number. I produce the pair of binoculars which I took from the accused (1 pr. binoculars marked (KERSHAW) serial No. 99649 and with broad arrow - admitted and marked Ex P.). Then I was approached by Sapper Pollington of "B" Coy. with respect to a Ronson lighter he had lost. The accused was present during this conversation. I still had the binoculars in my hand. I asked the accused to turn out his kit. He claimed to know nothing about it and refused to turn out his kit. I then turned out the contents of the accused's kit bag and his small pack in the presence of the accused and Spr Pollington. A Ronson lighter which was identified by Spr Pollington was found amoung the contents of the kit bag. The lighter was a pocket Ronson with an Engineers crest on one side and a regimental number on the other side. I produce the Ronson lighter taked from the accused's kit bag. (Ronson cigarette lighter, ironmetal, with RCE crest & No. B27116 admitted and marked Ex 'G'). The accused made no explanation as to his possession of the lighter

(2)

I then placed him under arrest.

Cross-exam:

The two men I interviewed were not suspected of selling the binoculars. They had been offered the binoculars for purchasing. The info. they gave me made me suspect the accused. I checked the accused's kit just once on 21 Aug 44. The accused first denied having the binoculars but later admitted he had them - not in his possession but that he could get them for me. This conversation took place outside our MIR. The kit inspection took place at the MIR. The accused was awaiting admission to hospital.

Re-exam:

I went through all the kit the accused had. His complete kit was in front of the MIR. I have no idea where the accused got the binoculars.

By the JA:

Accused's kit bag was tied snugly with rope but not locked. Accused brought his own kit to the MIR. All there was in the kit bag was some cigarettes and other loose articles - not very much - no clothing. The lighter was along with the rest of the articles when the contents were dumped out on a table.

By the Court:

There were no markings on accused's kit bag. Accused admitted the bag was his. The accused said "I had the binoculars I haven't got them but I can get them".

R.P. 65 (8) complied with.

(2 cont'd)

Second Witness (B84192 RQMS Matthews W.A. 7 Bn 2 CBRD
Pros (duly sworn is exam. by Pros.

I am RQMS 7 Bn. I keep a record of our controlled stores, such as binoculars and a record of all persons to whom they are issued. I have never issued binoculars to Sigmn Doerksen and he is not entitled to be in possession of any binoculars.

No cross-exam:

By the J.A.:

These binoculars (Ex 'P') - Mershaw make are W.D. property on charge to Cdn Govt - or Cdn Govt property. I identify them as such by the broad arrow.

R.P. 83 (B) complied with.

---

(3)

Third Witness (W.27116 Spr Pollington W.A. 7 Bn 2 CBRD
Pros (duly sworn is exam by Pros.

On Sat morning 19 Aug 44 between 0000-1000 hrs. I found that my lighter had disappeared from my bedside. I was off duty and lying on my bed at the time. I reported my loss to the Orderly Room. My lighter is a Ronson, chrome-plated. It has my Regt'l No. W27116 engraved on one side and the crest on the other. I recognize this lighter (Ex 'Q') as mine. On morning of 21 Aug 44 around 0830-0930 hrs I overheard a conversation between Sgt Horner, the accused and another soldier regarding a pr of binoculars. The accused slept on the same floor as I did, so I asked Sgt Horner if he had found my lighter. I accompanied him upstairs where the accused's kit was inspected. The contents of his kit bag were dumped out on the floor. The first thing that fell out was my lighter (Ex 'Q'). I was present when the accused returned with the binoculars. There was no lighter on the ground when the accused's kit bag was dumped out. I was present during the conversation between Sgt Horner and the accused after the latter returned with the binoculars, but I was standing back a bit.

Cross-exam.

I sleep on the 4th floor of Cliffside Mss.

No re-exam.

By the Court.

Prior to this incident I did not know the accused, though I had seen him around. The acc. was present when his kit bag was emptied.

By the J.A.

I last saw my lighter at 0300 hrs 19 Aug 44 when I got up and lit a cigarette. I never gave the acc. permission to use or borrow my lighter the accused's kit bag was not locked but tied with a cord. When Sgt Horner first wanted to inspect the kit the accused tried to make out there was no xxx need for the inspection.

R.P. 83(B) complied with

Pros is closed.

First Witness (N.65125 Sigmn Doerksen I., the accused.
Def (duly sworn is exam by Defend Offr.

On Sat morn 19 Aug 44 I was detailed to sweep the hallways with four other men. I started to work on the 4th floor. I found a lighter while sweeping the hall. This was about 0830 hrs. I put it in my pocket. On Mon 21 Aug 44 I went on sick parade. The MO told me to get my stuff as I was going to hospital. I had just arrived from Conv Depot on Fri. All I had was my small pack and large kit-bag. I was waiting outside the MIR for the ambulance with my kit beside me. Sgt Horner came up and asked me where my kit was. This was shortly after 0900 hrs. I showed it to him. He emptied it out. After he finished he asked me where the binoculars were. I told him I had none. He told me I was overheard admitting I had them in my possession and gave me 5 mins to produce them. I knew where they were so I produced them. Sgt. Horner took them to A Coy Orderly Room. About 15-30 mins afterwards he came back with Spr Pollington and asked if I would turn out my kit bag or he would do it for me. I told him to "go ahead". He searched my kit again - dumping out the contents - and found the lighter. Sgt Horner kit checked me twice on 21 Aug 44.

Cross-exam:

I took no steps to return the lighter to its owner although I noticed the RCE crest on it. I did not try to convince Sgt Horner there was no necessity for inspecting my kit. When I brought the binoculars to Sgt Horner I did not steal them from anybody. I got the binoculars from another soldier. I never at any time offered a pr of binoculars for sale but I knew that someone else had. He did not sell them to me, nor give them to me. He was not offering them for sale on my behalf. I would rather not say who gave me the binoculars. I found the lighter near the fare stairs in the hallway. About 25' from where Spr Pollington sleeps. I kept the lighter in my possession after I found it.

No re-exam.

R.P. 85(B) complied with.

Pros. Address.

Re second charge. Pros. has proved acc. was not entitled to binoculars and that he was in possession. His story that he was given them is not to be believed. On 3rd Charge Pros. has proved Spr Pollington lost his lighter acc. has admitted he found it, but did not so admit to Sgt Horner on morning of 21 Aug 44. Acc. had possession of recently stolen property. I submit accd is guilty of 2nd and 3rd charges.

Defend Offr. Address.

Re 2nd charge I submit accused has not admitted possession of the binoculars. He merely volunteered to and did get them. Knowing a search was on acc. friend naturally would turned them over. If acc. intended to have the binoculars they would have been found in his kit. As to 3rd charge Pros. has produced no witnesses to prove acc. stole the lighter. Who actually took it? Acc found it but did not steal it. Spr Pollington's evidence supports the accused's story so far as the kit inspection is concerned. [redacted] Accused admits the lighter was in his possession which covers the 4th charge.

(5 cont'd)

J.A. Summing Up.

(a) Accused innocent until proved guilty. Burden of proof on Pros.
(b) Accused entitled to benefit of reasonable doubt. "Reasonable doubt" defined.
(c) Court sole judge of facts. JA advises re law.
(d) On 2nd charge Ct must find there was improper possession of the binoculars and was such to prejudice of both good order and military discipline. Similary re 4th charge.
(e) Theft defined - MML Chap VII para 50 p. 110.
(f) Recent possession - MML Chap VII para 66, xxxxxxxxx p. 124.
(g) Stealing by finding - MML Chap VII para 51, sub-para 7 p. 119
(h) Accused may not be found guilty of 3rd and 4th charges but only one of them. May be found not guilty of both.

B 2 Accused's statement:
I was in hospital under open arrest. I could not understand the reason for this. I tried to find out from the hospital authorities, but could not. So I decided to go AWL.

Exhibit "H"

Summary of Evidence in the case of M 65125 Signalman Isaac DOERKSEN, R C Sigs, 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas.

"A.M.Russell Maj" Pres.

The commanding Officer directs that all evidence will be taken upon oath.

"W. B. Bate Capt"
Judge Advocate

FIRST WITNESS for the Prosecution

A 2109 Sergeant Samuel HORNER, R C Sigs, 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, having been duly sworn, states:-

"On Sunday, 20th of August, 1944, I was duty Sergeant of "A" Company, 7 Bn 2 CBRD. I received several complaints from personnel in the Company, of articles of kit being missing from their quarters. I made an investigation and from the results of that, I questioned the accused, Signalman Doerksen I, on Monday, 21st of August, 1944, with respect to the W D Binoculars, which I had heard he had in his possession. He admitted having the binoculars and produced them at my demand. I produce herewith the W D Binoculars in question taken by me from the accused. The serial number of the binoculars is 99649, make Kershaw, 1941 patent. At that time I was approached by a Spr Pollington of B Company who informed me that he had lost a Ronson Lighter around the same period. I questioned the accused in respect to this and instructed him to turn out his kit. On turning out his large kit bag, a Ronson Lighter was found. I produce this lighter, the description of which is as follows: It is a Ronson Lighter with a R C E Crest mounted on one side and bearing the Regimental number E 27116 on the other. The accused on being further questioned, made no statement. I placed him under close arrest."

The accused questions this witness:

Q. When you questioned me regarding the binoculars, did you not search my kit, and not find them?

A. No, I did not search your kit until after you gave me the binoculars.

The foregoing statement and questionaire are read back to this witness in the presence and hearing of the accused.

The accused declines to further cross-examine this witness:

"S Horner"
[S Horner] Sergeant.

The W D Binoculars referred to by this witness, produced, shown to the accused, tagged as exhibit A, signed by me and attached hereto.

The Ronson Lighter referred to by this witness, produced, shown to the accused, tagged as exhibit B, signed by me and attached hereto.

"J Tierney"
[J M Tierney] Captain and Adjutant,

Officer detailed

to take the Summary of Evidence.

(Continued on Page Two)

SECOND WITNESS for the Prosecution

B 27116 Sapper William Arthur POLLINGTON, Corps of R C E, 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, having been duly sworn, states:-

"I am a member of "B" Company, 7 Battalion, 2 C B R D. On the morning of the 19th of August, 1944, I found my lighter which has been on a stool beside my bed to be missing. I asked the Corporal in the room if he had seen it and he said no, but that it had been there when he made his bed up in the morning. I then reported this loss to my Company Orderly Room. The lighter is a Ronson lighter, bearing my Regimental Number, B 27116, on one side, and on the other side, the RCE Crest. On Monday morning I overheard a conversation between Sergeant Horner and another Signalman whom I do not know, with regard to a pair of binoculars that was reported to have been stolen. I overheard it said that one man in the Company was to be kit inspected and I inquired whether or not they had found a lighter. They said the man had not been kit inspected yet so I went along with them. They took me upstairs to the veranda outside the S Office and Sergeant Horner inspected the kit of Signalman Boerkseen, the accused, whom I now recognize. The first article to fall out of the kit was a Ronson Lighter. I inspected the lighter which I identified as my own. Sergeant Horner placed the accused under close arrest."

The foregoing statement is read back to this witness in the presence and hearing of the accused:

The accused declines to cross-examine this witness:

"W A Pollington"
(W A Pollington) Sapper.

THIRD WITNESS for the Prosecution

M 71883 Corporal John Gordon STACE-SMITH, C A C, 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, having been duly sworn, states:-

"I am Corporal Stace-smith J G, a clerk of 7 Battalion. I produce herewith this certified true copy of X-list Royal Canadian Corps of Signals Part II Order No 101 dated the 21st of September, 1944, and direct attention to Page two, para 5 (a), insofar as it pertains to the accused, Signalman Boerksen, I. I also produce herewith this Certificate of Arrest in accordance with Army Act 163(1)(ii), purporting to be signed by Lieutenant J W Reardon, Commanding 510 Provost Coy, C M Police, insofar as it pertains to the accused, Signalman Boerksen, I. Each of these two documents is initialled by me for purpose of identification."

The foregoing statement is read back to the witness in the presence and hearing of the accused.
The accused declines to cross-examine this witness:

"J G Stace-smith"
(J G Stace-smith) Corporal.

The Part II Order and the Certificate of Arrest referred to by this witness, produced, read over to the accused, marked as exhibits C and D respectively, signed by me and attached hereto.

"J M Tierney"
(J M Tierney) Capt & Adjt,
Officer taking Summary of Evidence.

(Continued on Page Three)

WARNING TO THE ACCUSED - You may make a statement or give evidence on oath, but you do not have to make a statement or give evidence on oath unless you wish, but if you do, it will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence on oath, and he reserves his defence.

Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

I certify that the foregoing Summary of Evidence was taken down by me in writing, in the presence and hearing of the accused, this 21st day of September, 1944.

"J Tierney"
(J M Tierney) Capt & Adjutant,

Officer detailed

to take the Summary of Evidence.

In the field
this 21st day of September, 1944.

This is exhibit C referred to in the Summary of Evidence in the case of H 65125 Signalman Isaac DOERKSEN, RC Sigs, taken before me this 21st day of September, 1944.

"J Tierney"
(J W Tierney) Capt & Adjt,
Officer taking Summary of Evidence.

Last Order	X-LIST ROYAL CANADIAN CORPS OF SIGNALS	THIS ORDER
No. 100	Part II Order Issued BY	No. 101
18 Sep 44	CANADIAN SECTION GHQ 2nd ECHELON, A.A.I.	21 Sep 44

"B" OTHER RANKS

Page 2

5. ABSENT WITHOUT LEAVE "EXTRACT"
(a) AWL from 0230 hrs 30 Aug 44
Apprehended by CMP at 1045 hrs 2 Sep 44
(Absent 3 days, 7 hrs, 35 min.)

H65125 Sgmn Doerksen, I. X-3 List 115 CGH)
(Posted from X-3 List to X-A List 7 Sa 9 Sep 44)

Certified true copy of original.

"W.H. Laughlin Lieut"
for C i/c Cdn Sec GHQ
2nd Echelon AAI.

This is exhibit D referred to in the Summary of Evidence in the case of H65125 Signalman Isaac DOERKSEN, R C Sigs, taken before me this 21st day of September, 1944.

"J Tierney"
(J W Tierney) Capt & Adjt,
Officer taking Summary of Evidence.

CERTIFICATE OF ARREST. Certificate in accordance with the Army Act Section 103 (1)(ii).

I certify that:-

No. H-65125 Rank Sigman Name DOERKSEN

Unit Royal Canadian Corp of Sigs was arrested at

NAPLES at 1045 hours on the 2nd Sept 44

Signature of PM, APM or other officer into whose custody the above named was taken on arrest. "J W Reardon Lt"
Commanding
510 Provost Coy C.M. Police

Date 2nd September 1944

Notice is hereby served that in accordance with Rules of Procedure 76, B84192 WO2 Wilfred Ambrose MATTHEWS, RCASC, on the strength of 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, will state that

the accused, H65125 Signalman Isaac DOERKSEN, R C Sigs, has not been issued with W D Binoculars, that there are no WD Binoculars on charge to him, and that Signalman Doerksen is not entitled to have them in his possession.

"J Tierney"
(J M Tierney) Capt & Adjt,
Officer taking Summary of Evidence.

I, H65125 Signalman Isaac DOERKSEN, R C Sigs, have received the above notice in accordance with Rules of Procedure 76.

"I Doerksen"
(Isaac DOERKSEN) Signalman,

Witnessed by: "D F Sutherland R.S.M."

Exhibit I "A" Russell Nail Pres

W. B. Bate Capt
Judge Advocate.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H 65125	Signalman	Isaac DOERKSEN	7 Cdn Base Rft Bn, 2 CMED HQ Sig

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 877, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated

	* Within last 12 months.		* Since Enlistment.	
For AA Sec 15 (1)	five	times	eight	times.
For AA Sec 40	one	times	three	times.
For AA Sec 11	one	times	two	times.
For AA Sec 10	Nil	times	one	times.
For N/A		times	N/A	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. ~~The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. ~~or The accused at the present time is under sentence for~~

~~imprisonment~~ ~~detention~~ ~~imprisonment with hard labour~~ ~~detention~~

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. H 65125 Rank Signalman Name DOBYNSKI I. of 7 C&Wm 2 CBRD Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge or order of the dispensing authority	Punishment remitted
F G C M	6 Feb 43	WOAS AA Sec 18(4) Stealing cigarettes from a person subject to military law.	6 months detnetion	21 days.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25th day of September, 1944.

"J Tierney"
(J N Tierney) Capt & Adjt,
7 Cdn Base Bft Bn, 2 CBRD

13. [illegible]

Date of Promotion.

Up the rank of ..... years. N/A

In the rank of ..... years. N/A

In the rank of N/A years. N/A

(Correction.—If any matter in any of the above paragraphs quoted be struck through, except that in the case of a trial by field general court-martial the information may be collected from each convict as are available and the paragraphs corrected accordingly.)

MFM 6
(AFB 122)
40/PAS/136 (3438)

No. M65125 Name Doerkson I J | Sqn, Battery or Company | Corps C.R.L.U. R.C.A. | Date of enlistment 2 Jul 41 | GC Badges | Service or Proficiency Pay Exhibit J. | Character

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | A/Russell I A/J Adjt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (sentencing with trial)	By whom awarded	Remarks
									H. Bate Capt" Judge advocate
Sheet destroyed 2 Jan 43 Last entry 6 Nov 41 Nil case drunkeness.									
Field	16 Jan 42		Pte	Sec 40 AA Failing to comply with an order given by an NCO	A/Cpl Sadler RU	3 days CB	16 Jan 42	Capt P Francis	
Field	16 Jan 42		Pte	Sec 10 AA When a defaulter breaking out of barracks	Cpl Lapierre	14 days detention	17 Jan 42	Capt P Francis	
Field	14 Mar 42		Pte	Sec 15(1) AA AWL from 1620 hrs 14 Mar 42 till 2200 hrs 4 Apr 42	Sgt Conrad Pte Cassidy	28 days detention	7 Apr 42	Lt Col DA Guildford	Total forf 52 days pay
Field	28 Jan 43		Gnr	Sec 15(4) AA Stealing cigarettes from person subject to mil law.	Sgm Lariviere Cpl Adamson W	6 months detention	6 Feb 43	FOCM	RELEASED FROM DETENTION BARRACKS on Jul 41 1943 Sentence having expired. Remission of 21 days.

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5Aug44	Sigmn		AA Sec 15(1) AWL from 2359 hrs 5 Aug 43 until 2240 hrs 11 Aug	documentary	14 days F P	12 Aug 43	Major FJ Isbister	Forfs 6 dys pay AR&I149(1)a
Field	20Aug43	Sigmn		AA Sec 40 WOAS Conduct to the prejudice etc. Failed to arise at Reveille after having been warned.	A/Cpl Brant TA	Forf 3 days pay	20 Aug 43	WO Peffers Pt-col	
Field	22Aug43	Sigmn		AA Sec 15(1)WOAS AWL from 1810 hrs 22 Aug 43 until 2230 hrs 22 Aug 43 (Absent 4 hrs 20 mins)	Cpl Christensen A Cpl Davis L/Sgt Ghithas	7 days pay 7 days FP	23 Aug43	Major A Gillingham	
Field	11Sep43	Sigmn		AA Sec 15(1)WOAS absented himself without leave from 2200 hrs 11 Sep 43 until 2330 hrs 12 Sep 43. Absent 1 day 1 hr 30 mins.	A/Cpl Savage J	5 days pay	13 Sep43	Major A Gillingham	Forf 2 days pay AR&I 149(1)a
Field	29Nov43	Sigmn		AA Sec 15(1) WOAS AWL from 1400 hrs 29 Nov 43 to 1800 hrs 29 Nov 43 (Total absence 4 hrs)	Cpl Munro AH	Dismissed	29 Nov43	CO	

No [illegible] Name Doerksen I J | Sqn, Battery or Company | Corps RCCS | Date of enlistment 2 Jul 41 | GC Badges | Service or Proficiency Pay

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc

MFM 6 (AFB 122) 40/P&S/136 (3438)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						Character			
Field	8 Dec43	Sgmn		AA Sec 15(1)WOAS AWL from 0645 hrs 8 Dec 43 from sick parade after being warned to attend	Capt Fornuff	7 days C.B.	14 Dec 43	Capt ED Fulton	
Field	11 Dec43	Sgmn		AA Sec 40(1)WOAS Conduct prejudice to the order of good law and military discipline in that he did leave his mess tins in a shape for unfit use and contrary to good sanitation.	Sgt Ezolr G	7 dys CB	14 Dec 43	Capt ED Fulton	
Field	1 May43	Sigmn		AA 11 Failing to report at PA centre after contact with VDO while undergoing treatment for VDC	Capt Fornuff	28 days FP	13 May 44	JD Macbeth Lt-Col	Forfs 28 days pay

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Mar 44	Sgmn		WOAC AA 11 Neglecting to obey SHAEF Standing Orders Republished in 7 Bn Part I Order #57 d/4 Mar para 9.	Capt Fortnuff	28 days Documentary detention	9 May 44	CO Macbeth Lt Col	Forf 28 days pay
Field	14 Jul 44	Sgmn		AA 15(1) AWL from duty 9 hrs 30 mins	Sgt Cooper	14 days CB	18 Jul 44	Major Wm. Allen	1 days Forf of pay FMAI 149(1)a
Field	16 Aug 44	Sgmn		AA 15(1) AWL from 2025 hrs till 2235 hrs 15 Aug 44.	L-Cpl Jamieson.	7 days CB	19 Aug 44	CW Chaplin Lt	

CERTIFIED THAT DUTY PROPERLY DONE IN MY SUBSTODY.

"F Platney"
RECORDS OFFICER
21 Sep 44

LIST OF EXHIBITS

Exhibit A - W D Binoculars Serial number 99649, Make Kershaw, 1941 Patent.

Exhibit B - Ronson Lighter with a RCE Crest mounted on one side and bearing the Regimental number B 27116 on the other.

Exhibit C - Certified true copy of X-List Royal Canadian Corps of Signals Part II Order No 101 dated the 21st of September, 1944.

Exhibit D - Certificate of Arrest in accordance with Army Act Section 163 (1)(jj), pertaining to the accused, Signalman Doerksen I.

---

7 CANADIAN BASE REINFORCEMENT BATTALION

Received this 25th day of Sep 1944.

(a) One Copy of Summary of Evidence

(b) One Copy of Charge Sheet.

I have no preference for the Convening Officer to appoint any particular officer to act as my defence, and will accept whoever is delegated.

Signed by the Accused "Doerksen I"

Signed by a Witness "GV Campbell Sgt"

LIST OF WITNESSES FOR PROSECUTION

FIRST WITNESS - A 2109 Sergeant Samuel HOSKEN, R C Sigs, on the strength of 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot.

SECOND WITNESS - B 27116 Sapper William Arthur POLLINGTON, Corps of R C E, on the strength of 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot.

THIRD WITNESS - R 71883 Corporal John Gordon SPACE-SMITH, R C E, on the strength of 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot.

Y 8

GNR DOERKSEN, I J

Correspondence to be PINNED here.

P.G.C.M. H-65125 Gnr. Doerksen, I.J.
1 C.S.R.U.
BOHQ 5-6-2/119

Y 8

Army Form A.3.

"B" GROUP H.Q. 7 FEB 1945 CANADIAN REINFORCEMENT UNITS

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this fourth day of February, 1945.

Whereas it appears to me, the undersigned, an officer in Command of "B" Group Canadian Reinforcement Units, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint:—
*[ ] Three Officers to form the Court
*[ ] A Field Officer as President]

for the following reasons, namely:—[illegible]

15th Feb 43

* Omit if not applicable.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded in the proceedings.

President.

Rank.	Name.	Regiment.
Lt. Col.	D.L. Redman - Calgary Highrs	H.Q. CRU

Members.

Rank.	Name.	Regiment.
A Captain	from	1 C.S.R.U.
A Lieutenant	from	1 C.S.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed P.R. Rennie (P.R. RENNIE) COLONEL.

Commanding "B" GROUP CDN. REINF. UNITS
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
H-65125 Gnr. DOERKSEN, Isaac John 1 C.S.R.U.	First Charge A.A.Sec 15(4)	Guilty	Guilty Sentence To undergo Detention for a period of Eight(8) months. 6th Feb 1943	I confirm the Finding of the Court and remit the Sentence to one of six months Detention. 8 Feb 43 Col
	See attached Charge Sheet			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) ..... (Signed) .....
(P.R.SMITH) COLONEL
Commanding "B" GROUP C.A.C.
Commanding Officer (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 6th day of February 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
* (3. ~~The interpreter~~) The Shorthand writer
* (4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 6th day of February 19 43

..... Lt Col
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

Signed this ..... day of ..... 19 .....

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

Pte

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 8 day of Feb 1943.

..... Col
Confirming Officer.

Promulgated and extracts taken in the case of H-65125 Gnr. Doerksen, I.J. 2 C.S.R.U.

(*a*) (Dated) 9 February 43 (Signed) ..... Lt Col

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

PTI NO 43
D/12 3rd

[illegible] Wt. 28761/1210 Thos. Lee W. & Co., Ltd. Gp. 746.2

C H A R G E S H E E T

The accused, H.65125 Gunner DOERKSEN, Isaac John, (R.C.A.-1 Canadian Radiolocation Unit) on strength of No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas,

is charged with

First Charge Section 18 (4) Army Act. WHILST ON ACTIVE SERVICE, STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW,

in that he,

at Delville Barracks, Cove Hants., on the 28th January, 1943, did steal one thousand (1,000),cigarettes, the property of D.21099 Signalman LARIVIERE, Paul Emile.

H.R. Tyner

Delville Barracks,
Cove, Hants.,
January, 1943.

(H.R. Tyner) Colonel,
Commanding,
No. 1 Cdn. Signals Reinf. Unit.

To be tried by Field General Court Martial

(P.E. [illegible]) COLONEL
COMMANDER "B" GROUP
CANADIAN [illegible] UNITS
CONVENING OFFICER

This is to certify that I have examined H.65125

DOERKSEN, Isaac and found him fit to undergo

trial by Court Martial.

6 February, 1943.

Medical Officer, 1 C.S.R.U..

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT Cove, HANTS.
ON THE 6 DAY OF FEB. 1943

The accused. H 65125 Gnr. DOERKSEN, J.W. Unit. 1 C.S.R.U.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 & 23.

The accused is brought before the Court.
The Medical Certificate is presented to the Court.
The order convening the Court is read by the President and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. W.-Cdr. D.L. Redman ..... Unit. H.Q. - C.R.U.
Members. Capt. C. Errington ..... Unit. 1 C.S.R.U.
Lt. H.H. Carter ..... Unit. 1 C.S.R.U.

The officers under instruction are duly sworn:-

Lt. I.M. Acorn ..... Unit. 1 C.S.R.U.
Lt. J.J. Smith ..... Unit. 1 C.S.R.U.
Prosecutor. Lt. J.J. Baker ..... Unit. 1 C.S.R.U.
Defending Officer. Lt W.J.P. Styles ..... Unit. 1 C.S.R.U.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B)
The Summary of Evidence is read.
The Prosecutor is sworn and produces MFE 355 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) makes a statement in mitigation of punishment
(b) ~~calls witnesses as to character~~
(c) ~~calls witnesses in mitigation of punishment~~
(d) addresses the Court by his Defending Officer

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

accused: states did not realise his act, having just left hosp. after 2 months. Suffered broken jaw; developed V.D.S. in hosp; worried about girl friend in London. Left school at 14. Worked short time in garage - mostly on farms. Mother dead; Father former farmer, now labourer. Three previous mined crimes - no previous Regt charges. Enl. 12 May 42 - no offences

(OVER)

Summary of evidence in the case of H.65125 Gunner DOERKSEN, Isaac John, (R.C.A)(No. 1 Cdn. Radiolocation Unit) on strength of No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the summary of evidence is taken on Oath.

FIRST WITNESS for the prosecution

D.21099 Sigmn. LARIVIERE, Paul Emile, (R.C.C.S) on strength of No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states:

"I am D.21099 Sigmn. Lariviere, P.E. of No. 3 Company, No. 1 Cdn. Signals Reinf. Unit. Between 1600 hours and 1700 hours, 28 January 1943, I went to my quarters in Room 6, Spider 5, and opened my kit bag to get some cigarettes. I found that a parcel containing one thousand (1,000) cigarettes, British Consols Export, had disappeared. I reported the loss immediately to Corporal EEDY in my hut. We went around every room in the spider trying to locate the parcel. We found nothing.

I then went to the Company Office and reported the loss. I went back to my room and saw Gunner DOERKSEN talking to someone else in my room, and became suspicious. I then went to the kitchen to see Corporal ADAMSON and told him of the theft, and asked him to try and find out if anyone had been seen in the kitchen with a parcel. I then went back to my room and looked around some more.

While I was still looking, Corporal ADAMSON came back from the kitchen into the room and said, "I think DOERKSEN has your cigarettes". Corporal ADAMSON and I then left to go back to the kitchen. Corporal ADAMSON took Gunner DOERKSEN into a small room in the kitchen. Corporal ADAMSON and Gunner DOERKSEN came out of the kitchen and we started to walk back to my quarters.

Just inside the spider, Gunner DOERKSEN said he would show me where the cigarettes were if no charge was laid, and that others were concerned in the matter. He took me to a shelter beside Spider 4, and inside the shelter he shook hands with me and said "Don't be too hard on me and don't lay a charge". He then bent down and picked them out from underneath the bench in the shelter and handed the parcel to me.

It was still unopened, but the wrapper with my name had been partly torn off. I had previously seen my cigarettes between 1100 and 1200 hours on the morning of the 28th January, 1943. I submit the carton in evidence. EXHIBIT "A"."

This witness was cross examined by the accused:

Question 1: "Did I say at any time 'If there is no charge laid, I will show you where the cigarettes are'?"

Answer 1: "In the shelter you said 'If you hit me, don't hit me hard. I have a sore jaw. I have just come out of hospital". I said, 'I won't hit you, and I won't lay a charge'."

(P.E. Lariviere) D.21099 Sigmn
No. 1 Cdn Signals Reinf. Unit..

SECOND WITNESS for the prosecution

B.31442 Corporal ADAMSON, Frank (R.C.C.S) on strength of No. 1 Cdn. Signals Reinf. Unit, a soldier of the Canadian Army Overseas, having been duly sworn states:

"I am B.31442 Corporal ADAMSON, F. of No. 3 Company, No. 1 Cdn. Signals Reinf. Unit. At approximately 1600 hours, 28th January 1943, Gunner DOERKSEN approached me and asked permission to go to his room to have a shave. I granted him permission and he left the kitchen. Gnr. DOERKSEN had been on kitchen fatigue and I was N.C.O. i/c Kitchen fatigues.

At about 1700 hours 28th January, 1943, I was informed by Sigmn. LARIVIERE that he had lost one thousand (1,000) cigarettes from his kit bag and suspected Gnr. DOERKSEN of the theft. I questioned Gunner DOERKSEN, and he admitted stealing the cigarettes and having possession of them. I immediately took him over to Sigmn. LARIVIERE, so that Gnr. DOERKSEN could show him where the cigarettes were."

This witness was cross examined by the accused:

Question 1: "Did I at any time mention to you, or in your hearing, that I had stolen the cigarettes?"

Answer 1: "After repeated interrogation I asked you, 'Come clean. Be a man! Did you steal the cigarettes?' and you said 'Yes, I have stolen them. Take me to see Sigmn. LARIVIERE'."

F. Adamson

(F. Adamson) B.31442 Sigmn. W/...
No. 1 Cdn Signals Reinf. Unit...

THIRD WITNESS for the prosecution

B.88472 Acting Company Sergeant Major McKEOWN, Robert, (R.C.C.S) on strength of No. 1 Cdn. Signals Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states:

"I am B.88472 A/C.S.M. McKEOWN, R., Company Sergeant Major of No. 3 Company, No. 1 Cdn. Signals Reinf. Unit.

On the afternoon of 28th January 1943 it was reported to me that one thousand (1,000) cigarettes, the property of Sigmn. LARIVIERE were missing. On the morning of 29th January 1943, Sigmn. LARIVIERE came to me and said that Gnr. DOERKSEN had produced the cigarettes for him the previous evening. I had Gnr. DOERKSEN brought to the Company Office and questioned him in the presence of Sigmn. LARIVIERE. I asked him if he had taken the cigarettes. He admitted nothing to me, but during the course of the questioning he said words to the effect that 'he didn't think there was going to be any charge laid' and also said that 'there were others mixed up in it too'. When asked to name the others he referred to, he refused to do so. I then placed him under close arrest."

The accused declines to cross examine this witness.

R. McKeown

(R. McKeown) A/C.S.M. B.88472
No. 1 Cdn. Signals Reinf. Unit

FOURTH WITNESS for the prosecution

Neil MCLAUGHLIN, a civilian employee, D.C.R.E. boiler attendant and relief stoker in Cove Camp, residing at 2 Acorn Cottages, Vicarage Road, Blackwater, Hants, having been duly sworn states:

"I am Neil McLAUGHLIN, a relief stoker in Cove Camp. At between 1300 and 1400 hours on the 28th January 1943, while on my duties in Delville Camp kitchen, I was approached by the accused whom I recognize. He was at the time washing the steam table. He asked me if I wanted to buy some cigarettes. I replied, 'I have no money'. I then left the kitchen."

THE Accused declines to cross examine this witness.

Neil McLaughlin

(Neil McLaughlin)
2 Acorn Cottages, Vicarage Rd.,
Blackwater, Hants.

FIFTH WITNESS for the prosecution

Mr. George Henry GOBLE, a civilian residing at 140 Peabody Road, Farnborough, Hants., a bricklayer employed at Delville Camp, Cove, having been duly sworn states:

"I am George Henry GOBLE of 140 Peabody Road, Farnborough, Hants. On the afternoon of the 28th January 1943, while I was working behind the cookhouse, a soldier came out and asked if I or anyone else wanted to buy cigarettes. I am fairly certain that the accused was the man who offered the cigarettes for sale. I was alone at the time and as I am not a smoker I told him that I didn't want to buy any.

The accused declines to cross examine this witness.

G H Goble

(G.H. Goble)
140 Peabody Road, Farnborough, Hants.

The accused was cautioned as follows: Do you wish to make any statement or give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

The accused, H.65125 Gunner DOERKSEN, Issac John, (RCA, No. 1 Canadian Radiolocation Unit) on strength of No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states:

" "I am H.65125 Gunner DOERKSEN, I.J. At about 1145 hours on the 28th January 1943 I went to my room and knowing that Sigmn. LARIVIERE had cigarettes in his kit bag, his bed being next to mine, I went to his kit bag and removed a carton of one thousand (1,000) cigarettes. I tore the wrapper off and hid them in an air-raid shelter near spider 4. I identify the carton presented in evidence, Exhibit "A", by Sigmn. LARIVIERE, as the carton that I stole. I didn't open the carton.

I J Doerksen

(I.J. DOERKSEN) Gnr. H.65125.
No. 1 Cdn. Signals Reinf. Unit.

I certify that the foregoing summary of evidence, consisting of three (3) pages, was taken down by me in the presence and hearing of the accused, and that the Rules of Procedure 4 (C), (D), (E), (F) and (G) have been complied with.

I MacLean

(I. MacLean) Captain (RCCS)
No. 1 Cdn. Signals Reinf Unit.

Cove, Hants.,
29 January 1943.

L I S T O F W I T N E S S E S

FOR THE PROSECUTION

(1) D.21099	Sigman.	LARIVIER ,	P.E.	No. 1 Cdn Signals Reinf Unit. (RCCS)
(2) B.31442	Cpl.	ADAMSON,	F.	No. 1 Cdn Signals Reinf. Unit. (RCCS)
(3) B.88472	A/CSM	MCKEOWN,	R.	No. 1 Cdn Signals Reinf Unit. (RCCS)
(4)	Mr.	MCLAUGHLIN,	Neil	2 Acorn Cottages, Vicarage Rd Blackwater, Hants.....
(5)	Mr.	GOBLE, George Henry		140 Peabody Road, Farnborough, Hants.

FOR THE DEFENCE

----------NIL----------

L I S T O F E X H I B I T S

(1) EXHIBIT "A" : Original carton which contained cigarettes.

No H65125 Name DOERKSEN, I.J. Sqn., Battery, or Company RCA Corps 1 CRLU Date of enlistment 2 Jul 41 G.C. Badges Service or Proficiency Pay n/a

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine n/a Sheet No. One Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 2 Jan 42: Last entry 6 Nov 41: Nil cases drunkenness									
Halifax N.S.	16 Jan 1942	Pte		Sec. 40 A.A. Failing to comply with an order given by an NCO.	A/Cpl Sadler R.V.	3 days C.B.	16-1-42	Captain P. Francis RCASC (CA)	O.C. No 6 Det.
Halifax N.S.	16 Jan 1942	Pte		Sec. 10 (4) A.A. When a defaulter breaking out of barracks.	Cpl. LaPierre C.J.	14 days detn	17-1-42	Captain P. Francis RCASC (CA)	O.C. No 6 Det.
Halifax N.S.	14 Mar 1942	Pte		Sec. 15 (1) A.A. A.W.L. from 1620 hrs 14 Mar 42 until 2200 hrs 4 Apr 42.	Sgt Conrad J Pte Cassidy P Pte	28 days detention Forf. days pay	7-4-42	Lt-col. D.S. Guildford	Total Forf. 52 days pay.

Certified true copy

Frank B. Jones Capt
ADJT
R.C.C.S. TRAINING WING
NO. 1 CDN. SIGS. REIN. UNIT

M.F.B. 388
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H.56125	Gunner	DOERKSEN Isaac John	(RCA - 1 CRLU) 1 Cdn Sigs R.U.

1. The following is a fair and true summary of the entries in the Service and General ~~Regimental and Squadron, Battery~~ Conduct sheets or Company Conduct sheets of the accused, ~~exclusive of convictions by a Court Martial or a Civil Court, Air Force Act~~ ~~of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with~~.

	Within last 12 months	Since enlistment
For AA 40. Fail to comply with order	0 times	1 times
For	times	times
For AA 10(4) Breaking Bks	0 times	1 times
For AA 15(1) AWL	1 times	1 times

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused~~.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 76 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement~~.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and eight days in military custody, making a total of eight days in custody, of which ~~eight~~ nil days were spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation paper is~~ 20 yrs. 10 April 1922

6. The date of his ~~enlistment~~ attestation specified in his record of service is ~~attestation paper~~ 2 July 1941

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~not in possession of or entitled to~~. ~~State any air force decoration or reward~~.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer had held the regimental rank of~~

Derek B. Jones Capt
ADJT. 1 CDN. SIGS. REGT.
No. 1 CDN. SIGS. REGT. UNIT.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated ..., and in his regiment (or corps), the rank of ... dated ...

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

... Date of promotion.

In the rank of ... years.

In the rank of ... years.

In the rank of ... years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act Air Force, and of cases in which trial has been dispensed with (of accused) Number [redacted] Rank ...

Name N/A of N/A Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

David B. Dunlop Capt
R.C.A.F. TRAINING UNIT
No. 3 I.A.S. ROYAL UNIT

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this sixth day of February 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ... signed by the president, and annexed to the proceedings.

[redacted]

STATEMENT OF THE ACCUSED IN ACCORDANCE WITH R.P. 14 (B)(h)

I, H.65125 Gnr. DOERKSEN, Isaac John, desire that an officer be assigned to defend me at my trial by Field General Court-Martial.

I desire the services of Capt G. L. Jackaberry if he is available.

I Doerksen

(I.J. Doerksen) H.65125 Gnr..
No. 1 Cdn. Signals Reinf. Unit..

3 3

Ipr. Doherty, J.

O. H. M. S.

M. F. B. 270

Correspondence to be PINNED here.

314 S.S.

HEADQUARTERS "E" GROUP (CDN REINFORCEMENT UNITS) 31 OCT 1942

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 24th day of October, 1942

Whereas it appears to me, the undersigned, an officer in Command of "E" Group, Cdn Reinforcement Units, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

~~And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit, where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*[I am unable to appoint :—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely :—]~~

President.

Rank.	Name.	Regiment.
Major	F.J. Gilmour	R.C.A.

Members.

Rank.	Name.	Regiment.
A Major	To be detailed by	3 C.A.C.R.U.
A Captain	To be detailed by	3 C.A.C.R.U.
A Captain (Waiting Member)	To be detailed by	3 C.A.C.R.U.

*Signed (B.A. Lee) Colonel.

Commanding "E" Group, C.R.U.

Convening Officer.

PROCEEDINGS REVISED AND APPROVED

Note.—The President must be named. The members and waiting members (if any) must be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G.662 Tpr DOHERTY, James No 3 C.A.C.R.U.	FIRST CHARGE Sec 40 A.A. CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE (see charge sheet attached)	Guilty	Guilty with the exception that there is no evidence of the value of the Petrol consumed 29/10/42 HFG To undergo detention for 14 days & to be kept under stoppages of Pay until he has made good the sum of £9/3/9 in respect to damage to Vehicle described in charge 29/10/42 H.F. Gilmour Major	Sentence confirmed A.C. Col

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (if required) on separate sheet if necessary) :—

Signed: A.C. Colonel (Signed) H.F. Gilmour Major RCA
Commanding "E" Group, C.R.U. — President.
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 29th day of October 42, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
~~*(3. The interpreter)~~
*(4. The officers under instruction) (2)
were duly sworn.

* Omit if not applicable.

Signed this 29th day of Oct 1942.

H.F. Gilmour Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 5th day of November 1942.

A.C.
(S.A. 166) Colonel, Commanding.
Confirming Officer. "E" Group, C.R.U

Promulgated and extracts taken in the case of G662 Tpr. Doherty, James

(a) (Dated) 11th November 1942 (Signed) [illegible] Capt & adjt. No 3 C.A.C.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

O.—47967/857 10 M. 3/40. S.21/5283(2) Gp. 698.3

CHARGE SHEET

The accused, No. G/662, Tpr. James Doherty, on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he

First Charge Sec. 40 Army Act.

when on active service at Dettingen Barracks, Blackdown, Hants, on the 16. Oct. 42 improperly and without authority took and used a Canadian Army Vehicle, Willys 5 - cwt. car No. CM.219023, thereby occasioning damage to said vehicle to the extent of £9-3-9 (nine pounds, three shillings and ninepence) and a loss to the public of £0-4-2 (four shillings and twopence) the value of the petrol consumed.

Geo Little Col

(G.W. Little) Colonel,
Commanding,
No. 3 Canadian Armoured Corps,
Reinforcement Unit.

Blackdown,
Hants,
Oct. 42.

To be tried by a field general court martial.

(G.A. Lee) Colonel,
Commanding "B" Gp., C.R.U.

Blackdown, Hants,
October, 1942.

B Kirkman Major Pros.

"A" 7/Guinnane Hqrs

6662 Pvt L. Lafferty, Jr.

#3 Co. C, 1st R.C.T.C. A.P.O. 1a in a ... for ... acts of mutiny and ... for A.W.O.L. to undergo trial by General Court Martial.

J. A. Wetter Jr

Station Lethbridge Alta.

Date 29 Oct 42.

The defending officer addresses the Ct. that the accused was examined by ... machine on 24 Oct 42 7/Guinnane Hqrs Co.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT BLACKDOWN ON THE 29 DAY OF Oct 42

TRIAL OF:- No. G. 662 Trp Jas Doherty Unit 3 C/A.C.R.A.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lt. R.A.H. McCallum (Unit) 3 C/A.C.R.A.

Defending Officer:- (Name) Lt. G.C. Callon (Unit) 3 C/A.C.R.A.

At 1040 hrs the trial commences.

The order convening the court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q. Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No Sir

The President, members and judge-advocate (if any) are duly sworn.

The following constitute the Court:

President Maj A.J. Gilmour (Unit) R.C.A.

Members Maj A.P.D. Holt (Unit) 3 C/A.C.R.A.

Capt. W.R. Crooks (Unit) 3 C/A.C.R.A.

The officers under instruction are duly sworn.

Q2 Do you object to B25000 Tpr J.D. Bentley acting as shorthand writer? A2.- No

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(3) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name Lt. R.A.H. McCallum (Unit) 3 C/A.C.R.A. sworn, produces AFB 296 and MFM 6 and upon being questioned by Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3. (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - Yes

Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4 - No.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

Statement of accused attached
The defending officer reads the written statement which is handed in & attached hereto
The Court is closed to consider sentence.

J. Gilmour Maj A
Pres.

The Summary of Evidence in the case of G/662, Tpr. Doherty, J., on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS

Lieut. C.L. Colliver, on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit, an Officer of the Canadian Army Overseas having been duly sworn states:-

"No. G/662 Tpr. Doherty, whom I now recognise as the accused, reported to me at 1315 hrs. 16. Oct. 42, outside D. & M. Wing with Jeep No. 4219023, for the purpose of Recce. of Convoy Routes. This duty was completed by approximately 1615 hrs., at which time I instructed Tpr. Doherty that his tour of duty was complete."

C L Colliver Lieut
(Signature of Witness)

The accused declines to cross-examine this witness.

SECOND WITNESS

Capt. A.P. Tilley, on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit, an officer of the Canadian Army Overseas, having been duly sworn states as follows:-

"No. G/662, Tpr. Doherty, whom I now recognise as the accused, was detailed to report to D. & M. Wing with W.D. Vehicle No. 4219023 at approximately 1315 hrs. 16. Oct. 42. At approximately 1715 hrs., 16. Oct. 42, the vehicle had not returned. It is not uncommon for vehicles to arrive back from duty after this hour. Instructions were left with the Duty Drivers for Doherty to park his Vehicle in a certain Bay. I next had information about this vehicle when Duty Officer informed me that at about 2350 hrs. the vehicle was at Blackwater Bridge, apparently wrecked. Capt. Goodson was informed and recovery equipment was despatched to the spot."

A P Tilley Capt
(Signature of Witness)

The accused declines to cross-examine this witness.

THIRD WITNESS

Lieut. A.A.D. Ross, on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit, an Officer of the Canadian Army Overseas having been duly sworn states:-

"On the night of 16/17 October, 1942, I was acting as Unit Duty Officer. At 2335 hrs. I received information from the Camberly Police that an accident involving a Jeep of this Unit, driven by Tpr. Doherty, J., had occurred at a spot near Blackwater Bridge. I detailed L/Cpl. Miller of the Unit Provost Corps to report to the scene of the accident and bring back the Vehicle and Driver. At 0205 hrs. Tpr. Doherty was brought into the Orderly Room and I placed him under close arrest.

A A D Ross Lieut
(Signature of Witness)

The accused declines to cross-examine this witness.

FOURTH WITNESS

F.T. Atkins, Police Constable 381, Hampshire Constabulary, stationed at Blackwater, Hants.

A written statement of this witness's evidence, purporting to be signed by him has been read to the accused. The accused does not demand the attendance of this witness for cross-examination.

A copy of this statement is attached as exhibit "A"

Elwood Lieut

FIFTH WITNESS

Sapper Irvine, D.O. (G-51164) on the strength of No. 1 Canadian Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states:-

"Last night, 16. Oct. 42, Tpr. Doherty came down to Guilmont Barracks, Cove. I met him outside the Barracks. He had a Jeep with him. This was shortly after 1900 hrs. This was the first time I saw him that night. We were going down to the other side of Blackwater. We mentioned this to Trooper Doherty and he offered Sapper Doiron and myself a lift to Blackwater. This was about 1900 hrs. We got in the Jeep and drove to Blackwater. It took about 10 or 15 minutes to get there. I left the other two at about 1915 hrs. and went up the street to have a glass of beer. I did not meet them again until about 2130 hrs. To my knowledge they did not have anything to drink. The Pub I went to was on the other side of the bridge. I didn't see them from the time I went into the Pub until I met them after coming out. I got into the Jeep again and we drove off towards Cove. On the bridge we met with an accident trying to avoid some bicycles.

D. Irvine DO
(Signature of Witness)

The accused declines to cross-examine the witness.

SIXTH WITNESS

M/65640 L/Cpl. Miller, S.G. on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit, having been duly sworn states:-

"I was detailed by Lieut. Ross to collect Tpr. Doherty and the damaged vehicle from the spot which had been reported to him by the Camberly Police Station. When I arrived on the scene the Civilian Police were in charge. When I saw Tpr. Doherty I noticed that he had been drinking. He was smelling of drink. I brought Tpr. Doherty back to Camp and on arrival reported to Lieut. Ross who ordered me to place him under close arrest.

S.G. Miller L/Cpl
(Signature of Witness)

The accused declines to cross-examine the witness.

SEVENTH WITNESS

Sapper Doiron A.J. on the strength of No. 1 Canadian Engineers Reinforcement Unit a soldier of the Canadian Army Overseas having been duly sworn states:-

"I met Tpr. Doherty on the night of Friday, 16. Oct. 42 at Cove. He drove me and another sapper whose name I don't know to Blackwater. We called at a pub and had two glasses of beer and left before the pub closed at 10 p.m. On the way back Tpr. Doherty trying to avoid two bicycles drove the vehicle in which we were riding into the wall. Tpr. Doherty was perfectly sober.

(Signature of Witness)

This is a certified true copy of the statement made and signed in the presence of the accused who declined to cross examine.

E Russell Lieut
(Signature)

EIGHTH WITNESS

Capt. R.D. Goodson, of the Instructional Wing, No. 3 C.A.C. R.U., an Officer of the Imperial Army, having been duly sworn states:-

" I took part in the recovery of the vehicle and I have estimated the damage for same, for repairing the vehicle, at £9, 3s, 9d. This is entirely the price of material.

R D Goodson Capt
(Signature)

Question :- Tpr. Doherty

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing and may be given in evidence.

Answer Yes Sir.

The accused having been duly sworn states:-

" I left camp at 1745 hrs. on the night of 16th Oct. in a Jeep, of my own accord and not on any particular duty and drove to Cove where I met Sapper Doiron. I drove Sappers Ervine and Doiron to Blackwater. I left Ervine and intended returning to camp but got talking to Doiron. We visited a pub and had 2 glasses of beer between 1900 and 2200 hrs. I met Ervine again about 2200 hrs. and gave him and another soldier as well as Doiron a lift back to Cove. While going over Blackwater Bridge I ran into two bicycles and to avoid contact swung hard to the right and ran into the fence.

J J Doherty
(Signature)

I certify that the foregoing summary of evidence consisting of 3 pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) (d), (e) (f) have been complied with.

E Rivers Lieut
(Signature)

Blackdown, Hants.
19. Oct. 42.

'A'

17. Oct. 42.

Statement by Frederick Thomas, Atkins. - Police Constable 301, Stationed at Blackwater.

About 1045 P.M. on the 16th October, 1942, I arrived at the scene of an accident on the Blackwater Bridge. About 20 yds east of the top of the bridge on the north side of the road, I saw an Army 8 cwt Jeep Vehicle on the foot-path facing westwards. The vehicle was damaged on the offside front and the offside was extensively damaged. Lying on the bank on the north side of the bridge, I saw C/51159, Sapper Doiron, A.J. of the R.C.E. Chillemont Barracks, Cove. He was being treated for a fractured right leg. I saw the driver of the vehicle, Tpr. Doherty and he informed me that he was driving the vehicle. Doiron and Sapper Ervine, (C-5116[illegible]) of the R.C.E. were passengers.

F.T. Atkins

The attendance of this witness is in my opinion, because of the expense and loss of time involved, not practicable.

Elwood
Lieut

29 Oct 42

STATEMENT OF

L-6622 Tpr. DOHERTY, J.

IN MITIGATION

"I realize sir, the seriousness of the charge, and I am willing to take whatever punishment is to be handed out. As far as the accident is concerned, I have been a chauffeur for over 20 years, and it couldn't be avoided. I came right up on top of the bicycles and rather than hit them, I had to turn to the right. I am very sorry about my friend as he had just come over from Canada, and I was anxious to see him. That is the reason I took the jeep, and it is the first time I ever took a vehicle on my own. That is all sir.

10

Sir - and Members of the court ——

The accused, James Doherty, has pleaded guilty before this court to the charge as laid, because he fully realizes that he has made a mistake —— he did not elect trial by this court and was willing to suffer such punishment as a lesser court saw fit ~~to award out~~ to award —— Doherty is a good soldier —— he has been on active service for 15 months — well over a year — and his conduct sheet is comparatively clean —— Of the two charges entered on his M.F.M. 6 — one — the only one in his six months overseas was an admonishment for accidently dropping an accumulator while on duty in a hangar in this unit —— The other, which on the surface could be a serious offence, must have shown extenuating circumstances to have only entailed the award of 9 days detention —— Doherty is not a young man —— and doesn't entertain any young and foolish ideas of adventure or trying to beat the arms —— He is happy in his job as M.T. driver and perhaps the only thing that would cause him a little loneliness at times is the difference in age between himself and the rest of the boys he is soldiering with. I think the court will agree that a man 40 years of age doesn't have much in common with, say, a 20-year old. Doherty spends few nights out with the boys ——

2. A few days previous to the night in question, Doherty received a letter from his pal, Cpl Doiron, whom he has known for the past 10 years and had soldiered with in Canada. The letter stated that he, Doiron, had recently arrived in England, was stationed at Cove, a few miles away, and asked if it would be possible for them to meet soon. — On the ~~evening~~ late afternoon of the day of the offence, Doherty, anxious to ~~see~~ meet his friend, decided to run down and see him for a few minutes. ~~There was~~ It is only a few minutes ~~run~~ ride and the boys occasionally do take a run into the nearby village, after being dismissed, to obtain something they needed. — There are no barriers in this camp and Capt ~~D. Hudson~~ A.P. Talley, under whom the accused was working, has stated in his ~~statement~~ evidence that it was not uncommon for vehicles to be out after hours.

The story from there is related in the evidence before the court. As a result of an accident, which I submit was not due to negligence or careless driving on Doherty's part, his friend Doiron is in the hospital with an injured leg. — A point which I would ask the court to bear in mind is that Col A.S.W. Wallis, R.T.R. who first investigated the case, showed enough confidence in Doherty to release him into open arrest pending this trial.

3. Finally, I feel sure, that the court having heard and seen Doherty will be as convinced of his sincerety as I am, and I would ask the court, in passing sentence, to consider the harm that may result, both to the accused personally and to his efficiency as a ~~soldier~~ contented soldier, efficiently and conscientously doing his duty, if an extreme penalty is awarded.

That is all I have to say.

Geo Gatton Lieut
(Defence Officer)

I desire under R.P. 87B that a defending Officer shall be assigned to represent me at my trial if a suitable Officer should be available.

J. Doherty

(G-662 Tpr. Doherty, J.)

M.F.M. 6
(A.F.B. 122)
17HM—7-41 (2250-20)
H.Q. 1772-20-1002

No. 3-662 Name DOHERTY, James Sqn., Battery, or Company } HQ. 7A DISTRICT DEPOT Corps Date of enlistment } 27.8.42 G.C. Badges } Service or Proficiency Pay }

Date of last entry in Company Conduct Sheet } No. and date of last drunk } Period not reckoning towards Freedom from extra duty } Sheet No. 2 Signature O.C. Company, etc. } "H.Q. Ewing Major" Character

"H.Q. A. Bde. Lt. Major"

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden, Ont.	3-6-42	Tpr.		A.W.L. after being warned for draft Absent from 0745 hrs. 3-6-42, to 0125 hrs. 5-6-42. (Absent 2 days 40 mins) S.O.S. A. 2 C.I.C. (A) T.O. (GA) (H TRANSFER TO CAN. ARMY OVERSEAS 27.8.42.	L/Cpl. Nelson. N.T. Upham. (Sgd) Lt.	9 days Detention	6-6-42	J.A. McComas Lt.-Col.	
Bottrildge Hut.	22-7-42	Tpr.		Did by neglect cause damage to Gov't property Viz:-One battery GV 65 A10. L.A. Sec. 40 CERTIFIED TRUE COPY. E.J. Mercer Lieut.	Cpl. Bundley, W.	admonished	25-7-42	Lt.-Col. A.B. Gillis	

(P 5-6)

M.F.B. 355
40/F & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-662	Tpr.	James Doherty	No. 3 C.A.C. R.U.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, ~~Battery~~ Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For A.W.L. FROM DRAFT	ONE times	times
For DAMAGE BY NEGLECT	ONE times	times
For	times	times
For	times	times

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Air Force Act / A.F.A. 72

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for ~~FIVE~~ days, and FIVE days in military custody, making a total of FIVE days in custody.

5. The present age of the accused according to his attestation paper is 40 yrs.

6. The date of his attestation specified in his attestation paper 27. Aug. 41.

7. ~~The service which the accused is alleged to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his present rate~~

9. ~~The accused is in possession of no service medals to which he is entitled.~~ ~~He is entitled to the following medals which he is in possession of or entitled to:~~ ~~State any air force decoration or award~~

10. ~~If the accused is a warrant officer:~~ ~~The accused before he was made a warrant officer had held the substantive rank of~~

D. Rathwell Maj Pay.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name ..... of ..... Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~22nd~~ 29th day of October, 42

Gun Lt Col
Gun 3 Cdn Div

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

219 A. Supps. Doherty, D. A. 10-0-297
and No. 1 Tunnelling Coy
250 A. Cpl SMITH J.W. 10-8-1166.

Correspondence to be PINNED here.

Army Form A. 3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 22nd day of February, 1941.

Whereas it appears to me, the undersigned, ~~an officer in Command of~~ Chief Engineer, Canadian Corps., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified Officer;~~

*Omit when Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

*Omit if not applicable.

~~*I am unable to appoint~~
~~*(1. Three Officers to form the Court;~~
~~*(2. A Field Officer as President;~~
~~*(3. Three Officers having more than one year's service;~~

~~for the following reason, namely:—]~~

President.

Rank.	Name.	Regiment.
Lt.-Col.	N. C. Sutherland	2 Bn., R.C.E.

Members.

Rank.	Name.	Regiment.
~~Capt.~~	~~Dr. A. Brown~~	~~1 Corps Fd. Pk. Coy., R.C.E.~~
Capt.	H. A. MacLean	H.Q., R.C.E. Cdn. Corps Tps.
Capt.	J.C Bgrn	1 Bn. R.C.E.

*Signed G Sutherland

(C.S.L. Hertzberg) Brigadier,
Commanding Chief Engineer, Canadian Corps.
Convening Officer.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

[illegible] Wt.28/P.978 15m 1/37 S.B.& Co. Gp.108 Form A.F.3.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-5837 Sapper Doherty, W.A. 1 Tun. Coy.,RCE.	1st Charge A.A. 41. When on active service, committing a civil offence, that is to say, receiving stolen goods	Not guilty	Acquitted	
	Alternative 2nd Charge A.A. 18(4). While on active service, receiving, knowing it to have been stolen, property belonging to persons subject to military law.	Not guilty	Acquitted	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39(A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) C.S.L. Hertzberg (Signed) A.B. Sutherland Capt
(C.S.L. Hertzberg) Brigadier,
Commanding Chief Engineer, Cdn. Corps. 2 Bn RCE
Convening Officer (c) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the day of , and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that

1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 28th day of February 1941
A.B. Sutherland Capt

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison until further orders.)

*To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this day of 19 .

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The Accused, No. B.9857, Spr. Doherty W.A., No. 1 Canadian Tunnelling Company, R.C.E., a soldier of the Canadian Active Service Force (Canadian Army), is charge with:-

First Charge, A.A. 41

While on active service, committing a civil offence, that is to say, receiving stolen goods;

in that he in the Field, near Mickleham, on or about the 5th day of December, 1940, did receive four parcels of cigarettes, the property of a person or persons unknown but being a member of the Canadian Active Service Force (Canadian Army), knowing the same to have been stolen.

In the Alternative

Alternative Second charge, A.A.18(4)

While on active service receiving, knowing it to have been stolen, property belonging to persons subject to military law;

in that he in the Field, near Mickleham, on or about the 5th day of December, 1940, did receive four parcels of cigarettes, the property of a person or persons unknown but being a member of the Canadian Active Service Force (Canadian Army), subject to military law, which he, the accused, knew to have been stolen.

(Colin A. Campbell) Major,
O.C. No.1 Tun. Coy. R.C.E.

MEDICAL CERTIFICATE OF FITNESS TO STAND TRIAL

PA

I certify that, F 44945, Cpl. Smith, J.W., has been examined by me and has been found medically fit to stand court-martial proceedings.

D Miron Capt RCAMC.

(D. Miron) Capt.,
Medical Officer
No. 1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

(Sgd) 28 February 41.

COURT MARTIAL OF
Spr. Doherty.

1st charge A.A. 41 is read

The accused, No. B. 5837, Spr. Doherty W.A., No. 1 Canadian Tunnelling Company, R.C.E. a soldier of the Canadian Active Service Force (Canadian Army), is charged with:-

> While on active service, committing a civil offence, that is to say, receiving stolen goods;

in that he in the Field, near Mickleham, on or about the 5th day of December, 1940, did receive four parcels of cigarettes, the property of a person or persons unknown but being a member of the Canadian Active Service Force (Canadian Army), knowing the same to have been stolen.

or in the alternative

2nd Alternative charge, A.A.18(4) is read.

> While on active service receiving, knowing it to have been stolen, property belonging to persons subject to military law;

in that he in the Field, near Mickleham, on or about the 5th day of December, 1940, did receive four parcels of cigarettes, the property of a person or persons unknown but being a member of the Canadian Active Service Force (Canadian Army) subject to military law, which he, the accused, knew to have been stolen.

Court 1st charge — "Do you plead guilty or not guilty?"

Accused — "Not guilty Sir."

Court 2nd charge — "Do you plead guilty or not guilty?"

Accused — "Not guilty, Sir."

SHORTHAND TRANSCRIPTION
of
Court-Martial held at Mickleham Hall, 28 Feb 41. 1030 hrs
Prosecutor - Captain J.G. Christian
Defending Officer - Lieut W.B. Nelson

B-5837

Trial of Spr. Doherty, W.A

Prosecution "I intend to prove the case against Spr. Doherty by approximately 4 points, 1st point that he did receive the stolen cigarettes. I then intend to produce cigarettes that were sold by him and also portions of the cartons of cigarettes which were sold at different times by him. I then intend to prove that these cigarettes belonged to different members of the C.A.S.F. who did not receive them. Lastly I would like to prove that on previous occasions he did sell cigarettes and therefore it is plain in the summary of evidence that not having on his glasses, and not being able to see, is a point to question."

1st Witness Mr. Stewart. (civilian) having been duly sworn

Question: "Will you tell the court what you know about your dealings with Spr. Doherty with regards to the purchasing of Canadian cigarettes?"

Answer: "Spr. Doherty asked me if I would like to buy Canadian cigarettes and I said "no". Subsequently, at a later date, as I was talking to a customer a waiter came up and said there is a man here with a parcel of cigarettes for you and he wants £2-10-0. The customer said you pay him the money. I took the cigarettes and placed them on the table in the lounge. My customer subsequently paid his bill, and for the cigarettes, about closing time. Cpl. Burrough was going through the hotel and seeing the parcel of cigarettes in the lounge said "Those cigarettes are probably stolen". The man who bought the cigarettes was there at that time and said take the cigarettes if they were. He then went home and left them on my premises. Later on in the evening I was rather worried about the cigarettes because it is an offence to have them on my premises, so I phoned the O.C. of the Tunnelling Coy. but he was not available. He came to see me the next day and claimed he knew all about them and cigarettes were subsequently handed back to him."

Question: "Do you recognize Spr. Doherty as the man who sold the cigarettes to you?"

Answer: "Yes".

Question: "Do you recognize this parcel as the one which you returned to Capt. Wilson?"

Answer: "Yes".

Prosecution: "I would like to submit these cigarettes as exhibit "A" in this case". (accepted)

Defence-Question: "Mr. Stewart, before this occurence happened you had occasion to see Canadian soldiers selling cigarettes. Have you ever read the inscription on the package that these cigarettes are not for resale?"

Answer: "No Sir, I never have".

Question: "On this evening in question, when you say you received the cigarettes from Spr. Doherty, were they in packages?"

Answer: "No Sir."

Question: "Have you any idea to whom these parcels were consigned?"

Answer: "No Sir."

Question: "Here we have some labels and parts of labels that were allegedly found in one of your employees rooms?"

Answer: "Yes Sir."

Question: "Can you positively identify these labels as the ones on the parcels?"

Answer: "NO Sir, those are not the labels from the parcels."

Defence to Court: "In that case I submit that these labels be not held as evidence."

Prosecution Question: "Mr. Stewart, can you tell the court just how you received these cigarettes and what happened to the wrappers?"

Answer: "They had the postal wrappers on them when they came. I was very loath to keep stolen property on my premises and I asked a friend if he would take care of these cigarettes until such time as they were wanted. He duly took them away. After I had seen Capt. Wilson I asked him to return the cigarettes. I went to his house and he had the cigarettes in a drawer, having first taken off the wrappers, so I tied them up into 200 lots and brought them back."

Question: "You are quite sure, Mr. Stewart, that your friend could have no access to other Canadian cigarettes.

Answer: "No. He knew nothing about them at all."

Capt. Wilson is called and being unavailable the court is asked if his statement can be accepted. The Court ruled that the evidence be not accepted.

Inspector Collis, of the Dorking Police 2nd witness.

Inspector Collis is called and sworn.

Prosecution Question: "Inspector Collis, on the 11 December 40 you were present at the Running Horses when a waiter's, Mr. Florin Joseph Dora, room was searched and some labels found in his room--"

Defence - "I object to to this witness."
Court --- "Objection does not apply."

Question contd: "--can you recognize these labels we have here as the ones you found in Mr Dora's room?"

Answer: "I should know them again." (After examination of the labels) "Yes, those are the same labels."

Prosecution to Court: "May I submit these as exhibit "B" in this case, Sir" (accepted) "That is all I require of Inspector Collis, Sir."

Defence Questions: "Inspector Collis, have you any idea where the labels found in Mr. Dora's room came from?"

Answer: "I could not say Sir."

Question: "You have no idea where these labels came from, you just found them in his room?"

Answer: "May I ask a question sir?" (permission given) "Can I repeat anything said to me by another person?"

Answer: "No sir, you may not."

Prosecution. "The next witness, the man who was working at the Running Horses, cannot be found. May I submit his statement?"

Court. "It must be submitted by the witness on oath. Lieut. Allen, who took the summary of evidence, is sick and not available. Under the circumstances it can not be admitted."

3rd Witness Spr. Robillard, O. Sapper Robillard being duly sworn gave evidence.

Prosecution "May I use exhibit "B"?" (approval)

Question: "Spr. Robillard, did you at any time receive the package of cigarettes with this label on it?"

Answer: "No Sir."

Defence Question: "You are definitely sure you never received that particular package?"

Answer: "No Sir."

4th Witness B 29366 L/Cpl. Tyo, F. L/Cpl. Tyo being duly sworn gave evidence.

Prosecution Question: "I have here a label taken from Sweet Caporal Cigarettes. Have you ever received them?"

Answer: "No Sir."

Defence Question: "You say you never received this particular package of cigarettes. Are you quite sure?"

Answer: "Yes Sir. I am quite sure I never did."

Defence sum up "There are no witnesses for the defence. I would like to sum up. In this case Spr. Doherty is charged with selling stolen cigarettes. In so far as the evidence shown, there is none which shows Spr. Doherty stole them. There is evidence that cigarettes were stolen but there is none which shows that Spr. Doherty has been responsible for this."

Prosecution sum up "From the evidence of the 1st witness, Mr. Stewart, it is quite obvious that Spr. Doherty sold some cigarettes, 4 packages of 300, and while we are unable to prove that the labels were destroyed, at least we can prove they are lost. Therefore I submit that the charge does not specify any particular cigarette but that he is charged with receiving stolen goods and we have no way of knowing that these goods were his own."

Summary of Evidence in the case of 4/5837 Sapper Doherty W.A.

The accused requires that the evidence be taken on Oath

FIRST WITNESS CIVILIAN:

The first Witness Mr. Owen Stewart propietor of Running Horses Hotel, Mickleham Surrey. After being duly Sworn. States:-

On Friday 6th. December, I was asked by a Canadian Soldier known as Cookie who was in the public bar whether I would like to buy some Sweet Caporal cigarettes. I replied No. I then walked round to the saloon bar and seeing a customer namely Mr. H. Buckham of Jivons Grove, who had previously told me he liked Canadian Cigarettes known as Sweet Caporal, I mentioned that some of the same were for sale by a Canadian Soldier in the public bar. He said that he would like them. I then told the Canadian Soldier that a Saloon Customer would buy them. Some time later I was told that a Canadian Soldier had a parcel for me, on going out to the Hotel the Canadian Soldier said that he had the cigarettes which would cost two pounds ten shillings. I went to Mr. Buckham who was having dinner and told him. He asked me to pay for them and add the same to his bill. This I did Mr. Buckham subsequently paid. The cigarettes in four parcels were placed on a table in the lounge. Just before closing time a Canadian named Corporal Burroughs saw the parcels and told Mr. Buckham that they were probably stolen. Mr. Buckham then said he would not take the cigarettes until the matter was cleared up. Mr Buckham then went home. I tried to get Capt. Wilson on the phone but he was not available. Subsequently Mr Buckham and myself saw Capt. Wilson and the cigarettes were returned to him.

/and myself

Question:- Is the Canadian Soldier called Cookie recognisable as Sapper Doherty, whom you see before you?
Answer:- They are one and the same man. I did not know his correct name.
Question:- In what condition were the parcels of cigarettes?
Answer:- They were wrapped in brown paper as if for mailing
Question:- Had they address labels on them?
Answer:- Yes but I didn't look at the addresses.

The Accused declines to cross examine this witness.

Signed..... Owen Stewart.
Mr. Owen Stewart.

Sheet "A"

Second Witness (Civilian:-)

Mr. Florin Joseph Dora waiter at the Running Horses Hotel Mickleham, Surrey. After being duly sworn states:-

Some time ago, in December, on a Wednesday, about a fortnight ago, a Canadian Soldier spoke to me and asked me if I wanted to buy some cigarettes which he had with him. I said I would take ten packets. He said that I would have to take the lot, because they belonged to the other boys for whom he was selling them. I bought forty eight packets of 25 each, They were Sweet Caporal of the kind usually given to soldiers. They were in brown paper packets, some opened; some had address labels on them. I didn't notice the addresses. I gave him two pounds ten shillings for them. There were others there when I bought them; the chef and two other maids were there. There were no other soldiers there.

Question:- Is this man, Sapper Doherty, whom you see before you the man who sold you those cigarettes.

Answer:- Yes; sir.

The accused declines to cross-examine this witness

Signed F. J. Dora
~~No.1 Canadian Tunnelling Coy.~~
~~Corps of R.C.E., C.E.F.~~.

The Summary of Evidence is adjourned until the 26th., December to permit the evidence of Inspector Collis, Capt. J.T.Wilson and L/Cpl. Burroughs to be taken.

Signed R.B.Allen
R.B.Allen, Lieut.
No.1 Can. Tunnelling Company,
Corps of R.C.E., C.E.F.

Third Witness (Civilian)

The third witness, Inspector William Henry Collis, Surrey Constabulary, Dorking states (Not sworn):-

The accused does not require this evidence to be taken on Oath.

On the 11th. December 1940 I was present at the Running Horses Hotel Mickleham when the two labels bearing different names and the ~~part of~~ part label produced bearing the number and part of the name was found by Sgt. Frank Field in the room occupied by Florin Joseph Dora. Dora was present when the labels were found.

Signed W.H.Collis Insp
Inspector W.H.Collis,
Surrey Constabulary,
Dorking.

The two complete and one torn label are produced in my presence examined by myself and the accused, Marked "Exhibit B Case of Doherty" on the back of each and signed with the name of the officer taking the Summary of Evidence and with the signature of the accused. They are placed in an envelope, sealed and placed with the evidence.

Signed R.B.Allen R.B. Allen Lieut.
No.1 Canadian Tunnelling COMPANY R.C.E., C.E.F.

Sheet "B"

...n Military ...n.Wilson states(Not sworn):-

The accused does not require that this ... be taken on Oath.

I produce four parcels, each consisting of 12 packages of Sweet Caporal cigarettes which I identify as the cigarettes handed to me by Mr. Owen Stewart, proprietor of the Running Horses, and purporting to be received by him from Doherty. I was asked on Saturday morning, December 7th., to phone Mr. Stewart, proprietor of the Running Horses Hotel, who had rung me the previous evening concerning some cigarettes. Before I was able to reach him Mr. Stewart again phoned me and I tried to reach him by telephone Saturday afternoon, Sunday morning I went to see Mr Buckham and later Mr. Stewart. Neither of these produced the cigarettes, nor did Mr. Stewart had telephoned me. I telephoned Mr Stewart again on Monday about the cigarettes. Tuesday evening in answer to telephone call, I saw Mr Buckham and Mr. Stewart at the Running Horses Hotel where Mr.Buckham handed me four paper parcels of twelve packages of Sweet Caporal Cigarettes, which I now produce and identify by the word 'Jackson' written in pencil on one of them. On Thursday Inspector Collis gave me the names and numbers and addresses from the wrappers of three packages. At Second Echelon I found from records that these wrappers belonged to 2nd Road Construction Company. Later I received the above mentioned wrappers from Inspector Collisx. These were supposed to have been found at the Running Horses Hotel. Each wrapper bore the double address 2nd. Road Construction Company, 1st Canadian Tunnelling Company. I produce the address labels from these three wrappers.

The accused declines to cross-examine this witness.

Signed.....
(J.T.Wilson) Captain,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

The four parcels produced are unwrapped in the presence of the accused and are found to contain 12 packages of Sweet Caporal cigarettes. In addition 20 packages of cigarettes are found with these four parcels in a brown paper outer cover. These 20 packages can not certainly be identified . The four parcels are rewrapped and the words "Exhibit 'A' Case of Doherty" written in red pencil on each. The four parcels and the 20 loose packages are wrapped together in the outer wrapper on which is written "Exhibits in the Case of Doherty" the date 7/8th., Dec. 40 and the signature of the Officer taking the Summary and of the accused. This parcel is included with the evidence.

Signed.....
R.B.Allen Lieut.,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

Fifth Witness Military:-

The fifth witness S/S638 L/Cpl. Burroughs, R.A.M. after being duly sworn States:-

I was in the Running Horses Hotel on the night of the dance when the cigarettes are supposed to have been sold. It was a Thursday night, early in December, in the first week. I was in the Running Horses about 7:30 in the evening and left about 8:10 I came back at 9:30 and stayed until 10:00 o'clock.

Sheet "B"

Fourth Witness Military

The fourth witness Capt. J.T.Wilson states(Not sworn):-

The accused does not require that this evidence be taken on Oath.

I produce four parcels, each consisting of 12 packages of Sweet Caporal cigarettes which I identify as the cigarettes handed to me by Mr. Owen Stewart, proprietor of the Running Horses, and purporting to be received by him from Doherty. I was asked on Saturday morning, December 7th., to phone Mr.Stewart, proprietor of the Running Horses Hotel, who had rung me the previous evening concerning some cigarettes. Before I was able to reach him Mr. Stewart again phoned me and I tried to reach him by telephone Saturday afternoon. Sunday morning I went to see Mr Duckham and later Mr. Stewart. Neither of them produced the cigarettes. On Mr. Stewart had telephoned me. I telephoned Mr Stewart again on Monday about the cigarettes. Tuesday evening in answer to telephone call, I saw Mr Duckham and Mr. Stewart at the Running Horses Hotel where Mr.Duckham handed me four paper parcels of twelve packages of Sweet Caporal Cigarettes, which I now produce and identify by the word'Jackson' written in pencil on one of them. On Thursday Inspector Collis gave me the names and numbers and addresses from the wrappers of three packages. At Second Echelon I found from records that these wrappers belonged to 2nd Road Construction Company. Later I received the above mentioned wrappers from Inspector Collisx. These were supposed to have been found at the Running Horses Hotel. Each wrapper bore the double address 2nd. Road Construction Company, 1st Canadian Tunnelling Company. I produce the address labels from these three wrappers.

The accused declines to cross-examine this witness.

Signed.....
(J.T.Wilson) Captain,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

The four parcels produced are unwrapped in the presence of the accused and are found to contain 12 packages of Sweet Caporal ci cigarettes. In addition 20 packages of cigarettes are found with these four parcels in a brown paper outer cover. These 20 packages can not certainly be identified . The four parcels are rewrapped and the words "Exhibit 'A' Case of Doherty" written in red pencil on each. The four parcels and the 20 loose packages are wrapped together in the outer wrapper on which is written "Exhibits in the Case of Doherty" the date 27th., Dec.40 and the signature of the Officer taking the Summary and of the accused. This parcel is included with the evidence.

Signed.....
N.B.Allen Lieut.,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

Fifth Witness Military:-

The fifth witness S/56388 L/Cpl. Burroughs, R.A.M. after being duly sworn States:-

I was in the Running Horses Hotel on the night of the dance when the cigarettes are supposed to have been sold. It was a Thursday night, early in December, in the first week. I was in the Running Horses about 7:30 in the evening and left about 8:10 I came back at 9:30 and stayed until 10:00 o'clock.

Fifth Witness Military:-(Cont'd)

when I left for the night. I did not see any cigarettes such Mr. Stewart describes about the Hotel on that night. I did not tell Mr. Stewart that any given cigarettes were stolen.

Mr. Stewart remarked to me that there were a lot of cigarettes around, eight or nine thousand. I said "If there are that many cigarettes, they must be Hot." "By Hot" I meant stolen goods. That was all I said and all I had to do with the case.

Cross-examination by accused

Question:- Are you sure that Mr. Stewart said 8 or 9 thousand and not 8 or 9 hundred?

Answer:- I couldn't be positive.

The accused declines to cross-examine this witness further.

Signed. R. Burrows.
B/5835 L/Cpl. Burroughs R.A.M.
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

The accused after being duly cautioned in accordance with Rule of Procedure (4) (E), states after being duly sworn at his own request:-

I received those cigarettes to sell thinking that they were legimate and not stolen. They were handed to me in the dark and as I can't read without glasses; I never gave it a thought to look at them for if I had, and seen the addresses I would never have sold them.

This statement was made on 24th., Dec. 40. The accused declined to add to it or amend it at the subsiquent hearing.

Signed. W. A. Doherty
B/5837 Sapper Doherty, W.A.
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

The accused did not desire to call any witnesses for the defence

I certify that the foregoing summary of evidence consisting of 4 pages was taken down by me in writing in the presence and hearing of the accused on this 24th., day of December, 1940. I certify that rules of Procedure 4 (C),(D),(E) and (F) have been complied with.

Signed R. H. Allen
Lieut R.H.Allen.
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

Additional Evidence, Case against B/5837 Sapper Doherty W.A.

Sixth Witness (Military) B/2933 Spr. O. Robillard 2nd Road Construction Company R.C.E. Canadian Army will be called and will state in Substance:

"I am certain that I never received the parcel of cigarettes from which the label produced by Inspector Collis, was detatched. I am certain that at no time have I received cigarettes from the Porcupine Fag Fund."

Seventh Witness (Military) B/29366 L/Cpl. F. Tyo, 2nd Road Construction Coy,, R.C.E. Canadian Army. will be called and will state in Substance.

" I am certain that I never received the parcel of cigarettes from which the label produced by Inspector Collis was detatched. I am certain that I have never received cigarettes with the double address "2nd. Road Construction Coy., No.1 Tunnelling Coy."

I Wm. A.Doherty have read the above I understand that it is a summary of testimony to be offered in evidence against me at my trial. I have been given a copy this 14th. day of January 1941

RHA

Signed...Wm. A. Doherty
B/5837 Spr. W.A.Doherty,
No.1 Cdn.Tunnelling Company,
Corps of R.C.E.

The above testimony has been given before me in accordance with Rule of Procedure 76. I certify that a true copy has been given the accused this 14th., day of January 1941.

RHA

Signed...R.B.Allen.....
R.B.Allen Lieut.,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

No. B 5837 Name Doherty Wm. | Sqn., Battery, or Company | Corps | Date of enlistment 29/12/40 | G.C. (Badges) | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	30/4/40	Spr.		A.W.L. from 1200 hrs. 30/4/40 until 1130 hrs. 6-5-40 absent 6 days 23 hrs. A.A.Sec. 15	L/Cpl. Ash C.M.P.	forfeits 6 days pay admonished	7/5/40	Major Henshaw	
Shornmead	22/6/40	"		A.W.L. from 2300hrs. 22-6-40 until 2300 hrs. 24-6-40 A.A.Sec. 15	Lt. C.S.M. Schofield	forfeits 2 days pay 3 days CB	25/5/40	Capt Campbell	
"	28/6/40	"		A.W.L. 2300 hrs. 28-6-40 until 1000 hrs. 1-7-40 (absent 2 days 11hrs. A.A.Sec. 15)	~~Witness~~ Sgt.Young H.Stone	3 days pay 7 days C.B.	2-7-40	Capt. Campbell	
Aldershot	16/7/40	"		A.W.L. 2200 hrs. 16/7/40 until apprehended 1930 hrs. 29/7/40 (A.A.Sec. 15(1) Improper Conduct i.e. ~~Missing~~ A.A.Sec. 40		Loss 14 days pay and 13 days pay.	6/7/40	Lieut. Col Melville	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Mickleham	14/10/40	Spr.		1. A.W.L. from 2215 hrs. 13/10/40 until 1520 hrs. 14/10/40 apprehended by M.P.A.A. Sec. 15(1) 2. Irregular conduct i.e Begging A.A.Sect. 40	L/Cpl.Rush L/Cpl. Bailey	Fined 2 days pay plus loss 1.days pay	16/10/40	Major Campbell	
Mickleham	14/11/40	"		A.W.L. on 14 Nov. at 1100hrs. until 15 Nov.1630 hrs. absent 1 day, 5 hrs. 30 min.		awarded 14 days C.B. & 14 days forfeiture of pay plus 2 days pay under P.R.A I.	G.S.M Schofield	20/11/40	Major Grakky

I certify that this is a complete and true copy of this man's Conduct sheet to date 2/1/41

COLIN A. CAMPBELL - MAJ.

O.C. No. 1 Cdn. Tunnelling Coy. R.C.E.

Lt. Woodburn

Comment on case vs Docherty:-

Charges — 1. ~~Stealing~~ cigarettes consigned to a soldier (on or about Dec 5/40)

2. Recg. cigs. knowing them to be stolen on or about Dec 5/40

Comment.

Witness Stewart, proprietor of R.H. Hotel, says:- On Dec 6/40 accused asked if I'd like to buy Can. cigs. As a result of conversation with Buchham, I told him a saloon customer wd. buy them. Later he brt. cigs in 4 parcels. I paid for them. Cigs. left in lounge. Later turned over to Capt. Wilson.

The cigs were wrapped in brown paper as for mailing, they had address labels but I didn't notice addresses.

Witness Dora - waitress. A Wed. in Dec "about a fortnight ago" I bought 48 packets of 25 sweet cap cigs. in brown paper packets, some opened, some with address labels, I didn't notice addresses." I paid him $2.10. Chief + two maids present.

"This obviously refers to entirely different offence to that described by first witness. Note date + paying party

Witness Sup. Tollis. says he, + Dora were present when Lt. Field found 2 labels bearing different names + part of a label bearing number + part of a name, in Dora's room, on Dec 11th (entered as Ex B.)

There must have had to do with moral offence. Otherwise what were they doing in Dora's room.

Capt. Wilson - As a result of ph. call fr. Stewart I, on bat from 8th saw Buchham + later Stewart. Tuesday evening next I saw Buchham + Stewart at Hotel + Buchham handed me 4 paper parcels of 12 pkgs of brt. Sup. cigs.

Sup. Tollis gave me names + addresses. Says he checked with Records + found men belonged to 2 Rd Bount. Co. Then I was handed wrappers by Tollis - they'd double addresses 2 Rd Bount + 1 Prisoner of

He does not say if the packages were torn or if he fitted the labels to the package paper to see if they fit.

Does not say what these names were.

Evidence

Comment

(4 parcels containing 12 packs of cigs. produced & marked Ex "A".
A further 20 cigarettes were produced & were held by the Court - but they have not been identified).

L/Cpl Burroughs - ~~[illegible]~~ "On a Thursday night early in December" as a result of a remark made to me by Mr Stewart, I said "If there are that many cigarettes, they must be 'hot'."

Note, - yet another date.

Accused Doherty - "I recd those cigarettes to sell, never thought they were stolen. Am short sighted. Got them in the dark."

What cigs? Those referred to in Stewart's evidence? Exhibit "A"? The unidentified cigs?

Comment generally.

~~No evidence whatsoever that any (of the three different lots of cigarettes) were stolen. Might they.~~ Not a scintilla of evidence to vindicate ~~[illegible]~~ he knew they were stolen. ~~Might they not have been told to "whoever gave them to Doherty to resell"?~~

Note discrepancy in dates given by various witnesses.

I seriously question the propriety of Doherty's admissibility statement, as it would appear to have been given half way through the prosecution evidence.

The summary of evidence is undated, so I do not know when it was held. Witnesses Stewart & Dora were heard, then accused's statement taken then S of E "adjourned until the 26th." when evidence of Insp. Collis, Capt Wilson & L/Cpl Burroughs taken.

Evidence of Robillard & Iyo as to never recg cigarettes addressed to them — to be given to at 6. PM. - duly noted.

Does it seem reasonable that stolen goods would be resold with the original labels bearing addressees names & still attached?

There seem to be two separate "offenses" here — that of Dec 6th ~~of sale~~ involving attempted sale of "4 parcels" to Stewart (for Buchham) & that of some Wednesday early in December to Dora.

In connection with which is the charge laid?

Dora from the summary had nothing to do with the Stewart transaction & Stewart nothing to do with the Dora transaction.

The situation regarding exhibits is most unsatisfactory. There is no explanation of where 20 packages of cigarettes filed with exhibits came from. The 4 parcels filed as "Exhibit A" arise from the Stewart transaction. There is nothing in the summary to show to whom they were addressed, - although it appears from the summary (ev. of Stewart - 1st witness) that they were wrapped in brown paper as if for mailing & had addresses on them. Two pages later it appears the packages were opened & tied up again in Court. It does not appear whether they were opened previously or to whom they were addressed.

Ex "B" — the labels addressed to "Robillard" & "Raphael Iyo" (incidentally this is only assumed from the theme of evidence to be called as the summary does not reveal how the Exhibits

were addressed) obviously belong to the transaction with Dora.

To summarize
Owing therefore, to the confusion of dates, exhibits, ~~persons~~ probable separate alleged offences covered by one charge, failure to show that there were any addresses on the Ex A parcels or any evidence called to show that these parcels had not been given or traded to accused or were not his own property, on the one hand & on the other, to connect the Exhibit B labels with the accused, the unlikelihood of anyone keeping or trying to sell cigs with the owner's name & address on the label when it would have been so easy & reasonable to destroy the brown paper wrappers & simply sell the packets in their cellophane wrappers, the question of admissibility of accused's statement (as above noted) &, in any event, the statement as to darkness & his short sightedness, the failure to show knowledge goods were stolen (2nd charge) — I hesitate to agree with Maj. J. that a prima facie case has been made out. (re highlights par. 2 p. 3.)

Have now read Major Campbell's letter of Feb 4. — wherein he feels improbability of proving charges.

Correspondence to be PINNED here.

Army Form A. 3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 22nd day of February, 1941.

Whereas it appears to me, the undersigned, ~~an officer in command of~~ Chief Engineer, Canadian Corps., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified Officer.)~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

*Omit if not applicable.

~~*I am unable to appoint~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~*(3. Three Officers having more than two years' service.)~~

~~(or the following persons, namely:—)~~

President.

Rank.	Name.	Regiment.
Lt.-Col.	N. C. Sutherland	2 Bn., R.C.E.

Members.

Rank.	Name.	Regiment.
~~Capt.~~	~~E. Arneson~~	~~1 Corps Fd. Pk. Coy., R.C.E.~~
Capt.	H. A. MacLean	H.Q., R.C.E. Cdn. Corps Tps.
~~Capt.~~	J. C. Byrn	1 Bn. R.C.E.

*Signed (C.S.L. Mortberg) Brigadier,
Commanding Chief Engineer, Canadian Corps.
Convening Officer.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

13003 Wt.8305/P.3702 12m 1/37 B. M. & Co. Gp.598 Forms/A3/13

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
F-44945 Cpl. Smith J. W. 1 Tun. Coy., R.C.E.	1st charge A.A. 41. While on active service, committing a civil offence, that is to say, stealing from a mail bag a postal packet in course of transmission by post, contrary to Sec.23(1) of The Larceny Act, 1916. Alternative 2nd charge A.A. 18(4). While on active service, stealing property belonging to a person subject to Military Law.	Acquitted not guilty not guilty Acquitted		

* Question to be asked of accused, if he pleads not guilty (R. of P. 39(A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?
Answer (to be recorded on separate sheet if necessary) :—

(Signed) (G.S.L.Hertzberg) Brigadier,
Commanding Chief Engineer, Cdn.Corps.
Convening Officer (*c*)

(Signed) N.McSutherland Lt Col
2 Bn RCE
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the day of , and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that

1. The members of the Court
2. The witnesses

*Omit if not applicable.

~~*(3. The interpreter)~~
~~*(4. The officer under instruction)~~

were duly sworn.

Signed this 28th day of February 1941.

N.McSutherland Lt Col
President of the Court Martial.

C. Certificate in case of death sentence.

I certify that the terms of A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison until further orders.)

*To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this day of 19 .

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The Accused, No.F.44945, Corporal Smith,J.W., 1st Canadian Tunnelling Company, R.C.E., a soldier of the Canadian Active Service Force, is charged with

1st Charge
A.A.41

While on active service, committing a civil offence, that is to say, stealing from a mail bag a postal packet in course of transmission by post, contrary to Sec 23(1) of The Larceny Act 1916

in that he,ih the Field, near Mickleham, on or about the 5th day of December 1940, as Mail Orderly of the 1st Tunnelling Company, C.A.S.F., being entrusted with the custody of four postal packets containing cigarettes addressed to a person or persons unkown but being a member of the Canadian Active Service Force did fraudulently and with intent to deprive the owner thereof steal the said four postal packets.

Alternative
2nd Charge
A.A.18(4)

In the Alternative

While on active service, stealing property belonging to a person subject to Military Law,

in that he, in the Field, near Mickleham, on or about the 5th day of December 1940, stole four packages of cigarettes the property of a person or persons unknown but who were members of the Canadian Active Service Force and subject to Military Law.

(Colin A.Campbell) Major
O.C. No.1 Tun.Coy.R.C.E.

COURT MARTIAL OF
F.44945 Cpl. Smith.J.W.

1st Charge A.A. 41 is read.

The accused, No. f.44945, Corporal Smith, J.W., 1st Tunnelling Company, R.C.E., a soldier of the Canadian Active Service Force, is charged with

> While on active service, committing a civil offence, that is to say, stealing from a mail bag a postal packet in course of transmission by post, contrary to Sec 23(1) of the Larceny Act 1916

in that he, in the Field, near Mickleham, on or about the 5th day of December 1940, as Mail Orderly of the 1st Tunnelling Company, C.A.S.F., being entrusted with the custody of four postal packets containing cigarettes addressed to a person or persons unknown but being a member of the Canadian Active Service Force did fraudulently and with intent to deprive the owner thereof steal the said four postal packets

or alternatively, the 2nd charge

Alternative 2nd Charge A.A.18(4) is read.

> While on active service, stealing property belonging to a person subject to Military Law,

in tha t he, in the Field, near Mickleham, on or about the 5th day of December 1940, stole four packages of cigarettes the property of a person or persons unknown but who were members of the Canadian Active Service Force and subject to Military Law.

Court 1st Charge Accused. "Do you plead guilty or not guilty?"

"Not guilty, Sir."

Court 2nd Charge "Do you plead guilty or not guilty?"

Accused "Not guilty, Sir."

SHORTHAND TRANSCRIPTION
of
Court Martial held at Mickleham Hall, 28 Feb 41.

PROSECUTOR - CAPT J.G. CHRISTIAN
DEFENDING OFFICER - LIEUT. W.G. NELSON

F.44945
Trial of Cpl. Smith JW

Prosecution "I intend to prove, 1st, that Cpl. Smith was the postal Cpl. of the 1st Tunnelling Company, into whose hands all the mail for the unit must go and that the responsibility for the delivery of the mail is his. Secondly I intend to prove that he received some cigarettes which were addressed to units other than the 1st Tunnelling Coy. and that no record was kept with regard to receipt or disposal of the same. Thirdly that some cigarettes were found in the Running Horses Hotel at Mickleham and that 2 members of the 2nd Road Construction Coy. (one of the units whose cigarettes came to the Tunnelling Coy. by mistake) did not receive the same and lastly [redacted] I would like to show that the accused on one occasion gave cigarettes to Spr. Doherty to sell to the proprietor of the Running Horses Hotel and by this means effected a sale and accepted money for them.

1st Witness
Spr.
Hamilton, W.
P 91643

Spr. Hamilton being duly sworn gave evidence.

Prosecution

Question: "You assisted in the mail room for a time. Tell the court just what period you were assisting in this duty?"

Answer: "From 1st December to 5th December 1940.

Question: "Can you identify Cpl. Smith as the Cpl. in charge of the mail for the Tunnelling Coy.?"

Answer: "Yes Sir. I can."

Question: "It was your understanding that as mail clerk Cpl. Smith was responsible for mail coming in. Will you tell the court what happened to cigarettes addressed for other units?"

Answer: "On the second of December 7 bags came in and they were mostly all cigarettes. The ones for our unit I marked. For the others there were possibly 11 parcels. The ones with the names of the other units were placed on the top of the shelf. A couple of days after that I was in there again and noticed the cigarettes for the outside units were still there. I asked Cpl. Smith why they were not returned to the Field Post Office for their destination. He told me that when our mail went by mistake to other units, the one responsible for the mail in those units were never in a hurry to return them to us; they could wait until he was ready to send them. On the morning of the 4th I looked to see if these cigarettes were still there and over ½ of them were missing. At that time there were queer doings going on so I went down to report to the O.C.."

Question: "Spr. Hamilton, did you see the bags when they came in? You did not notice to what unit they were addressed?"

Answer: "I think they were all addressed to this unit."

Question: "Were you in the habit of checking the contents of the bags against the names of the persons?"

Answer: "Yes."

24/55

Question: "You are quite sure that the bulk of the cigarettes were for the 2nd Road Construction?"

Answer: "Yes, but there were some for the Pioneers, 1st Bridge, and others."

Question: "You said that Cpl. Smith put the cigarettes that were not for the Tunnelling Coy. on the top shelf?"

Answer: "I did."

Question: "On the 4th you say some of them had not been taken back. Have you any reason for saying they were not taken back to the Field Post Office?"

Answer: "There were rumours around, Sir."

Court (Rumours do not count, so therefore you are in no position to state whether the cigarettes went back to the Field Post Office or not.)

2nd Witness Mr. Stewart. (civilian) Mr. Stewart being duly sworn gave evidence.

Prosecution "Exhibit "B" in the last case will be exactly the same as in this case."

Question: "Mr. Stewart, would you again identify these cigarettes as the ones you turned over to Capt. Wilson?"

Answer: "Yes."

Question: "Did you at any time on the evening that you purchased the cigarettes see the accused, Cpl. Smith?"

Answer: "No Sir."

Question: "You are quite sure of it?"

Answer: "As far as I am concerned I have never seen Cpl. Smith in my house at all."

Question: "Of the cigarettes you turned over to Capt. Wilson, you did not note the names on the labels?"

Answer: "No Sir."

3rd Witness Inspector Collis of the Dorking Police Inspector Collis being duly sworn, gave evidence.

Prosecution Question: "Would you re-identify these labels as the ones you found in the waiter's room?"

Answer: "Yes Sir."

Question: "At the summary of evidence you produced a signed statement of Spr. Doherty. Would you identify this copy of the statement.

Answer: "This is a true copy, Sir."

Prosecution "There are several points here which do not agree with Mr. Stewart's evidence."

Defence "No questions, Sir."

4th Witness
H 5637
Spr. Doherty.

Spr. Doherty being duly sworn gave evidence.

Prosecution

Question: "Spr. Doherty, on the 11th of December at Dorking you made a statement to Sgt. No. 9, P.Field, of your own free will and signed it?"

Answer: "Yes Sir."

Question: "Do you recognize that as a copy of your statement?"

Answer (after reading copy): "Yes Sir. I made that statement."

Question: "You find that that statement is a true story of what happened?"

Answer: "No Sir, I contradicted it afterwards."

Question: "Will you tell the Court the true story of what happened on the evening in question?"

Answer: "Well Sir, before I was put under arrest, I saw Spr. Boudreault and he said he could get cigarettes to sell. I went to see him and he said "you will have to wait until Smith comes back". I got them from Spr. Boudreault."

Question: "Would we be correct in substituting Boudreault's name for Smith's in the statement?"

Answer: "Yes Sir."

Defence

Question: "Was Cpl. Smith present when you made this statement to the Dorking police?"

Answer: "No Sir."

Question: "He had no chance to contradict you in any way?"

Answer: "No Sir."

Question: "When you received these cigarettes from Boudreault had you any way of knowing whether they were Boudreault's or not?"

Answer: "No Sir, it was dark and I cannot see very well."

Question: "It is quite possible that they were Spr. Boudreault's then?"

Answer: "Yes Sir."

Prosecution to Court: "May I recall Spr. Robillard and L/Cpl. Tyo to re-identify the exhibits?"

5 & 6

Witness (Spr. Robillard and L/Cpl. Tyo are recalled and warned that they are still under oath; they proceed to give evidence).

Prosecution "Spr. Robillard, will you again tell the court whether you received any cigarettes from this source?"

Answer: "I did not."

Question: " L/Cpl. Tyo, would you again identify these labels and tell us whether you received that parcel or not?"

Answer: "I never received that parcel, Sir."

~~Prosecution~~
~~7899609~~

7th-Witness
7899609
Tpr.Knight,C. (R.T.R.)

Trooper Knight being called by the defence was duly sworn and gave evidence.

Defence

Question: "Trooper Knight, on December 5th you accompanied Cpl. Smith down to the Running Horses Hotel?"

Answer: "Yes Sir."

Question: "Did Cpl. Smith have any parcels or anything with him?"

Answer: "No Sir."

Prosecution

Question: "Trooper Knight, how can you be sure the night that you were with Cpl. Smith was the night of December 5th?"

Answer: "I am sure Sir. There was a dance held on Dec. 5th and I was there."

Court to accused: "Does the accused wish to make a statement?"

Counsel for accused: "No Sir, the accused does not wish to make a statement at all.

Defence sum up

"This is very much like the other case Sir. There is no definite evidence put forward by the prosecution that Cpl. Smith stole any cigarettes. There is no evidence that cigarettes were stolen. The post-office orderly, Spr. Hamilton, did not produce any evidence to the effect that he could swear any cigarettes were stolen. Therefore, I submit that the only verdict can be acquital for the accused."

Prosecution sum up

"In his capacity as postal clerk, Cpl. Smith is responsible for the mail until it is delivered to the men in question. To the best of my knowledge there was no record kept of the parcels coming in and therefore it is the responsibility of the Postal Cpl. to account for them unless he can show delivery to the proper owners. Cigarettes for 2 members of the Road Construction Coy. have been proven to be missing and I submit that these 2 facts are so closely connected as to place the guilt on Cpl. Smith."

Mr Smith and Mr Parsons

DORKING.

11th. December, 1940

DORKING.

WILLIAM ALEX DOHERTY.

Canadian Active Service Forces.

Canadian Soldier.

54.

States after caution:-

"One evening last week I was in the bar of the Running Horses when Corporal Smith came in to the bar and asked me if I knew where I could sell 48 packages of cigarettes. I said I would ask Mr Stewart (the licensee) if he wanted to buy them. I knew at the time that Corporal Smith was the post Corporal. I saw Mr Stewart and asked him if he wanted to buy 48 packages of Sweet Caporal Cigarettes. I knew that they were Sweet Caporal Cigarettes because Corporal Smith told me they were. Mr. Stewart said, "I will take them, bring them in". I handed them over to Mr. Stewart and told him the price was £ 2-10-0. which he paid me. Previous to this Corporal Smith was standing outside the Running Horses near the entrance to the toilet and he had the cigarettes in four cartons under his arm. The cartons had not been undone, but appeared to me to be in the same condition as when they arrived by mail. Corporal Smith followed me into the public House after handing me the cigarettes and he was present when I handed them over to Mr Stewart and he was there when I received the money for them, £ 2 of which I handed to him immediately and kept 10/- myself. Corporal Smith had a drink and then left. I have at about 4 or 5 different times sold to the man I know as "Joe", who is employed at the Running Horses as waiter. Two packages at a time, that is 80 cigarettes for 2/6d.

Signed.....
A/2847 Sapper Doherty W.A.,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

Statement Taken by Sergeant No.9, Hrank Field.

I certify that this is an accurate and complete copy of the statement submitted in evidence by Sergeants Collins Surrey Constabulary
Sgt. No. R B Allen Lee

CHARGE SHEET AND SUMMARY OF EVIDENCE

CASE OF F/44945 CORPARAL SMITH J.W.

1st CANADIAN TUNNELLING COMPANY R.C.E.

TAKEN BY R.B. ALLEN LIEUT.

1st CANADIAN TUNNELLING COMPANY, R.C.E.

The accused No. F/44945 Corporal Smith J.W. No.1 Canadian Tunnelling Company, R.C.E. a soldier of the Canadian Active Service Force. is charged with:-

First Charge
Army Act.
Sec. 18 (A)

While on Active Service in the field stealing goods the property of a person subject to military law, in that he on or about Dec. 5th,40 did steal cigurettes consigned to a soldier or soldiers of the Canadian Active Service Force.

Signed.....
(Colin A.Campbell) Major,
Officer Commanding,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

3 Jan 41

.....Lt. Col. R.C.E.
C.R.E. VII Corps. Tps.

To be tried by Field General Court Martial

Signed.....Brigadie
C.E. Canadian Corps.

Summary of Evidence in the case of F/44945 Corporal Smith J.W. No.1 Canadian Tunnelling Company R.C.E, C.A.S.F.
The accused requires that the evidence be taken on Oath.

First Witness Military:-

The first Witness B/5837 Sapper Doherty W.A. after being duly sworn States:-

On about 5 Dec. 40 I received cigarettes from a source which I refuse to disclose until I have legal Counsel. These cigarettes were given to me, which I thought was legimate; there were about twelve hundred Sweet Caporals of the kind specially packed for soldiers. These cigarettes were turned over to Mr. Owen Stewart proprietor of the Running Horses Inn, and he like myself didn't know they were stolen. He paid me two pounds ten shillings for the cigarettes. I turned this money over to the party who had given me the cigarettes keeping ten shillings for myself. I still refuse to name the party who gave them to me.

Question:- In what condition were thes cartons when you got them?

Answer:- They were in carboard cartons, wrapped as if for mailing.

Question:- Had they address labels on them?

Answer:- I think so, but I didn't notice the address.

Question:- Had you any reason to think that they were not addressed to the person who gave them to you?

Answer:- No, Sir.

The accused declines to cross examine this witness.

I have read the above testimony and affirm that it is true.

Signed. W. A. Doherty
B/5837 Sapper Doherty W.A.,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

Second Witness Military:-

Second Witness P/91643 Sapper Hamilton W., after being duly sworn States:-

I was assisting Corporal Smith, who was mail clerk for several days before the dance that we held early in December about the 5th., and in that period I helped sort the mail. Almost all of the mail was cigarettes eleven parcels for the Tunnelling Company, the bulk of them for Gad. Road Construction Company, some for the 1st Pioneers Battalion, the 1st Bridging Company and the 12th. Field Company. The cigarettes were mostly in parcels of 300 and a few parcels of 1000. The parcels for Units other than our own were placed on the shelf away from our own mail. They remained on the shelf until a day or so before the dance, I asked Corporal Smith if they weren't to be sent back to Base P.O. for forwarding, and he told me that he was in no hurry, because when our mail went to other units by mistake they were in no hurry to sen it back and in some cases it was never returned. The day after the dance I was in the mail [redacted] R.B. Allen

Second Witness (Cont'd)

room, after my own mail, and I looked to see if the cigarettes had been sent out yet. At least half were gone, but some were still remaining. I reported this to Captain Wilson. I felt suspicious because if any were sent back to the Field Post Office all should have gone back.

Question:- Just when did you stop working in the Mail Room?

Answer:- The day of the dance was my last day there.

Crossexamination by accused:-

Question:- When you say that the parcels were half of them missing from the post office do you imply that you think that I had stolen them or sent them back to the Field Post Office?

Answer:- I did not think that they had been returned to the Field Post Office.

The accused declines to Cross examine this Witness further.

On having the evidence read to him the witness wishes to make the following amendment:-

I hadn't counted the parcels which were on the shelf. The eleven parcels for the Tunnelling Company were for the half at Mickleham Hall: the parcels for those at Gibraltar were forwarded at once

Signed..W. Hamilton.....
F/91643 Sapper Hamilton W.,
No.1 Tunnelling Company,
Corps of Royal Canadian Engineers.

The summary of Evidence is adjourned until after the Holiday to permit the Evidence of Inspector Collis to be taken

Signed...R.B.Allen.....
Lieut. R.B.Allen,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

The Third Witness (Civilian)
The third witness Inspector William Henry Collis of the Surrey Constabulary Dorking states (Not sworn)

The accused does not require that the evidence of this witness be taken on oath.

I produce a document bearing the statement made by Sapper W.A.Doherty before me and in the prescence of Sergeant Frank Field of the Surrey Constabulary Dorking. I certify that this document is a true and accurate copy of the statement signed by Sapper Doherty in the prescence of Myself and Sgt. Frank Field. I produce also the original signed copy of the statement as contained in the note book of Sgt. Frank Field, and request that the certified copy be accepted in lieu of the original.

Signed..W.H.Collis Insp.....
W.H.Collis ,Inspector,
Surrey Constabulary, Dorking.

This document I marked Exhibit "A" and include it ~~in~~ the Evidenc. The document bears the signature of Myself, The signature of the Accused and the signature of Inspector Collis. The accused does not require the attendance of Sgt.Frank Field, and owing to the illness of the latter I am satisfied that his attendance can be dispensed with.

Signed.....R.B.Allen.....
R.B.Allen Lieut.,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

The accuse d after being duly sworn in accordance with Rule of procedure 4(E) states:- after being duly sworn at his own request.

I can only say that I didn't take any cigarettes from anywhere or give them to anybody, with the exception of two packages of Sweet Caporal cigarettes which I gave to Sapper Bishop in my own room. These cigarettes were my own personal property. I never received any money for cigarettes from anybody except L/Cpl. Graystone who gave me a shilling for a packet of Sweet Caporals, also my own property. As to the cigarettes which were sent to us by mistake and which Sapper Hamilton spoke about; on the day of the dance, which I think was on 5th., December, I took some of them to Field Post Office Leatherhead. I hadn't kept any record of the parcels sent to us by mistake.(So I didn't know whether I had them all or not) On hearing this read the accused desires to amend the portion in brackets to read as follows:- I knew I hadn't them all with me,but I hadn't enough sacks to take them all back that afternoon. The day after the dance, on Friday, when I went to open the mail office about four o'clock in the afternoon. I found the lock very hard to open, so hard that I broke the stem in the lock. Sapper Pugliese and myself opened the door by pulling out the staple, we took the mail to Leatherhead and brought the Company's mail back. The mail for the 12th., Field Companywhich had arrived a few days earlier by mistake was still in the Company post Office and I turned the keys over to Sapper King, who took over from me on the Monday following, with instructions to sent all such mail back for redirection. Since I didn't keep a record of this mail, I am unable to say whether any was lost in my office or not.

On hearing this statement read, the accused wishes to add.

"I knew I had not taken all of the cigarette packages back to the Field Post Office in Leatherhead the first afternoon, but I took all the rest I could find the next afternoon. I did not know whether I had taken back all that I had received, since I had kept no record of such incorrectly addressed mail which passed through my hands.

The accused does not wish to call any witnesse for the defence.

Signed.J.W.Smith.....
#/44965 Cpl. Smith. J.W.,
No.1 Canadian Tunnelling Coy.,
Corps of Royal Cdn.Engineers.

Summary of

I certify that the foregoing evidence consisting of 3 pages, was taken down by me in the presence and hearing of the accused and Rules of Proceedure 4(C),(D),(E) and (F) have been complied with.

Signed.....R.B.Allen.....
R.B.Allen Lieut.,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

Additional Ecidence, Case against F/44945 Cpl. Smith J.W.

Fourth Witness Civilian Mr. Owen Stewart Proprietor Running Horses Hotel Mickleham will be called and will state;

"I did not observe Corporal Smith in the bar of the Running Horses Hotel bar on the night when I purchased the cigarettes from Sapper Doherty, I cannot state definetly whether Smith was there or not."

Fifth Witness (Military) B/29333 Sapper O.Robillard, 2nd Road Construction Coy. R.C.E. will be called and will state in substance.

I am certain that I never received the parcel of cigarettes from which the label produced by Inspector Collis was detatched. I am certain that at no time have I ever received cigarettes from the Porcupine Fag Fund."

Sixth Witness (Military) B/29366 L/Cpl. F.Tyo, 2nd. Road Construction Company, R.C.E. will be called and will sates in substance.

I am certain that I never received the parcel of cigarettes from which the label produced by Inspector Collis was detatched. I am certain that at no time have I received cigarettes with the double address " 2nd. Road Construction Company,No.1 Tunnelling Company

I J.W. Smith have read the above. I understand that it is a summary of Testimonyto be offered in evidence against me at my trial. I have been given a copy this 14th. day of January 1941

Signed J.W. Smith.....
F/44945 Cpl. Smith J.W.
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

The above testimony has been given before me in accordance with Rulex of Procedure 76 . I certify that a true copy has been given t the accused this 14th. Day of January 1941.

Signed R.B.Allen.....
R.B.Allen, Lieut.,
No.1 Canadian Tunnelling Company
Corps of Royal Canadian Engineers.

No. F/44945 Name Smith J.W. Sqn., Battery, or Company "D" coy. Corps The Picton Highlanders Date of enlistment 2-9-39 G.C. Badges

Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 10071 — 8-39 (1752) H.Q. 1777-45-8

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No. 1

Signature O.C. Company, etc.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Guillemont	16/2/40	Cpl.		An act prejudiced to good order and Military discipline i.e being absent from Church Parade	Cpl. Ellis W.A.	Repremanded	19/2/40	K.P Hauis	

I certify that this is a complete and true copy of this man's Conduct sheet to date January 2nd., 1940

(R. E.) COLIN A. CAMPBELL. MAJ.
O.C. No. [illegible] Tunnelling Coy. R.C.E.
Corps of Royal Canadian Engineers.

(P.T.O.)

Lieut W.B Nelson,
12th Fd Co
RCE

May I have this
appear to defend me
Signed
Spr- Wm. A Roberts

C.C.
Prefer call for court. Members
Maj McClintock, Capt. Currie, Lt. Wade.
President to be named later. Defence
Lt. Nelson.
8/6 41

WRITE ON BOTH SIDES

1 Tunn. 5-4-3

2 Jan. 1940

C.R.E.,
Corps Troops,
Canadian Engineers.

Sir:-

Herewith are three signed copies of the summary of evidence in the case of B-5837 Sapper Doherty W.A. charged with stealing cigarettes the property of a person subject to military law and with receiving such cigarettes knowing them to be stolen. Three certified copies of the M.F.M. 6 of the accused are attached to the summary.

The evidence is nearly entirely verbal testimony. Two exhibits are offered in evidence one of cigarettes alleged to have been recovered after sale, offered by Captain J.T.Wilson R.C.E. and one of Address labels alleged to have been found in the room of one of the accused's customers, offered by Inspector W.H.Collis, Surrey Constabulary Dorking. These exhibits are in my keeping and will be produced upon demand.

R B Allen Lieut.

(R.B.Allen) Lieut.,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

RBA/CTG.

1. Tunn. 5-4-3

Jan., 8th. 1941

S.O.R.E.,
Candian Corps,
Engineers.

RE: SUMMARY OF EVIDENCE IN THE CASE OF B/5837 SPR. DOHERTY W.A.

After examining this summary of evidence you asked the following questions:-

1. Can Sapper Hamilton W.A., second witness against Corporal Smith J.W., Testify as to the labels offered against Doherty?
Hamilton States that he cannot so testify.

2. Can F.J.Dora, second witnes against Doherty, recognize these labels?
Dora states that he knows that some sort of address labels were found in his room, but that he is unable to say whether they were those now offered against Doherty or whether those found were off the parcels purchased from Doherty. No. effort has been made therefore to call Dora for additional testimony.

3. Appended to the summary herewith returned is an abstract of the evidence which it is proposed that Inspector W.H. Collis, Surrey Constabulary, will give against Sapper Doherty. This is additional to the Summary, and with the abstract is a certificate that Rule of Proceedure 76 has been complied with.

R B Allen Lieut.

(R.B.Allen) Lieut.,
for (Colin A.Campbell) Major,
Officer Commanding,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

RBA/CTG.

NOTICE TO B.5837, Spr. Doherty W.A.
(under R.P.76)

TAKE NOTICE of the intention of the Prosecutor to call, upon your trial by Field General Court-Martial, B-29314, Spr. Charles Taylor as a witness to give evidence to the effect that he did not receive a carton of cigarettes addressed to him, and referring to a label or a portion of a label from a carton of cigarettes addressed to him.

(Colin A. Campbell), Major,
O.C. #1 Fun.Coy., R.C.E.

Abstract of Additional Evidence which the prosecution desires to call against B/5837 Sapper Doherty W.A.

The Third Witness (Civilian) Inspector William Henry Collis, Surrey, Constabulary, further states:(Not sworn)

"I produce the document bearing a statement made by Sapper Doherty before me and written down by Sergeant Frank Field.Surrey, Constabulary. I certify that this document is a true and complete copy of the original statement, as written in the pocket notebook of Sgt. Field and signed by Doherty. I produce the notebook as well, and ask that the certified copy be accepted in lieu of the original."

This document is in possesion of the undersigned. Certified copies are appended.

R B Allen Lieut.

(R.B.Allen) Lieut.,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

I, W.A.Doherty, have read the above abstract, of which I have been given a copy, which I am satisfied is true and complete. I have also been given a copy of the document appended to this abstract. I have read the single typewritten sheet of which this document consists, and have signed all copies which I am satisfied agree with that given to me. I have received both abstract and document this 8th. Day of January 1941.

Signed. W. A. Doherty
B/5837 Spr. Doherty,W.A.,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

Submitted this 8th. day of January 1941 as accompaniment to the summary of evidence in the case of B/5837 Spr. Doherty W.A. Rule of Proceedure 76 complied with.

R B Allen Lieut.

(R.B.Allen) Lieut.,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

DORKING.

DORKING.
11th. December 1940

WILLIAM ALEX DOHERTY.

Canadian Active Service Forces.

54. Canadian Soldier

States after caution:-

One evening last week I was in the bar of the Running Horses when Corparal Smith came into the bar and asked me if I knew where I could sell 48 packages of cigarettes. I said I would ask Mr. Stewart (the licensee) if he wanted to buy them. I knew at the time that Corparal Smith was the post Corparal. I saw Mr. Stewart and asked him if he wanted to buy 48 packages of Sweet Caporal cigarettes. I knew they were Sweet Caporal Cigarettes because Corparal Smith told me they were. Mr.Stewart said "I will take them bring them in". I handed them over to Mr.Stewart and told him the price was £ 2-10-0 which he paid me. Previous to this Corparal Smithwas standing outside the Running Horses near the entrance to the toilet and he had the four cartons under his arm. The cartons had not been undone, but appeared to me to be in the same condition as when they arrived in the mail. Corparal Smith followed me into the public house after handing me the cigarettes and he was present when I handed them over to Mr. Stewart and he was there when I received the money for them, £ 2-0-0 of which I handed to him immediately and kept 10/-myself. Corparal Smith had a drink and then left. I have about 4 or 5 different times sold to the man I know as"Joe", who is employed at the Running Horses as waiter, two packages at a time that is 50 cigarettes for 2/6d.

Signed William A. Doherty

Statement taken be Sergt. No.9, Frank Field.

I have read this document I understand it is to be offered in evidence against me. I am satisfied that this is a true and complete copy of the document left in my possession.
Signed Spr W.A. Doherty

CHARGE SHEET AND SUMMARY OF EVIDENCE

CASE OF B/5837 SAPPER DOHERTY W.A.

1st CANADIAN TUNNELLING COMPANY, R.C.E.

TAKEN BY R.B. ALLEN LIEUTENANT

1st CANADIAN TUNNELLING COMPANY, R.C.E.

The accused No. B/5837 Sapper Doherty W.A. No.1 Canadian Tunnelling Company R.C.E., C.A.S.F, a soldier of the Canadian Active Service Force:

First Charge
Army Act
Sec. 18(4)

While on Active Service in the field stealing goods, the property of a person subject to Military Law in that on or about 5 Dec. 40 at Mickleham Surrey he did steal cigarettes consigned to a soldier or soldiers of the Canadian Active Service Force.

Second Charge
Army Act
Sec. 18(4)

While on Active Serbice in the field receiving, knowing them to be stolen, goods the property of a person subject to Military Law in that on or about 5 Dec. 40 at Mickleham Surrey he did receive cigarettes consigned to a soldier or soldiers of the Canadian Active Service Force, knowing those cigarettes to be stolen.

.....Lt. Col. R.C.E.
C.R.E. VII Corps. Tps.

3 Jan 41

Signed.....
(Colin A.Campbell) Major,
Officer Commanding,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

To be tried by Field General Court Martial

Signed.....,Brigadier
C.E. Canadian Corps.

Summary of Evidence in the case of B/5837 Sapper Doherty W.A.

The accused requires that the evidence be taken on Oath

FIRST WITNESS CIVILIAN:

The first Witness Mr.Owen Stewart propietor of Running Horses Hotel, Mickleham Surrey. After being duly Sworn. States:-

On Friday 6th.December,I was asked by a Canadian Soldier known as Cookie , who was in the public bar, whether I would like to buy some Sweet Caporal cigarettes. I replied No. I then walked round to the saloon bar and seeing a customer namely Mr. R.Duckham of Jivons Grove, who had previously told me he liked Canadian Cigarettes known as Sweet Caporal, I mentioned that some of the same where for sale by a Canadian Soldier in the public bar. He said that he would like them. I then told the Canadian Soldier that a Saloon Customer would buy them. Some time later I was told that a Canadian Soldier had a parcel for me, on going out to the Hotel the Canadian Soldier said that he had the Cigarettes which would cost two pounds ten shillings. I went to Mr. Duckham who was having dinner and told him. He asked me to pay for them and add the same to his bill. This I did. Mr. Duckham subsequently paid. The cigarettes in four parcels were placed on a table in the lounge. Just before closing time a Canadian named Corporal Burroughs saw the parcels /and Myself and told Mr. Duckham/that they were probably stolen. Mr. Duckham then said he would not take the cigarettes until the matter was cleared up. Mr Duckham then went home. I tried to get Capt. Wilson on the phone but he was not available. Subsequently Mr Duckham and myself saw Capt. Wilson and the cigarretes were returned to him.

Question:- Is the Canadian Soldier called Cookie recognizable as Sapper Doherty, whom you see before you?
Answer:- They are one and the same man. I did not know his correct name.
Question:- In what condition were the parcels of cigarettes?
Answer:- They were wrapped in brown paper as if for mailing
Question:- Had they address labels on them?
Answer:- Yes but I didn't lookat the addresses.

The Accused declines to cross examine this witness.

Signed... Owen Stewart
Mr. Owner Stewart.

Sheet "A"

Second Witness (Civilian:-)

Mr. Florin Joseph Dora waiter at the Running Horses Hotel Mickleham, Surrey. After being duly sworn states:-

Some time ago, in December, on a Wednesday, about a fortnight ago, a Canadian Soldier spoke to me and asked me if I wanted to buy some cigarettes which he had with him. I said I would take ten packets. He said that I would have to take the lot, because they belonged to the other boys for whom he was selling them. I bought forty eight packets of 25 each. They were Sweet Caporal of the kind usually given to soldiers. They were in brown paper packets, some opened; some had addresses labels on them. I didn't notice the addresses. I gave him two pounds ten shillings for them. There were others there when I bought them; the chef and two other maids were there. There were no other soldiers there.

Question:- Is this man, Sapper Doherty, whom you see before you the man who sold you these cigarettes.

Answer:- Yes; sir.

The accused declines to cross-examine this witness

Signed F. J. Dora
~~No.1 Canadian Tunnelling Coy. Corps of R.C.E., C.A.S.F.~~

The Summary of Evidence is adjourned until the 26th., December to permit the evidence of Inspector Collis, Capt. J.T.Wilson and L/Cpl. Burroughs to be taken.

Signed R.B.Allen
R.B.Allen, Lieut.
No.1 Cdn. Tunnelling Company,
Corps of R.C.E., C.A.S.F.

Third Witness (Civilian)

The third witness, Inspector William Henry Collis, Surrey Constabulary, Dorking states (Not sworn):-

The accused does not require this evidence to be taken on Oath.

On the 11th. December 1940 I was present at the Running Horses Hotel Mickleham when the two labels bearing different names and the ~~part~~ of part label produced bearing the number and part of them name was found by Sgt. Frank Field in the room occupied by Florin Joseph Dora. Dora was present when the labels were found.

Signed W.H.Collis Insp.
Inspector W.H.Collis,
Surrey Constabulary,
Dorking.

The two complete and one torn label are produced in my presence examined by myself and the accused, Marked "Exhibit B Case of Doherty" on the back of each and signed with the name of the Officer taking the Summary of Evidence and with the signature of the accused. They are placed in an envelope, sealed and placed with the evidence.

Signed R.B.Allen R.B. Allen Lieut.
No.1 Canadian Tunnelling COMPANY R.C.E., CASF

Sheet "B"

Fourth Witness Military

The fourth witness Capt. J.T.Wilson states[Not sworn):-

The accused does not require that this evidence be taken on Oath.

I produce four parcels, each consisting of 12 packages of Sweet Caporal cigarettes which I identify as the cigarettes handed to me by Mr. Owen Stewart, proprietor of the Running Horses, and purporting to be received by him from Doherty. I was asked on Saturday morning, December 7th., to phone Mr.Stewart, proprietor of the Running Horses Hotel. who had rung me the previous evening concerning some cigarettes. Before I was able to reach him Mr. Stewart again phoned me and I tried to reach him by telephone Saturday afternoon. Sunday morning I went to see Mr Duckham and later Mr. Stewart. Neither of them produced the cigarettes which Mr. Stewart had telephoned me. I telephoned Mr Stewart again on Monday about the cigarettes. Tuesday evening in answer to telephone call, I saw Mr Duckham and Mr. Stewart at the Running Horses Hotel where Mr.Duckham Handed me four paper parcels of twelve packages of Sweet Caporal Cigarettes, which I now produce and identify by the word'Jackson'written in pencil on one of them. On Thursday Inspector Collis gave me the names and numbers and addresses from the wrappers of three packages. At Second Echelon I found from records that these wrappers belonged to 2nd Road Construction Company. Later I received the above mentioned wrappers from Inspector Collisx. These were supposed to have been found at the Running Horses Hotel. Each wrapper bore the double address 2nd. Road Construction Company, 1st Canadian Tunnelling Company. I produce the address labels from these three wrappers.

The accused declines to cross-examine this witness.

Signed.....
(J.T.Wilson) Captain,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

The four parcels produced are unwrapped in the presence of the accused and are found to contain 12 packages of Sweet Caporal cigarettes. Im addition 20 packages of cigarettes are found with these four parcels in a brown paper outer cover. These 20 packages can not certainly be identified . The four parcels are rewrapped and the words "Exhibit 'A' Case of Doherty" written in red pencil on each. The four parcels and the 20 loose packages are wrapped together in the outer wrapper on which is written "Exhibits in the Case of Doherty" the date 27th., Dec.40 and the signature of the Officer taking the Summary and of the accused. This parcel is included with the evidence.

Signed.....
H.B.Allen Lieut.,
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

Fifth Witness Military:-

The fifth witness B/5838 L/Cpl. Burroughs, R.A.M. after being duly sworn States:-

I was in the Running Horses Hotel on the night of the dance when the cigarettes are supposed to have been sold. It was a Thursday night, early in December, in the first week. I was in the Running Horses about 7:30 in the evening and left about 8:10 I came back at 9:30 and stayed until 10:00 o'clock.

Fifths Witness Military:-(Cont'd)

when I left for the night. I did not see any cigarettes such Mr. Stewart describes about the Hotel on that night. I did not tell Mr. Stewart that any given cigarettes were stolen.

Mr. Stewart remarked to me that there were a lot of cigarettes around, eight or nine thousand. I said "If there are that many cigarettes, they must be Hot." "By Hot" I meant stolen goods. That was all I said and all I had to do with the case.

Cross-examination by accused

Question:- Are you sure that Mr. Stewart said 8 or9 thousand and not 8 or 9 hundred?

Answer:- I couldn't be positive.

The accused declines to cross-examine this witness further.

Signed..L. Burroughs.....
S/5838 L/Cpl. Burroughs R.A.M.
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

The accused after being duly cautioned in accordance with Rule of Procedure (4) (E), states after being duly sworn at his own request:-

I received those cigarettes to sell thinking that they were legimate and not stolen. They were handed to me in the dark and as I can't read without glasses; I never gave it a thought to look at them for if I had, and seen that the addresses I would never have sold them.

This statemant was made on 24th., Dec. 40. The accused declined to add to it or amend it at the subsiquent hearing.

Signed..W. A. Doherty.....
S/5837 Sapper Doherty, W.A.
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

The accused did not desire to call any witnesses for the defence

I certify that the foregoing summary of evidence consisting of 4 pages was taken down by me in writing in the presence and hearing of the accused on this 24th., day of December, 1940. I certify that rules of Procedure 4 (C),(D),(E) and (F) have been complied with.

Signed ..R.B. Allen.....
Lieut R.B.Allen.
No.1 Canadian Tunnelling Company,
Corps of Royal Canadian Engineers.

Additional Evidence, Case against B/5837 Sapper Doherty W.A.

Sixth Witness (Military) B/2933 Spr. O. Robillard 2nd Road Construction Company R.C.E. Canadian Army will be called and will state in Substance:

"I am certain that I never received the parcel of cigarettes from which the label produced by Inspector Collis, was detatched. I am certain that at no time have I received cigarettes from the Porcupine Fag Fund."

Seventh Witness (Military) B/29366 L/Cpl. F. Tyo, 2nd Road Construction Coy,, R.C.E. Canadian Army. will be called and will state in Substance.

" I am certain that I never received the parcel of cigarettes from which the label produced by Inspector Collis was detatched. I am certain that I have never received cigarettes with the double address "2nd. Road Construction Coy., No.1 Tunnelling Coy."

I Wm. A.Doherty have read the above I understand that it is a summary of testimony to be offered in evidence against me at my trial. I have been given a copy this 14th. day of January 1941

Signed. Wm. A. Doherty
B/5837 Spr. W.A.Doherty,
No.1 Cdn.Tunnelling Company,
Corps of R.C.E.

The above testimony has been given before me in accordance with Rule of Procedure 76. I certify that a true copy has been given the accused this 14th., day of January 1941.

Signed.... R.B.Allen
R.B.Allen Lieut.,
No.1 Canadian Tunnelling Company
Corps of Royal Canadian Engineers

Dr Woodhouse

Comment on case vs Smith

Charge :- Theft (on or about Dec 5). Comment.

Evidence

First witness :- Doherty :-

from summary :- I received & resold to Stewart cigs. from a source I won't disclose. Wrapped for mailing - about 1200 - I think there were addresses - didn't notice.

Evidence of Accomplice.

Third witness per Insp. Hollis -

from statement to Police

Cpl Smith "one evening last week" at R.H. Hotel asked me to sell for him 48 pkgs of 4lb. cigs. I did - to Stewart for £2.10.0. I owe accused £2, kept 10/- myself.

Word of accomplice admissible

Fourth witness (to be called) Stewart

I didn't see Cpl. Smith when I bt cigs fr. Doherty.

No corroboration of above evidence here.

Accused's statement at trial

I never got cigs from nor sold to gave to anybody - - etc - - .

2nd witness Hamilton

assistant to accused who was to discriminate accused. No evidence to show parcels addressed to any particular person. No evidence to show not properly forwarded

as to Post office. He was mail clerk for several days prior to dance Dec 5. Mail mostly cigs. A lot for other units than 1 Tunneling Co. placed on shelf. Remark to Smith (accused) about forwarding on & accused said "no hurry" & referred to laxity of other units in that respect.

Day after the dance I noted ½ gone & reported to Capt Wilson - commanding

that part of his evidence not clear. ½ bottom of mail

Evidence

Comment

duly forwarded was for Gibralter + balance still ~~[illegible]~~ on shelf to be forwarded.

Accused's statement

as noted on p. 1 of these notes, also says on Dec 5th he took part of wrongly addressed mail to P.O. Featherhead + the balance the following afternoon. He kept no record of this incorrectly addressed mail. Says something about the P.O. box being jammed.

Robilard + Iyo - To be called - "never received ~~many~~ ~~letters~~ labels alleged referred.

Is this to suggest someone else tampers with mail office?

P/O labels are referred to in this summary.

Nothing anywhere in this summary ~~summary~~ tying in prepared by + Robilard evidence

Further comment

Have noted July. 3's remarks, also Major Campbell's letter.

I agree with July 3. that the summary discloses no prima facie case against accused - + I go further - that even read in conjunction with Dougherty summary, it does not disclose a case. I note Major Campbell agrees with the latter. Dougherty cannot tie in the labels

Unless the Bournemouth Postal authorities can produce records to show specific mail passed through the Boy P.O. under Pat Smith's charge, + that it was accused's duty to keep a record of misdirected mail, I cannot see how even the suggested alternative charge of "losing by neglect" would hold.

additional evidence to show

would be produced

Certainly enough evidence to show Rob. Iyo + Taylor didn't get their mail - but not enough to substantiate the ~~[illegible]~~ charges against accused in specific instances mentioned.

MESSAGE FORM

Serial No.

CALL AND INSTRUCTIONS

IN

OUT

No. of Groups. GR.

OFFICE DATE STAMP

(ABOVE THIS LINE IS FOR SIGNALS USE ONLY.)

TO Nelson

FROM Allen 1st Lieut Coy

Originator's Number

Date 5

In Reply to Number

Enclosed copies of warning. Dunbar copies already given to Smith & Dobson

THIS MESSAGE TO BE SENT AS WRITTEN BY ANY MEANS

R B Allen

IF LIABLE TO BE INTERCEPTED OR FALSELY AFFECTED, THIS MESSAGE MUST BE SENT IN CIPHER.

ORIGINATOR'S INSTRUCTIONS REGARDING PRIORITY

TIME OF ORIGIN

Signature

(BELOW THIS LINE IS FOR SIGNALS USE ONLY.)

T.H.I.

T.O.R.

Received	Sent, or delivered to	Office Stamp	Reader	Sender	System	Time sent	Reader	Sender	System	Time sent	Reader	Sender

Forms C2118/18, W.L. 20109/1178, 1,000m. pads, 12/... G. R. & S. Ltd. 11-5487.

No. F/44945 Name Smith J.W. Sqn., Battery or Company "D" coy. Corps The Picton Highlanders Date of enlistment 2-9-39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Guillemont	18/2/40	Cpl.		An act prejudiced to good order and Military discipline i.e being absent from Church Parade	Cpl. Ellis W.A.	Repremanded	19/2/40	K.P Hauis	

I certify that this is a complete and true copy of this man's Conduct sheet to date January 2nd., 1940

(R. E. A. COLIN N. CAMPBELL. MAJ.
O.C. No. 1 Coy. Tunnelling Coy. R.C.E.
Corps of Royal Canadian Engineers.

(P.T.O.)

136 D.

H. 16008 cpl. Doherty W. C.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this TWENTIETH day of OCTOBER, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 2nd CANADIAN DIVISION, CANADIAN ARMY, ACTIVE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

[illegible]

In the immediate absence of [illegible] In my opinion, military exigencies, namely the dispersion of units, difficulties of communication and other difficulties, render it inexpedient to follow those rules of procedure inconsistent with Appendix "A" to D.R.O 772 on the trial of the accused persons named in the schedule hereto, by a F.C.C.M., assembled pursuant to the Order of the S.O.C. 2 Cdn Div.

PROCEEDINGS REVIEWED.

President.

Rank.	Name.	Regiment.
MAJOR	F. W. COURT	TOR SCOT R (MG)

Members.

Rank.	Name.	Regiment.
A Captain	(To be appointed by C.C. Sigs 2 Cdn Div)	Sigs 2 Cdn Div
Lieut.	R. C. Garrett	7 Cdn Fd Coy RCE
	WAITING MEMBERS	
A Captain	(To be appointed by O.C. 8 Cdn Fd Amb)	8 Cdn Fd Amb
A Captain	(To be appointed by O.C. 11 Cdn Fd Amb)	11 Cdn Fd Amb

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (Victor W. Odlum), Major-General
Commanding 2nd Canadian Division.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H16008, Cpl. William Charles Doherty, 8 Cdn Recce Bn (14H)	FIRST CHARGE A.A.Sec. 6(2)(f) W.O.A.S. LEAVING HIS GUARD WITHOUT ORDERS FROM HIS SUPERIOR OFFICER (See charge sheet attached)	Guilty	Reduced to the ranks. Guilty 28 days detention. Guilty Forfeit 10 days pay for absence	Confirmed, but I remit 3 shillings 4 pence of the stoppage L.W.O.
	SECOND CHARGE A.A.Sec. 15(1) ABSENTING HIMSELF WITHOUT LEAVE (See charge sheet attached)	Guilty	Stoppage of pay £1.8.10	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) V.W. Odlum (Victor W. Odlum), Major-General
Confirming Officer (d)

(Signed) P.W. Court, Major (P. W. Court), Major
Tor Scot R (M2)
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

25

I certify that the above Court assembled on the 25th day of October 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. **B.** Certificate of President as to proceedings.

I also certify that :—

1. The members of the Court
2. The witnesses
* ~~3. The interpreter~~
* ~~4. The officers under instruction~~

were duly sworn.

* Omit if not applicable.

Signed this 25th day of October 1941.

W. Court, Major.
President of the Court Martial.

* See footnote (b) on page 762 M.M.L. 1939.

~~I certify that the terms of A.A.C.I. 370 of 1918 have been complied with.~~ **C.** Certificate in case of death sentences.

Signed this day of 19

President of the Court Martial.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. **D.** Confirmation.

* ~~I direct that the soldier named in the margin be not committed to prison until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 1 day of Nov 1941.

V.W. Odlum
Confirming Officer.

Promulgated and extracts taken in the case of: H-16008 Corporal W.C. Doherty.

(a) (Dated) 5 Nov 41. (Signed) (I.K. McDougall) Capt A Adjt. 8 Cdn Recce Bn (14 H)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Army Form B 256

3

MORNING SICK REPORT
MEDICAL INSPECTION REPORT*

Station and Date 25 October 1941

Unit 8 Cdn Recce Bn (14th)

Squadron, Battery or company

Army No.	Rank and Name (Christian name in full Surname first; M under name if married)	Completed Years of Age	Completed Years of Service	Religion	H for duty?	Whether a Defaulter	Lines or Barracks	Room of Mess	Disease	Disposal Medical Officer's Remarks and Signature
16008	Pte Doherty W6	38	9yrs	RC						

Tf for trial by Court Martial.

R.B. Murray Capt RCOME.

Orderly N.C.O.

*Strike out whichever is not applicable. State nature of duty for which warned, e.g. "for trial by Court Martial," or "for leaving the station." &c., should be stated against their names.

In the case of men for medical inspection, the reason, such as "sick," &c., should be stated against their names.

W1. 43443/1250. 12m/40 (41). C. B. & Co. 41-6875.

5

CHARGE SHEET

The accused, No. H16008, Corporal William Charles Doherty, 8 Cdn Recce Bn (14H), a soldier of the Canadian Army (Active), is charged with:

FIRST CHARGE
A.A.Sec. 6(2)(f) WHEN ON ACTIVE SERVICE LEAVING HIS GUARD WITHOUT ORDERS FROM HIS SUPERIOR OFFICER

in that he

In the field on 14 Sep 41, while acting as Guard Commander wrongfully left his post without orders from his superior officer.

SECOND CHARGE ABSENTING HIMSELF WITHOUT LEAVE
A.A.Sec. 15(1)

in that he

absented himself without leave from 2100 hours 14 Sep 41 until he surrendered himself to the Military Police at Birmingham at 2200 hours 23 Sep 41. Expenses involved in the sum of £1/8/10 were properly incurred in returning the accused to his unit.

(C.C.Mann), Lieut-Colonel.
O.C. 8 Cdn Recce Bn (14H)

October, 1941
In the Field.

PROCEEDINGS OF A FIELD GENERAL COURT
MARTIAL HELD AT HEATHFIELD, SUSSEX
ON SATURDAY 25 Oct 41

PRESIDENT: Major F. W. Court, The Ter Scot R (MG)

MEMBERS: Capt. D. Wade, Sigs 2 Cdn Div.

Lieut. R. C. Garrett, 7 Cdn Mi Coy., R. C. E.

TRIAL OF NO. M16008, Cpl. Doherty, W. C. 8 Cdn Recce Bn (14H)

PROSECUTOR: Lieut. C. D. Williams, 8 Cdn Recce Bn (14H)

DEFENDING OFFICER: Lieut. D. A. Croll, 8 Cdn Recce Bn (14H)

---

1. The Order Convening the Court is read to the accused.

2.(A) The accused is asked the following questions:

1. Do you object to being tried by me, as President, or by any of the Members of the Court whose names you have heard read?
Answer: No, sir.

2. Do you object to having the evidence taken in shorthand by the shorthand writer?
Answer: No, sir.

2(B) The President, Members of the Court and Shorthand writer are Sworn.

3. The accused answers to his rank, number and name and is duly arraigned.

4. The accused pleads "Guilty", to the charges as read

5. Rule of Procedure 35(B) is complied with.

6. The abstract of evidence is read.

7. The Prosecutor files A.F.B. 296 and NIL 6 in connection with the accused, which are formally admitted by the Defending Officer as correct, and relating to the accused.

THE ACCUSED MAKES THE FOLLOWING STATEMENT IN MITIGATION OF PUNISHMENT:

It seems that War has an ennobling effect on a few members of the army and it has a ruinous effect on others, and it has no effect at all on a great many, and my statement is not given to prove or disprove a case. It isn't an argument against what is called the Crucible of War, and I would not have been in the army as long as I have if it was. I would probably not have done what I did if it was so; neither an attempt to show that no man has been tempered by the crucible of war without bearing some of its scars, although I may have some of them myself. War usually affects a man by making him become cruel, an ingrate, a wastrel, or selfish, or self-deluded or a drunkard, or contemptuous of what is good, or without faith in God or mankind. This service of my own, so far, has put me in a position where I am much the same as other men who have been over here as long as I have been, without action. I have done a great deal of drinking, which I probably shouldn't have done. On the date referred to in the charge I had been drinking and I was warned of the duty for guard about 1330 hours in the afternoon and at that time there had been myself and two other men who were not members of my regiment, and we had been talking over the inaction we were going through. We had formed probably a stupid sort of an idea at the back of our minds about making a three-man invasion of an occupied country, and I am afraid that I fell for it and when I left my duty I proceeded to Ashford and from Ashford to Rye to meet these two men, and our object was to steal a boat of some

kind and go across the channel and do what we could by ourselves, and get killed, if we were killed, do what we could and come back if we could get back and let people know what had been done, what we had seen and what we had found out. That plan naturally fell through, it was of course the drinking that started it and working on our imaginations. On both charges I naturally have pleaded guilty and I was guilty and I feel very, very-- I don't say sorry-- I say very unsoldierly, for having done the things that I did, sir. There is a small item of three shillings and four pence covering a meal which I didn't have at their expense, in fact I entertained the escort to a dinner at my own expense.

THE COURT IS CLOSED FOR CONSIDERATION OF SENTENCE.

CERTIFIED TRUE TRANSCRIPT OF
SHORTHAND NOTES TAKEN IN THIS
TRIAL AT THE TIME AND PLACE
APOS HEAID.

J.H.Spence

(D24030, S/Sgt J. H. Spence)

Abstract of Evidence, in the case of H-16008 Corporal William Charles DOHERTY.

The Officer Commanding directs that Lieut. C.D.Williams 8 Cdn Recce Bn (14 H) take an Abstract of Evidence in accordance with Appendix A to D.R.O.772, in this case.

1st Witness;

B75757 Sjt Rogers R.M. states;

On the 23 Sep 41 I appointed Cpl Doherty W.C. Guard Commander. His tour of duty to last until relieved. He took over from me at 1830 hrs. His absence was reported to me about 2100 hrs 23 Sep 41 by Cpl Burns, acting S.O.S. I placed Cpl Wilson J.K. in command.

2nd Witness;

B67658 L/Cpl Wilson J.K. states;

About 2200 hrs on the 23 Sep 41 I was ordered to take over the Guard by S.O.S. Burns in the absence of Cpl Doherty. I did so and carried on until relieved by "C" Sqn. at 1830 hrs 24 Sep 41.

3rd Witness;

A22272 L/Cpl Burns G.T. states;

I was S.O.S. on the 23 Sep 41. At 1130 hrs Cpl Doherty was personally warned by me that he was to be in command of B Sqn, Quarter Guard & Picquet commencing at 1830 hrs the same day. He took over the Guard from Acting SSM Rogers, At about 2100 hrs, I was at guard tent and noticed Cpl Doherty was absent. ~~On questioning the Guard I learnt that the accused had not been seen since about 1900 hrs. I reported his absence to Sgt. Rogers and on his advice delegated L/Cpl Wilson to take over the Guard.~~

4th Witness;

7689082 L/Cpl Mansell N. states;

The accused H16008 Cpl Doherty W.C. surrendered himself to me at 2200 hrs at New Street Station Birmingham on the 23 Sep 41. He had no pass.

5th Witness;

Lieut. McByers, #6 Coy Canadian Provost Corps states;

The following expenses were incured in apprehending and returning H16008 Cpl Doherty W.C. 8 Cdn Recce Bn (14 H) to his Unit from Birmingham on 25 Sep 41. Escorts return from London,

	0	17	0
25 Sep 41 Prisoner's single for to London from Birmingham	0	8	6
25 Sep 41 Escorts' Expense for meals and meals for prisoner	0	3	4
Total	£1	9	10

13

6th Witness:

G-7097 L/Cpl. Stephens, H.R. states:--

Expenses incurred during Journey from Birmingham to London as escort for H-16008 Cpl. Doherty W.C. 8 Cdn. Recce Bn. (14H) from 2000 hours 24 Sep 41 to 0030 hour 25 Sep 41.

£ 0 / 3/ 4.

The accused, when cautioned in Accordance with R.P. 4 declined to make a statement.

Taken down by me in the field this 8th day of October 1941 in the presence of the accused.

Lieut.
P.D. Williams)
8 Cdn. Recce Bn. (14H)

The accused when asked if he wanted an officer to represent him at his trial requested that Lieut. Graham, P.P.C.L.I. No. 103 C.I.H.U. be appointed Defending Officer.

CERTIFICATE OF SURRENDER UNDER SEC. 163 (1) (1) A.C.I.

15

I ..... certify that No. H/16008 ..... Rank .Cpl.....

Name .DOHERTY, W.C..... Coy ."B"..... Regt .8th Rec. Canadian. surrendered

himself to No .7689082... Rank ..L/Cpl.. Name .MANSELL, W..... ... C.M.P. at 2200 hrs

NEW STREET STATION on ...23.9.41.... as deserter (or absentee without leave.)

Station .BIRMINGHAM.....

Date ..23.9.41.....

Signed .....

CANADIAN MILITARY POLICE
LONDON AREA.

DAPM

CANADIAN PROVOST CORPS

17

No.6 Coy.
Cdn.Prov.Corps.
30 Henrietta St.
LONDON 25 Sept.41.

O.C.
No.6 Coy.
Cdn.Prov.C
LONDON.

Sir,

Re:H-16008 Cpl.DOHERTY W.C. R.C.A."A" Coy.Recce.Btn.

Escort of: BIRMINGHAM to LONDON

(1) At 1330 hrs. 24 Sept.41 I was detailed for escort.

(2) At 1350 hrs. 24 Sept. 41 I proceeded to Paddington Station and entrained for BIRMINGHAM at 1410 hrs.24 Sept. 41.

(3) Arrived at BIRMINGHAM at 1650 hrs. 24 Sept. 41 I proceeded to Central Police Station and took custody of the a/m soldier. The Army charge form "252, was forwarded to the D.A.P.M. Cdn.Prov.Corps, LONDON.

(4) Entrained at BIRMINGHAM at 2000 hrs. 24 Sept.41 Arrived at Paddington Station LONDON at 0030 hrs. 25 Sept. 41.

(5) I reported to No.6 Coy. Cdn. Prov. C.Hqtrs at 0145 hrs. 25 Sept. 41 and turned the a/m soldier over to the to the N.C.O. i/c of the cells to be detained.

(6) Nothing unusual ocurred during the journey.

(7) Expenses incurred.....Nil.

H.R. Stephens .....L/Cpl.
(G-7097 STEPHENS H.R.)

D.A.P.M.
Sir,
Forwarded for your information.

S. Dale .....Capt.
O.C.No.6 Coy.Cdn.Prov.C.

LONDON
25 Sept.41

D.A.P.M.
CANADIAN MILITARY POLICE
LONDON AREA

Ref: K.R.& O.(Can.)539

Regt.No: H.16008

Rank: Cpl.

Name: Doherty W.C.

Regt: Royal Can. Regt.

Unit: "A" Reconn. Btn.

The following expenses were incurred in apprehending and returning the m/s soldier to his unit from Birmingham

DATE	PARTICULARS	AMOUNT		
25 Sept.41	Escorts return fare from London to Birmingham	0.	17.	0.
25 Sept.41	Prisoners single fare to London from Birmingham	0.	8.	6.
	Prisoners single fare from London to			
25 Sept.41	Escorts expense for bed,meals,bus fares and meals for the prisoners.	0.	3.	4.
	TOTAL -- £	1.	8.	10.

I certify that the above statement of expenses is correct and that the amounts are fair and just.

M. O'Byrne Capt.

O.C. No. 6 COMPANY.
CANADIAN PROVOST CORPS.

NOTE.

No reimbursement for this account is to be sent to our office from your goodself,as the amount has been paid from petty cash and charged to Public Funds.

If the accused is found guilty a stoppage of pay should be put through your units Part II Orders.

No. H16008 Name Doherty W.G. Sqn., Battery, or Company "B" Corps 8 Cdn Recce Bn (14 H) Date of enlistment 2 Sep 41 G.C. Badges Service or Proficiency Pay

M.F.M. 6
A.F.B. 122
500M—8-39 (1793)
H.Q. 172-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with same	By whom awarded	Remarks
Witley	10/4/40	A/Sjt.	Nil	- A.W.L. from 0600 hrs to 2100 -	Red. to Cpl.	#3 C.I.H.U.			
Woodlands	19/8/41	Cpl	Nil	A.W.L. from 2359 / 4/41 hrs to 1100 hrs 17/8/41	Cpl Swanky Cpl Harper.	Severe Reprimand.		Lt-col Mann,	Forfeits 3 days pay.

CERTIFIED TRUE COPY

Lieutenant
8 Cdn. Recce Bn. (14 CH)

23

(substitute for A.F.B.
(295 or R.T.S.335)

STATEMENTS OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No H16008 N.J.E. DOHERTY Corporal Charles William UNIT 8 Cdn Recce Bn (14 H).

AGE 29 MARRIED or SINGLE Single No Of DEPENDENTS One

DATE OF ATTESTATION 2 Sep 39

NO OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL _____ MILITARY _____ HOSPITAL _____ TOTAL _____

DATES OF PROMOTIONS APPOINTMENTS AND CONFIRMATIONS OF RANK IF ANY

To be Cpl. 18 Dec 39 Part II Orders No 180.

A CERTIFIED TRUE COPY OF R.P.I. MUST ACCOMPANY THIS FORM.

(Officer i/c Records)

[signature] UNIT

A ADJT.
8 CDN. RECCE Bn (14 CH)

Dated at

This 25 day of Oct. 1941

(to be dated and signed as of date of trial)

[signature]

RRR-12
PTE DOIG H.A

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : H 16866 Pte Henry Arthur DOIG - 1 CIRU - PPCLI

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	"JRT"
2nd			
3rd			
4th			
5th			
6th			"JRT"

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternactive charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~XXXXXXXXXXXXXXXX~~ ~~XXXXXXXXXX~~ "JRT" (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which 0 days were spent in hospital. "JRT"

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo detention for a period of nine (9) months.

(Sgd) ..... Judge-Advocate, if any. 26 June 44 Date awarded. (Sgd) "J R Turner" Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

"GSNG"

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 739-741, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I XXXX XX/XXXXX XX XX XXXXXXXXX XXXXX XXXXXX XXXXXX XXX XXXXX XXXXXX~~ "GSNG"

(1. AA 57A. Delete if not used.)

Date 28 Jun 1944 (Sgd) "G S N Gostling" (G S N Gostling) Brigadier Commanding HQ "A" Gp, Cdn Hft Units CA(C) Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H-16866 Pte. Doig, H.A. PPCLI - 1 C.I.R.U.	29 Jun 44	"H. Sharp" Col (H. Sharp) Commander, 1 CIRU

PROMULGATED IN PART II DO 135 dated 30 Jun 44.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED
13 JUL 1944
JAG BRANCH
C.M.H.Q.

RECORDED AT CMHQ IN AB 160 RRR-12

FIELD GENERAL COURT-MARTIAL

CFAB6 (To Direct of AFAs) 40/P.M.S./698 (1/40) 4/38B

Convened by Order of Brig G S N Gostling Comd "A" Gp CRU dated 23 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H 16866	Pte	Henry Arthur	DOIG	1 CIRU PPCLI

PROCEEDINGS REVIEWED
1 Aug 44
"W P Taylor" Major
REVIEWING OFFICER
JAG BRANCH C.M.H.Q.

Certified true copy of original proceedings herein. 13 Aug 44

J.A.G.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 26 June 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) ~~XX~~ attached thereto.(2) "JRT" The Court is satisfied that it is properly convened and constituted(3), accused is ~~XX~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~XX~~ brought before the Court. At 1007 hours trial commences. "JRT"

A4. The Prosecutor produces a Medical Certificate that accused is ~~XXX~~ fit to undergo trial by court-martial.(1) "JRT" ~~XXXXXXXXXXXXXXX

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 68(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[X](1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s)[X], call witnesses as to character and make an address in mitigation of punishment.(2) "JRT" "JRT"

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s)[X].(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4) "JRT"

President to accused: Do you wish to make a statement? Ans No, Sir "JRT"

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 15(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly. "JRT"

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1) "JRT"

(1. *RP* 35(*E*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex B, initialled and read aloud by the President.(1) "JRT"

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1) "JRT"

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3. "JRT"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

"JRT" D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 29(*B*), 60(*A*) (*b*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 29(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 29(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 102(*b*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *The alternative commencement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below. "JRT"

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No, Sir "JRT"

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement[X] as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 165(3) (g) (h), and (ii) they purport to refer to (a) soldier[X] having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex F respectively.(3) "JRT" "JRT"

(1. *MFB* 255 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement[X] and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes, Sir "JRT"

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything there or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried sepcurately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 128, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566. *Overseas AC* 109, 1323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(2), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(3), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

The finding of the court that the plea in bar of trial is not proved is confirmed.

"G S N Gostling"
(GSN Gostling) Brig
Comd
"A" Gp Cdn Sft Units
CAO

17 Jul 44

Addendum Promulgated 24 Jul 44
"L S Grayson" Major
Cdn Detention Bks.

C H A R G E S H E E T

The Accused, No. H-16866 Private Henry Arthur DOIG, Princess Patricia's Canadian Light Infantry, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Section 15 (1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, absented himself without leave from 1845 hours on the 1st day of December, 1942 until apprehended at 1715 hours on the 3rd day of March, 1943.

Total Absence: 91 days 22 hours 30 minutes.

"H Sharp" Colonel
(H. Sharp) Commander,
1 Cdn Inf Rft Unit

Welbeck Abbey,
Worksop, NOTTS,

21st day of June, 1944.

To be tried by Field General Court Martial.

"G S N Gostling"
(G S N Gostling) Brig
Comd
"A" Gp Cdn Rft Units
C A (O)

Field
23 Jun 44

"J R Turner" Major

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H 16866	Pte		Henry Arthur	DOIG	1 CIRU PPCLI

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has [XXX]committed the offence[s] set forth in the Charge Sheet[s] attached and on (date) 23 Jun 44 endorsed by me, (~~XXXX

"JRT"

Medical Officers Certificate
K.R.Can. Para 557

I certify that I have this morning examined No. H 16866 Pte Doig H A and in my opinion he is ~~fit~~ xxxxx to undergo trial by Court Martial.

Station: Welbeck

Date: 26 June 1944

"L Goldberg" Capt.
(Medical Officer)

PLEA IN BAR OF TRIAL

The accused makes a plea in bar of trial under RP 36 on the grounds that the charge has already been disposed of by his Commanding Officer Lt-Col H.M.Bryson, E.D. West Nova Scotia Regiment.

Question by President: Do you wish to give evidence yourself or call witnesses to support your plea?

Answer: I wish to call two witnesses.

First Witness for the Defence: Lt-Col H.M.Bryson C.C. "A" Wing 1 C.I.R.U. having been duly sworn states:

Q 1: Are you Lt-Col H.M.Bryson?

A 1: Yes.

Q 2: Do you recognize the accused?

A 2: I do.

Q 3: On the 20th of June in what capacity were you acting?

A 3: In conjunction with my regular duties as OC "A" Wing I was acting as Commanding Officer of No. 1 C.I.R.U. in the absence of Col. H. Sharp who was away on duty.

Q 4: Was the accused paraded to you on that day?

A 4: He was. He was on my disposal list on the 20th June 44.

Q 5: At approximately what time was he paraded to you?

A 5: At approximately 1100 Hours or perhaps a few minutes later, between 1100 and 1115 hours.

Q 6: Why was the accused paraded before you?

A 6: On being released from Civil Prison.

Q 7: Do you know when he was released from Civil Prison?

A 7: No, all I know is that that morning I received a call from the Adjutant who asked me if I would see the accused in my capacity as Acting Commander of this unit.

Q 8: Was the accused under close arrest when he was paraded before You?

A 8: I could not say definitely he was escorted by a member of the Regimental Police.

"JRT"

Q 9: Did the accused appear on any specific charge?

A 9: No. It is customary that when a soldier is released from either Civil Prison or Detention he is interviewed by the Commanding Officer and that is the reason the accused appeared before me that morning--on interview only.

Q 10: Did you make any order with regard to the disposal of the accused prior to his leaving your presence?

A 10: No, I did not. It was not necessary. To my knowledge the accused was a free man. As far as I knew he had been released from Civil Prison and appeard before me on interview only.

A 11: Was the accused wearing headdress when he appeared before you?

A 11: No.

Witness is Cross-examined by the Prosecutor

Q 12: I understand that you made no disposal of Pte. Doig after the interview?

A 12: He was definitely not on charge at that particular time and after the interview there was no disposal to be made.

Second witness for the Defence: F 54635 Cpl. Bartholemew, E.H. having been duly sworn states:

The witness is examined by the Defending Officer.

Q 13: What is your name, rank and number?

A 13: F-54635 Cpl. Bartholemew, E.H.

Q 14: What is your employment in the Unit?

A 14: Regimental Police, sir.

Q 15: I have here a document headed: "Release Order" examine it carefully and tell me if that is your signature.

A 15: Yes it is.

Q 16: To whom does the document relate?

A 16: To Pte. Doig, H.A. (The document is marked exhibit "A" and attached to proceedings.)

Q 17: Do you recognize the accused?

A 17: Yes sir.

Q 18: Who is he?

A 18 Pte. Doig.

"JRT"

Q 19: Will you e xplain in your own words why you signed that document.

A 19: I was on duty on the 20th June 44 at the Detention Guard Room, Welbeck, 1 C.I.R.U.. At about 0900 hours Pte. Doig was escorted to RHQ to parade before the Commanding Officer. At about 1000 hours Pte. Doig returned in company with two escorts and the Provost Sergeant On instructions from Provost Sgt. Farndon I released Pte. Doig to "A" Coy. I wrote out release form which I have here for the Orderly Cpl. or Sgt. to sign for the live body and it was returned to me by one of the Regtl. Police. On 21st June 44 at about 1940 hours the Sgt-Major of "A" Coy came to detention saying that Pte. Doig would be returned to Detention under close arrest as there were other charges against him. I received him and locked him up in stall 4.

Q 20: At what time was the accused taken into c ustody at the Regtl. Guard Room?

A 20: I am not quite sure but it was on the 19th June 44.

Q 21: Was he held under close a rrest from the time he was taken into your charge?

A 21: He was, sir.

Cross-examined by Prosecuting Officer

Q 22: Why was Pte. Doig under close arrest when he returned to the Unit?

A 22: As far as I know he had other charges pending against him such as AWL.

Q 23: Did you see any evidence of t hese charges prior to 20th June 44?

A 23: No, Sir.

"JRT"

Address by Defending Officer

From the testimony of the two witnesses it is evident that the accused was held under close arrest from the time he arrived at No. 1 CIRU. It is also evident that the accused appeared before the first witness as a prisoner. Therefore the accused must have been held on charge. The first witness has stated that when the accused left his presence he was a free man. The accused has been held in close custody by the Military Authorities since his release from Civil Custody about 15th June 1944, therefore I submit that the prisoner was held under close arrest for absence without leave by virtue of the fact that no other charges have been laid against the accused and that when the accused appeared before the Commanding Officer and was allowed to leave his presence as a free man the Commanding Officer did in fact dispose of charge against the accused and such being the case I submit that the accused should not be subjected to a new trial.

Address by Prosecuting Officer

Sir, the plea in bar of trial has sought to establish that Pte. Doig has been dealt with in respect of a charge of absence without leave by the Commanding Officer. If I may refer to the record to insert the Commanding Officers own words into my remarks, being the reason why Pte. Doig was paraded before him:

"It is customary that when a soldier is released from Civil Prison or Detention he is interviewed by the Commanding Officer and that is the reason the accused appeared before me that morning--on interview only."

It is further established in subsequent testimony that up to 20th June the charges of AWL had not been brought against the accused. It is obvious from these facts that the Commanding Officer could not possibly have received Pte. Doig in respect of the present charge.. The Colonel's disposal of Pte. Doig was nt a release from the charges he now faces. And the disposal made in good faith cannot reasonably be construed as a disposal of the charge of AWL. I move therefore that the plea in bar of trial on grounds that the charge of AWL has been already dealt with by Pte. Doig's Commanding Officer be not allowed.

"JRT"

The Court is closed to consider the Plea.

The Court ovyerrule the plea and the Court is reopened.

The President informs the accused that his plea in bar of trial has been overruled by the Court.

The trial proceeds.

"J R Turner"

Major

PLEA IN MITIGATION
(made by defending officer)

The accused has pleaded guilty to the charge of AWL therefore must be punished however before the Court fixes the sentence I would ask that they take the following points into consideration.

1. The accused has just completed a fairly long term in a civil prison for another offence during which time he has had ample time to consider the error of his ways. I do not feel that a long period of further detention would serve to make the accused more contrite.

2. He has experienced a bitter disappointment in that he felt, with some justification, that all charges against him had been dropped on being paraded to the C.O. and being informed that he was now a free man and in fact actually released from custody for one day.

"JHT"

Ex B
"JRT"

SUMMARY OF EVIDENCE

In the case of H-16866 Pte. Doig, H.A., Princess Patricia's Canadian Light Infantry, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on Oath.

FIRST WITNESS for the PROSECUTION

Lieut. W.E.Ferris, Canadian Infantry Corps, on the strength of No. 1 Canadian Infantry Reinforcement Unit, an officer of the Canadian Army Overseas, having been duly sworn states as follows:

I am Lieut. W.E.Ferris, Canadian Infantry Corps. I produce M.F.B.375, Certified true copy of Record of the Declaration of a Court of Inquiry purporting to be signed by A.S.Pearson, Colonel, Commanding 1 C.D.I.R.U. which relates to the accused. This document is marked Exhibit "A" and is duly initialled by me for purposes of identification. I also produce Army Form O.1618, purporting to be signed by T.Cadilling, Committing Magistrate which relates to the accused. This document is marked Exhibit "B" and is duly initialled by me for purposes of identification.

The accused declines to cross-examine this witness.

"W E Ferris" Lieut.
(W. E. Ferris)

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The Accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c),(d) (e) and (f) have been complied with.

" R W Bonner " Lieut.
(R.W.Bonner) Officer detailed to take the Summary of Evidence.

Welbeck Abbey,
Worksop, NOTTS,

21st day of June, 1944.

"JRT"

2 Bde

Exhibit "A"
"WEP"

RECORD of the Declaration of a Court of Inquiry assembled at 1 C.D.I.R.U. on the 24th day of Dec 1942 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. H-16866 Pte. Doig H.A. PPCLI 1 C.D.I.R.U. by authority of Part I D.O. 3146 dated 23 Dec. 42.

DECLARATION

The Court declare, that H-16866 Pte. Doig H.A. P.P.C.L.I. 1 C.D. I.R.U. illegally absented himself without leave from 1845 hrs. 1 Dec 42 and is still so absent and that on 24 Dec 42 he was deficient and is still deficient the following articles of kit:

Blouses serge	2	2-15-4	2-2-0
Trousers serge	2	2-15-10	2-2-0
Boots ankle prs.	2	2-3-0	1-12-3
Brushes Boot blacking	1	0-0-8	0-0-6
Braces prs.	1	0-1-3½	0-1-0
Brushes boot polishing	1	0-2-1	0-1-7
Brushes button	1	0-0-8	0-0-6
Brushes cloth	1	0-1-1	0-0-10
Brushes hair	1	0-1-1	0-0-10
Brushes shaving	1	0-1-4	0-1-0
Brushes tooth	1	0-0-4½	0-0-3
Cap comforter	1	0-1-8	0-1-3
Dressing F.F.	1	0-1-1	0-0-10
Fork table	1	0-0-5	0-0-3½
Holdall	1	0-0-3	0-0-2
Housewife	1	0-2-3	0-1-9
Jersey pullover	1	0-6-9	0-5-0
Knfie table	1	0-0-9½	0-0-7
Razor	1	0-1-10½	0-1-6
Vests woollen	1	0-5-1	0-3-10
Shoes canvas prs.	1	0-3-6	0-2-8
Towels hand	1	0-0-11 1/8	0-0-8
Vest gym	2	0-3-10	0-2-10
Shorts Gym	2	0-4-1	0-3-1
Haversack	1	0-8-6	0-6-4
Res.haversack	1	0-4-7	0-3-6
Eyeshields	6	0-2-3	0-1-9
Ointment A.G.	1	0-0-9	0-0-7
		10-11-4½	7-19-4½

Names of
President and Members:

President Lieut. J.C.Newlands
Member Lieut. J.O.Nesbitt
Member Lieut. G.H.Pybus.

Signature of Commanding Officer "A.S.Pearson Col.

Exhibit D
"JRT"

Certified true copy "H F Atkinson" Lieut.
Signature of Officer having custody of original record.
Assistant Records Officer 1 C.D.I.R.U.

M.F.B. 378

H.16866 A Boyes

DESCRIPTIVE RETURN OF § Henry Arthur Doig who D
as apprehended at Birmingham (hour) 17.15 on the 3rd day
of Mch 43, and was committed to confinement at Lock up
on the M day of March 1943 as a Deserter (or Absentee without
leave) from the Bn. of the Princess Pats Canadian Light Infty
Regiment of 1 C.D.I.R.U. Whitley Surrey

Age 22 Height 5 feet 6½ inches
Complexion Fresh Hair Dk Brown Eyes Brown
Marks Scar left eyebrow In uniform xxxxxxxx

Probable date and place of attestation	Feb 1940 Canada
Probable date of desertion or beginning of absence and from what place	1942, Whitley, Surrey
Name occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	DAK 107 Miller Bham City Police

Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.

* R 10 (?) 4 March 1943 defendant admitted being an absentee

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he† is an absentee without leave from the before-mentioned Corps.

"T Canning" Signature
Edbuston Residence
Birmingham Post Town
} of Committing Magistrate.

March 11.43 Date of Signature

"H A Doig" Signature of Prisoner

"Ralph Aston" Det Can R/N Signature of Informant

Exhibit C "JHT"

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming.

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the ____ day of ____ for the purpose of obtaining such evidence.

_____ Signature
_____ Residence
_____ Post Town
} of Magistrate.

_____ Date of Signature

§ Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

Exhibit "B" "WEP"

Army Form O.1618.

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. ____ of ____

Regiment at ____ on ____ by ____

who was committed as a Deserter (or Absentee without leave) on the ____

RECOMMENDATION FOR REWARD.

I RECOMMEND* ____

____

Address ____

for a reward of ____

____ ____ Signature of Committing Magistrate.

____ Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to **Army** funds. Such expenses can be included in the claim made on the Prison Commissioners

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the_____

Police in connection with the apprehension of_____

_____and are

payable to_____

_____ {Superintendent or Officer i/c Police Station at

Date_____ _____

AUTHORITY for the PAYMENT of a REWARD. (*For Army use only.*)

The Command Paymaster_____is hereby authorised to pay to_____being the person recommended by the Committing Magistrate, a reward of_____for the apprehension of_____

Date_____ _____(O.C. Unit)
Officer Commanding.

Where no reward is authorised though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

IMMEDIATE.

Army Form O.1618.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(7/1016) W1/12003/634 10,000 5/39 A & E.W.Ltd. Gp.678
(7/1016) W1/4025/5718 50,000 11/44 " " Forms/O.1618/10

RELEASE ORDER

To Company Commander of the A Coy Company
from the Provost Sergeant.

No. H 16866 Name Pte Doig H A

The above mentioned man having finished his sentence is released to you for duty.

Kindly sign this release, and return by Police.

xxxxxxxxx 1 C.I.R.U.

"Cpl. Bartholmew" xxxx

"Cpl S. Arneson"
Company Commander

Exhibit "A"
"JRT"

No H16866 Name DOIG H.A. | Sqn, Battery, or Company | Corps Cdn Inf Corps | Date of enlistment 14.2.40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3428)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine N/A | Sheet No one | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	22 Sep 40	Pte		AA Sec 40.		2 days detn	22.9.40		Forf 2 days pay 149(1)b.
Field	27 Sep 40	Pte		AA Sec 40, AA Sec 15(1)		10 days detn	27.9.40		Forf 10 days pay 149(1)b.
Field	15 Nov 40	Pte		AA Sec 15(1)		10 days pay FR&I 149(2)	19.11.40		Forf 10 days pay 149(2)
Field	30 Dec 40	Pte		AA Sec 15(1)		15 days pay FR&I 149(2)	3.1.41		Forf 15 days pay 149(2)
Field	25 Jan 41	Pte		AA Sec 15(1)		3 days CB 1 days pay FR&I 150(b)	5.2.41		Forf 1 days pay 150(b)
Field	24 Mar 41	Pte		AA Sec 15(2) absent from parade. improper language. causing disturbance.		5 days CB 5 days pay FR&I 149(2)	27.3.41		Forf 5 days pay 149(2)
		"JRT"							

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4 Apr 41	Pte		AA Sec 19, Sec 15(1)		Fined $5.00 (2nd offence) 15 days detn on 2nd charge 22 days detn	26.4.41		Forf 15 days pay FR&I 149(1)b. Forf 22 days pay FR&I 149(1)b.
Field	26 Apr 41	Pte		AA Sec 40 in possession of stolen goods.	Lt Dawson	2 days pay FR&I 149(2)	17.6.41	Lt-Col RFL Keller	Forf 1 days pay FR&I 149(1)a.
Field	14 Jun 41	Pte		AA Sec 40 improperly dressed. AA Sec 11 failed to carry out an order. AA Sec 15(1) AWL 1800 hrs 15 Jun 41 to 1700 hrs 16 Jun 41 (Absent 23 hrs)	Sgt Main-prize Cpl Coutts				Forf 2 days pay FR&I 149(2)
Field	17 Jun 41	Pte		AA Sec 24(2) losing by neglect one yellow indicator.	L/C Evans "JRT"	5 days CB	7.7.41	Maj R.P. Clark	

No H16866 Name DOIG H.A. | Sqn, Battery, or Company | Corps Cdn Infantry | Date of enlistment | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAY/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No Two | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 20	Jun 41	Pte		AA Sec 40 left coy area without permission. and was insolent in manner to a superior officer.	CSM Bethell Pte Buxton	7 days CB	27.6.41	Maj R.P. Clark	
Field 17	Jul 41	Pte		AA Sec 15(2) Absent from duty. AA Sec 15(1) AWL 1800 hrs 16 Jul 41 to 2325 hrs 17 Jul 41 (Absent 1 day 5 hrs 25 min)	L/C Evans L/C Ashcroft L/C Chapman L/C Davis	96 hrs detn	19.7.41	Lt-Col RL Keller	Forf 2 days pay.149(1)a. Forf 4 days pay 149(1)b.
Field 23	Oct 41	Pte		AA Sec 15(1) AWL 1800 hrs 23 Oct 41 to 0945 hrs 24 Oct 41 (Absent 15 hrs 45 min)	Documentary	3 days pay FR&I 149(2)	27.10.41	Lt-Col DL Redman	forf 1 days pay 149(1)a. Forf 3 days pay 149(2)
Field 1 Nov 41		Pte		AA Sec 40 conduct to prejudice. AWL 0600 hrs 1 Nov 41 to 1200 hrs	L/C Ashcroft Cpl Kyle	7 days pay FR&I 149(2)	4.11.41	Lt-Col C. Vokes	Forf 1 days pay 149(1)a.

"JRT"

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				1 Nov 41 (Absent 6 hrs)					Forf 7 days pay FR&I 149(2)
Field 25 Mar 42		Pte		AA Sec 15(1) AWL 40 hrs 45 min.	Sgt Langfield	7 days CB	28.3.42	Col Farmer	Forf 20 days pay FR&I 149(1)a.
Field 11 Apr 42		Pte		AA Sec 20(2) AA Sec 6(2) AA Sec 15(1)	Documentary	120 days detn and cost of apprehension £3-11-11.	6.5.42	FBCM	Forf 20 days pay FR&I 149(1)a. Forf 120 days pay FR&I 149(1)b. Forf 5 days pay FR&I 149(1)c(i)
						Released from Cdn Detn Bks 27 Jul 42 and granted remission of 37 days with pay.			
Field 1 Sep 42		Pte		Civil charge of damage to property, assault, and assault		to pay £1-0-0 damages and one mo. HL.	11.9.42	Civil Ct.	Forf 31 days pay FR&I
Field 12 Oct 42		Pte		AA Sec 15(1) AWL 1 hr. AA Sec 40, AA Sec 11.	Documentary	28 days detn			Total forf. 55 days pay FR&I

"JRT"

No H16866 Name DOIG H.A. | Sqn, Battery, or Company | Corps Cdn Infantry | Date of enlistment | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAM/136 (B428)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No Three | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		Civil charge of theft.	Documentary	2 mos impt H,L.	11.3.43	Civil Ct Birmingham.	Forf 61 days pay 149(1)b. Forf 6 days pay 149(1)c(1
Field		Pte		Civil charge of robbery with violence, and nine other offences taken into consideration.	Documentary	20 mos impt.	11.5.43	Civil Ct Ondon	Forf 611 days pay FR&I.
					Released from Prison 17 Jun 44 Granted Remission of 246 days with pay.				
Exhibit 'F' "JR Turner" Major									

CERTIFIED TRUE COPY Consisting of three pages

Date 26 June 44 "E L Beetlestone" Lieut

(E.L.Beetlestone) Officer i/c of Regimental Books.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

M.F.B.355

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-16866	Private	Henry Arthur DOIG,	PPCLI 1 C.I.R.U.

1. The following is a fair and true summary of the entries in the "ELB" xxxxxxxxxxx "ELB" xxxxxxxxxxxx Conduct sheets/ xxxxxxxxxxx "ELB" of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the xxxxxxxxx "ELB"/Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AA. Sec. 11	times	2 times
AA.Sec.15(1)		11
For AA.Sec.15(2)	times	2 times
For AA.Sec.19(2nd offence)	times	1 times
For AA.Sec.24(2)	times	1 times
AA.Sec.40		7

"ELB" xxxxxxxxxxxxxxxxxxxxxxxxx
xxxx "ELB"
"ELB" xxxxxxxxxxxxxxxxxxxxxxxxx
NOTE.--If the charge is for drunkenness, the entries must be stated separately.

2. "ELB" xxxxxxxxxxxxxxxxxxxxx
xxxxxxx "ELB"
Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the "ELB"xxxxxxx/Army Act and dispensations with trial under "ELB"xxxxxxx/A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.
"Elb" xxxxxx
"ELB" xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

4. The accused has been in confinement awaiting trial on the present charges, for "Elb" 0 days in civil custody, and "ELB" 9 days in "ELB" xxxxxx/military custody, making a total of "ELB" 9 days in custody, of which No days were spent in hospital.

5. The present age of the accused according to his "ELB" xxxxx/ attestation paper is 24 years

6. The date of his "ELB"/ attestation specified in his "ELB" xxxxxxxxx/attestation paper is 14 Feb 1940

7. The service which the accused is allowed to reckon towards discharge is 2 yrs 128 days

8. The accused is entitled to reckon above service for the purpose of determining his pension, etc.

9. The accused "ELB" xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
"ELB" xxxxxxx "ELB" xxxxxxxxxx
xxxxxxxxx entitled to). State any"ELB" xxxxxxx/military decoration or reward. Cdn Voluntary Service Medal and Clasp

10. "ELB" xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
"ELB" xxxxxxxxxx
"ELB" xxxxxxxxxxxxxxxxxx

"ELB" xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx "ELB"

NOTE.--If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the "ELB" xxxxxx/Army Act, and of cases in which trial has been dispensed with of accused, Number H-16866 Rank Private Name Henry Arthur DOIG of PPCLI, 1 C.I.H.U. Unit Regiment

NOTE.--A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which Convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	6 May 42 Field	AA.Sec.20(2) AA.Sec.6(2) AA.Sec.15(1)	120 days [illegible] pay cost of apprehension £3-11-11	37 days with pay
Civil Court	11 Sep 42	Damage to property, assault and assault	Fined £1-0-0 for damages and one month with H.L.	
Civil Court	11 Mar 43 Birmingham	Theft	2 months imprisonment with H.L.	
Civil Court	11 May 43 London	Robbery with violence and nine other offences taken into consideration	20 months imprisonment	245 days with pay

I Hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody, and MFM.4

Signed this 26th day of June 44 "E L Beetlestone" Lieut
(E.L.Beetlestone) Asst Records Officer

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Exhibit E signed by the president, and annexed to the proceedings.

"J R Turner"
Major

(1) I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Welbeck Abbey, Worksop, NOTTS, preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at Welbeck Abbey, NOTTS,
this 22nd day of
June 1944

"H A Doig"

(2) I hereby request that the Convening Officer appoint an officer to represent me at my trial.

xxxxxxxxxxxxxxxxxxx
xxxxxxxxxxxxxxxxxxxxxxxxxx

"H A D"

"JRT"

List of Witnesses for the Prosecution
in the case of
H-16866 Pte. Henry Arthur DOIG

Lieut. W.E.Ferris - Officer producing Documentary Evidence.

List of Exhibits
in the case of
H-16866 Pte. Henry Arthur DOIG

M.F.B. 375 - Record of the Declaration of Court of Inquiry

Army Form C.1618 - Certificate of Apprehension

"JRT"

58-100

Pte. Dairon, L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D-51062 Pte Clement DOIRON, R de Chaud, 1 Cdn Disciplinary Centre.

Charge. (Insert " alternative " where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AAIS(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

A1. present sentence not ~~to~~ beginning on (date) N/A

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 25 days, of which N/A days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

179 days detention

(Sgd) ..... 25 Feb 45 (Sgd) ..... A/Lt-Col - Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 57(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

I ~~direct~~ that the accused be not committed to prison or detention ~~pending further orders~~.(1) (1. AA 57A. Delete if not used.)

(Sgd) (G S N Gostling) Brig

Date 26 FEB 45 Commanding 2 CDN BASE RPT GP Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

D51062 Pte Doiron, C 3/Mar/45 ..... Lt-Col. Comdg 1 Cdn Disciplinary Centre

CR 218 2 March 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160. 5C-100

REGD 13 APR 1945 CMHQ

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of APA8) 40/P & B/1698 (6) (44) 4/38B

Convened by Order of Brig G S N GOSTLING, ED. Comd 2 CBRG dated 23 FEB 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D-51062	Pte	Clement	DOIRON	R de Chaud, 1 Cdn Disciplinary Centre.

PROCEEDINGS REVIEWED J. Mulligan Capt. 2/16 Apr 45 REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 25 FEB 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 16, 63-70, 72, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the Offr.~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. Members be sworn : Do you object to ~~as interpreter~~ ? Ans

~~The Interpreter is sworn.~~(1) Do you object to ~~as shorthand writer~~ ? Ans

~~The Shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn(1). The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	J C LOVAT-FRASER,	RCE, 13 CBR Bde
Member	Captain	J P R Robichaud	CIC " "
Member	Lieutenant	J L A Poulin	CIC 10 CBR Bde
Judge-Advocate			
Prosecutor	Lieutenant	J M A LALONDE	CIC " "
Defending Offr	Lieutenant	J W R HUBERT	Regt de Chaud 10 CBR Bde

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 2.)

A8. The accused D-51062 Pte DOIRON C. before arraignment make(s) (no) ~~a~~ plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addressee made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB name and name of the accused making the plea.)

A9. The accused is ~~then~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CARG. Vol 4 P. 8.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of "Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex D, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D6 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D6 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts now of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D6 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....Do you intend to call witnesses on your behalf? Ans.....Are they witnesses as to character only? Ans.....
(1. *RP 115.* 2. *RP 40(A); see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 695. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(E).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (d), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true ~~copy (copies) of Conduct Sheet(s)(2)~~, purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex respectively.(2)
(1. *MFB 355 or AFB 2916.* 2. *MJM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. No.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(4), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 363-366. Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), (d)(i), KR Can 564.* 2. *RP 50. As to release from arrest on Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Recommendation of Court.

This Court recommends, that this man's appearance & conduct are such that he would be of more value, in his Unit, fighting, than, in detention. He is Category "A" - 24 years of age & a trained Infantry man. Was in action from June 11th Oct 44. He is not married. Enlisted in July 40. & claims [redacted] home only three entries on MFM 6. all for minor offences.

This Court recommends this soldier be given a chance to prove his ability & sincerity & suggests, that he forfeit all ordinary pay for a period of Ninety days & goes forward to his Unit & Life out.

Chm. Lord - Forces Major
President

CHARGE SHEET

The accused, E.10168 Pte Clement DOIRON, Regiment de la Chaudiere, presently attached 1 Cdn.Disciplinary Centre, a soldier of the Cdn Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field, BELGIUM, absented himself without leave from 0845 hrs 3 Oct 44 until apprehended by the C.M.P. at LANGRUN SER MER, FRANCE, at 1330 hrs 30 Nov 44. (Total time absent: 57 days 4 hrs 45 minutes).

In the Field,
20 Feb 45.

(A.O. Hood) Lt-Col
Officer Commanding
1 Cdn Disciplinary Centre.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL.

In the Field,
23 Feb 45.

(G.S.H. Gostling) Brigadier,
Comd
2 Cdn Base Rft Group.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E 10164	Pte		Clement	DOIRON	(R de Chaud) 1 Cdn Disciplinary Centre.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 23 Feb 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Unit.)
Major	J C LOVAT-FRASER, RCE, (Must be named. RP 106.)	13 CBR Bn

MEMBERS.

(Rank.)		(Unit.)
Captain	to be detailed by OC 13 CBR Bn	13 CBR Bn
Lieut	to be detailed by OC 10 CBR Bn (Named or detailed. RP 106.)	10 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 23 Feb 45

(Signed personally. RP 105 fn 2) (O S M Gostling)

Brigadier (Rank.)

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (FAAS 11b Dec of AFA) AC/F & S/1847 (4/43)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. E 10168 PTE DOBSON C
of 1 B D C is in a GOOD state of health,
and is FIT to undergo Trial by Court martial.

Medical Officer

Station 1 C D C

Date 25/2/45

M. F. B. 246

30M—8-43 (792)
H.Q. 1772-39 680

EXHIBIT D (8)

SUMMARY OF EVIDENCE

In the case of Number C10168 PRIVATE Clement DOIRON, Regiment de la Chaudiere attached to No 3 Canadian Convalescent Depot, Royal Canadian Army Medical Corps, a soldier of the Canadian Army Overseas, on Active Service.

By direction of the Commanding Officer, this Summary of Evidence is taken under oath.

FIRST WITNESS FOR THE PROSECUTION

Lieut. Conrad LA FONTAINE, Royal Canadian Artillery attached to No 20 Special Employment Company 2 Canadian Base Reinforcement Group, having been duly sworn states:-

I am Lieut. C. La Fontaine, Royal Canadian Artillery attached to No 20 Special Employment Company 2 Canadian Base Reinforcement Group. I herewith produce certified true copy of the Declaration of a Court of Inquiry, pertaining to the accused, attached as Appendix "A". I also produce Certificate in accordance with Section 163 (1) (jj) of the Army Act, pertaining to the accused, attached as appendix "B". I also produce Army form B 282 pertaining to the accused, attached as Appendix "C".

The accused declines to cross-examine this witness.

C. La Fontaine Lieut

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make any statement or to give evidence on oath.

I certify that the foregoing Summary of Evidence consisting of ONE PAGE was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C), (D), (E), and (F) have been complied with.

C. La Fontaine Lieut
Officer taking Summary.

In the Field
17 Jan 1945.

CERTIFIED TRUE COPY Appendix "A" Exhibit "A"

R E C O R D of the Declaration of a Court of Inquiry assembled In the Field on the 25th day of October 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E 10168 Pte. D O I R O N, Clemant (Convalescent Regt. de Chaudiere

D E C L A R A T I O N

The Court declare that No. E 10168 Pte. DOIRON, C. - R.de Chaud. Convalescent illegally absented himself without leave In the Field at 0845 hrs. on the 3rd day of Oct 44; and that on the 3rd Oct 44 he was deficient, and that he is still deficient of the following articles:-

and that he is still so absent,

ARTICLES	VALUE	ARTICLES	VALUE
NIL		NIL	

Signed In the Field

Capt.	G.W.	Rahm	President
Capt.	J.F.	Bygott	Member
Lieut.	C.E.	Harncastle	Member

this 25th day of Oct 1944

Signature of Commanding Officer JR CALKIN Lt.Col.

Certified True Copy

(G.W. RAHM) CAPT. & ADJT.

Officer Having Custody of Original Record

Appendix "B"

Exhibit B.

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT, SECTION 163(1)(ii)

I certify that No. 6/10168 Rank, Pte Name, DORAN E
of DE CHAUDIERE Unit was arrested at LANGRUNE-SUR-MER (Place)
at 1330 hrs. on 20/11/44 (Date). He was dressed in Uniform
Plain Clothes.

Date, 20/11/44

Signature of Provost Marshal, APM or other Officer into whose custody the above-named person was taken on arrest.

Capt
Commanding 247 H.Q. Provost Coy.

WHP/-

1 (A)

Appendix "A" AF/247/C/21

247 H.Q. PROVOST COY.
Army Form B 252
(See A.C.I. 1844 of 1940)

CHARGE E THIEF

DE CHAUDIRE C.M. Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. E/10168 Rank PTE

Name DOIRON C.

Place ? Date of Offence ?

OFFENCE W.O.A.S. Absent from ? until apprehended by the Military Police at the VALLEY KAMLOOPS, B.C. MAR. on the 30th NOVEMBER 1944 at about 1330 hrs.

Names of Witnesses: 7685108 SGT THOMPSON C.M.P.
5108593 CPL FOX W. C.M.P.
5568203 W/CPL SMART C.M.P.
1868142 R.S.M. GIBBES. C. CMP. (STATEMENT ATT.)

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

W.L.W.1540/2/43 1,750,000 5/44 E. & H., Ltd. G.607/47.

Statement of **EVIDENCE** in the case of

No E/101168 PTE YOUNG C.
DE CHAUDIERE REGIMENT
8th BRIGADE 1st DIV
ATT 1st CANADIAN CONVALESCENT DEPOT.

Sir

At LANGROW-BAR-MER on the 30th NOVEMBER 1944 at about 1330 hours, acting on information received I proceeded to the B.M.H.Q.T. where I saw the above named soldier. I told him I had reasons to believe he was absent from the unit he replied "yes I am".
I arrested him obtained his particulars verbally verified them from his A.B. 64. and conveyed him to the 1st CDN CORPS ROAD CHECK where I handed him over to the N.C.O. i/c CORPS to be detained, pending the arrival of an escort. HE WAS SOBER.

CAEN.
30th NOVEMBER 1944

7085708 Sgt Thomson R. SBE
C.M. Police

REMARKS

Sir I have read over and corroborate the above statement

CAEN

5107572 Dvr Yo Cpl

EXHIBIT "E"

ARMY FORM B 199.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F.10168	Pte	DOIRON, Clement	R de Chaud

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, permission being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for N/A beginning on the ____ day of ____

4. The accused has been in confinement awaiting trial on the present charges, for N/A days in civil custody, and Aug 85 days in military custody, making a total of Aug 85 days, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 24 yrs

6. The date of his attestation specified in his record of service is 18 Jul 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is ____

8. The accused is entitled to deferred pay or gratuity in respect of ____ service.

9. The accused is entitled to reckon ____ service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of ____

12. (*In the case of an officer.*) The accused holds in the army the rank of ____ dated ____, and in his regiment (*or* corps *or* department) the rank of ____ dated ____

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ Rank _____ Name _____ of _____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of February, 1945.

C.O. Hood

(A.O. Hood) Lt-Col
OC 1 Cdn Disciplinary Centre

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion.
In the rank of	years,	
In the rank of	years	
In the rank of	years,	

(INSTRUCTION—If any matter in any of the above five columns cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collated from such sources as are available and the paragraph completed accordingly.)

SB 136
P. A. Dorion & J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G.23377 Pte Emery Joseph Doiron

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	Guilty	Guilty	
2nd AA 15(1)	Guilty	Guilty	
3rd AA 24 (2)	Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for beginning on (date) "EAAD" (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of twelve months and to be put under stoppages of pay until he has made good the sum of £3-1-5 in respect of deficiencies of kit.

(Sgd) N/A — Judge-Advocate, if any. 24 Feb 1945 — Date awarded. (Sgd) "E.A.A. Doiron Major" — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

confirmed

I direct that the accused be kept committed to prison or detention barracks until further ordered.(1) "PEB"
(1. AA 57A. Delete if not used.)

(Sgd) "P E Bernatchez Brig"

Date 1 March 45 — Commanding 3 Cdn Inf Bde. — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
G.23377 Pte Emery Joseph Doiron	2 Mar 45	"J. F. Ensor" Lt Col.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

Certified true copy:
(D.M. Owen) Capt.
Sec 2 Ech AFHQ

5B-136

CFA96 (In lieu of AFA3) 40 P.S.R./1608 (2664)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig P.E. Bernatchez DSO Comd 3 C.I.B. dated 23 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptnt, A/rank or A/apptnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptnt, A/R. or A/apptnt.	Full Christian Names.	Surname.	Unit.
G.23377	Pte	Emery Joseph	Doiron	C Y R

PROCEEDINGS REVIEWED
"W. B. BATE" MAJOR
DJA
CDN SEC 2 ECH AFHQ.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 24 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed. "EAAD"

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 58, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet attached thereto.(1) "EAAD" The Court is satisfied that it is properly convened and constituted(2), accused is amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is brought before the Court. At 0930 hours trial commences. "EAAD"

A4. The Prosecutor produces a Medical Certificate that accused is fit to undergo trial by court-martial.(1) "EAAD" The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the COMD. "EAAD"
(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans "EAAD"
The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans "EAAD"
The shorthand writer is sworn.(2)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E A A Doiron MBE	R 22 R
Member	Capt	C H Smith	W N S R
Member	Lieut	J. E. Brousseau	C Y R
Judge-Advocate	—	N/A	
Prosecutor	Lieut	O. E. Senechal	C Y R
Defending Offr	Capt	E. M. Leonard	C Y R

Questions by President: Is the Prosecutor a lawyer? Ans NO, Is the Defending Offr a lawyer? Ans NO (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (2) and fn 2 were not followed. See Qu p 3.)

A8. The accused G.23377 Pte Emery Joseph Doiron before arraignment makes(s) (no) (a) plea "EAAD" (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(2), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AE name and name of the accused making the plea.)

A9. The accused is (not) arraigned separately on all charges in the charge sheet.(1) The accused does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. "EAAD"
(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B "EAAD"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA if any complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *paras* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty to the charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by vue of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charge on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. .....
Do you intend to call witnesses on your behalf ?
Ans. .....
Are they witnesses as to character only ? Ans. .....
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(2) (*d*), *RP* 45, 100(*A*). 2. *AA* 54(2), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(2), and certified true copy of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB* 355 *or AFB* 294. 2. *MFM* 4. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(2) and Conduct Sheet(2), and in mitigation of punishment ?(1) Ans. NO (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or state anything there or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA if any(2).
(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 363-366. *Overseas AO* 309, 2323. *RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 363-366. *Overseas AO* 309, 2323. *MML p* 66, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 367. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Charge Sheet

The Accused G23377 Pte Emery Joseph Doiron, a soldier of the Carleton & York Regiment, Canadian Army Overseas, Central Mediterranean Force, on active service, is charged with:-

First Charge WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE
Sec 15 (1)A.A.

in that he

In the Field, in Italy, absented himself without leave from 0630 hrs 4 Oct 44 until apprehended at 1030 hrs 4 Oct 44

Total time absent 4 hrs.

Second Charge WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE
Sec 15 (1)A.A.

in that he

In the Field, in Italy, absented himself without leave from 2000 hrs 11 Oct 44 until apprehended by B33216 CQMS Stothers of 4 Cdn Rft Bn at 1800 hrs 7 Feb 45.

Total time absent 118 days 22 hrs.

Third Charge WHEN ON ACTIVE SERVICE, LOSING BY NEGLECT HIS EQUIPMENT CLOTHING AND REGIMENTAL NECESSARIES
Sec 24 (2)A.A.

in that he

In the Field, in Italy, on 13 Feb 45 was deficient of

	£.	s.	d.
One Shirt angola, drab	0	6	2
One Brush hair	0	0	4
One " shaving	0	1	3
One " shoe, polishing	0	1	1
One " shoe blacking	0	1	1
One " tooth	0	0	4½
One Holdall	0	0	7½
One Housewife	0	0	6½
One Bottle water	0	2	9
One Helmet steel	0	6	0
One Tins, mess	0	1	2
One Cape anti-gas	0	9	1
One Ground sheet	0	9	4
One Mug drinking	0	0	5
One Belt waist	0	2	5
One Braces W.E. left	0	1	0
One " W.E. right	0	1	0
One Frog bayonet	0	0	7½
One Pouche basic left	0	4	0
One " " right	0	4	0
One Strap shoulder haversack left	0	1	1
One " " " right	0	1	1
One Haversack	0	6	0
Total	£.3	1	4 5

being 75% value of vocabulary price.

In the Field Date. 18. Feb 45

(J.P. Ensor) Lt.-Col.
Comd Carlt & York R.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field Date. 22. Feb 45

(J.P.E. Bernatchez) Brigadier
Commanding 3 Cdn Inf Bde

"JPE Bernatchez"

"JPE" 22 Feb 45
"EA Doiron Major" President.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/FMS/1697 (1968)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.*
G.23377	Pte		Emery Joseph	DOIRON	C Y R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 23 Feb 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

"pen"

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E A A Doiron MBE	R 22 R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	C H Smith	W N S R
Lieut	W. E. Brousseau	C Y R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	F. J. Lane	R 22 R

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

(Country.)	(Signed personally. RP 105 fn 2.)	(Rank.)
in Italy	" P. E. Bernatchez"	Brigadier

Date 23 Feb 45 Commanding 3 Cdn Inf Bde.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"EAAD"

MEDICAL OFFICERS CERTIFICATE

KR (C/M) 387

I certify that I have this morning examined

No. [illegible] Pte. [illegible] E.J. .....

of the Carleton & York Regiment and in my opinion he is

~~fit~~ to undergo Trial by Court Martial

Station In the field

Date 24/6/45

K.J. Henderson Capt.

Medical Officer

R.M.C. Carlt & York R.

"MAAD"

PLEA OF MITTIGATION "DOMON"

The accused has pleaded guilty to charges of A.W.L. and being guilty must be punished, but in passing sentence on the accused, there are a few things which the court should bear in mind.

(1) The offence was committed when the Bn was in rest and not in action, the accused has seen previous service with the Bn in action apparently satisfactory.

(2) The conduct sheet of the accused, apparently his first mistake.

(3) His age 22, volunteered in 40, apparently his motives were above reproach.

In closing I would say, the court should remember in passing sentence, the accused previous satisfactory service, and why give him Penal Servitude or Detention for a long period, he is no good to his country there. I recommend leniency for the accused.

"E. M. Leonard Capt".

"ZAAD"

Ex "A"

Summary of evidence in the case of G23377 Pte Doiron,E.J. a soldier of the Canadian Army Overseas, Central Mediterranean Force, on strength of the Carleton & York Regiment.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for Prosecution

F35184 L/Sgt Dearman,C.J. having been duly sworn states:-

I am F35184 L/Sgt Dearman,C.J. of "C" Coy Carlt & York R., On 4 Oct 44 I was platoon Sgt of No. 13 pl "C" Coy Carlt & York R. at 0630 hrs 4 Oct 44 I checked the platoon and the accused G23377 Pte Doiron,E.J. was absent. I reported him as absent to Coy Hq.

C J Dearman

The accused declines to cross-examine this witness.

Second Witness for Prosecution

A116243 CQMS Boudreau,C.T. having been duly sworn states:-

I am A116243 CQMS Boudreau,C.T. CQMS for "C" Coy Carlt & York R. I inspected the kit of G23377 Pte Doiron,E.J. on 13 Feb 45 and found to be deficient of the articles of clothing and equipment, as listed on the declaration of the Court of Inquiry date 18Jan 45, to the value of £3-1-4(Witness shown the above mentioned document) I have a vocabulary price list of clothing and equipment and am familiar with its contents.

C T Boudreau CQMS

The accused declines to cross-examine this witness.

The Certificate under Sec 163 (i)(jj) A.A. produced, read over, shown to the accused, and marked EXHIBIT "A" and attached to the summary.

Certified true extract from Carlt & York Regt part II orders ~~xxxxx~~ byNo. 118 d/14 Dec 44 and issued by Cdn Sec GHQ 2nd Echn AAI produced, readover, shown to accused, marked Exhibit "B" & "C" and attached to summary.

The Certificate under Sec 163 (i)(jj) A.A. produced, read over, shown to accused, marked Exhibit "D" adn attached to summary.

The declaration of a Court of Inquiry produced, readoover, shown to accused, marked Exhibit "E" and attached to summary.

Question to the Accused

Do you wish to make a statement or give evidence upon oath? You are not obliged to say anything, or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the Accused

No Sir.

I Certify that the foregoing summary was taken down by me in the presence of the accused and that Rules of Procedure 4 (c)(d)(e) and (f) have been complied with.

In the Field

Date 14 Feb 45

C J Dearman Capt

Officer taking Summary.

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT, Section 163 (1)(JJ)

I certify that No. C.23377 Rank Pte
Name Doiron E.J. Unit "C" Coy Carleton & York Regt
was arrested at 1030 hours on the 4 October 1944.

Exh "A"

S.
O
T

"Signed"
Lieut Rank.

This is Exhibit "A" referred to in the Summary of Evidence in the case of .23377 Pte Doiron E. J. taken down by me this 15th day of February 1945.

"C. E. Seneschal Lieut"
Officer taking the Summary.

Certified True Extract from Carleton & York Regiment Part II Orders Exh "B"

Last Order	CARLETON & YORK REGIMENT	THIS ORDER
No. 117	PART II ORDERS ISSUED BY	No. 118
13 Dec 44	CDN SEC GHQ 2nd ECH- AAI	14 Dec 44

5. ABSENT WITHOUT LEAVE
(6) AWL from 0630 Hrs 4 Oct 44. Apprehended at 1030 hrs 4 Oct 44.
C.23377 Pte Doiron, E.J.
C.56786 Pte Drisdelle E.J.
C. 1739 Pte Gilliss, G.F.

Sgd (F.F. Knight) Lieut.,
for officer i/c
Canadian Section GHQ 2nd Echelon - AAI

Certified True Extract from the Regimental Books in my custody

"C. C. Huggard Capt"
Officer i/c Records
Carleton & York Regiment.

Certified True Extract from Carleton & York Regiment Part II Orders Exh "C"

Last Order	CARLETON & YORK REGIMENT	This Order
No. 117	PART II ORDERS ISSUED BY	No. 118
13 Dec 44	CDN SEC GHQ 2nd ECH - AAI	14 Dec 44

5. ABSENT WITHOUT LEAVE
(8) AWL from 2000 hrs 11 Oct 44. Still AWL 2000 hrs 19 Oct 44 (8th day). Still AWL 2000 hrs 2 Nov 44 (22nd day).
C.23377 Pte Doiron E.J.
C.56786 Pte Drisdelle, E.J.
C. 1739 Pte Gilliss, G.F.

Sgd (F.F. Knight) Lieut.,
for Officer i/c
Canadian Section GHQ 2nd Echelon - AAI

Certified True Extract from the Regimental Books in my custody.

"C. C. Huggarrd Capt"
Officer i/c Records
Carleton & York Regiment.

Exhibit "D"

CERTIFICATE UNDER ARMY ACT SECTION 163 (1) (JJ)

I Lt. Col L. J. Flynn certify that No. G. 23377 Rank Pte Name Doiron E. J. of the CARLTON&YORK Regt was arrested by B.33216 R. Stothers CSMS of the 4 Cdn Rft Bn. B Coy at FANO on the 7 -2-45 at approx 1600 hrs as an absentee without leave.

From ?
"A.E.T."

" L. J. Flynn Lt Col" Capt.
S
APM
W
S

This is Exhibit "D" referred to in the Summary of Evidence in the case of G.23377 Pte Doiron E.J. taken down by me this 15th day of February 1945.
" C.E. Senechal Lieut" Officer taking the Summary.

Exh "E" In Lieu of AFS 115

RECORD of the Declaration of a Court of Inquiry assembled at IN THE FIELD on the 18th day of Jan 1945.. for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipment, Instruments, Regimental Necessaries, or clothing of.

No. G.23377 Rank Pte Name Doiron E. J.

DECLARATION.

The Court declares that No. G.23377 Pte Doiron E.J. - Carlt & York R. illegally absented himself without leave from 2000 hrs at IN THE FIELD on the 11th day of Oct 1945.. that he is still so absent, and that on the 2 Nov 44 2000 hrs. he was deficient, and that he is still deficient of the following articles:-

ARTICLES	VALUE £.	s.	d.	ARTICLES	VALUE
Shirt Angola, drab	0	6	2		
Brush hair	0	0	4		
" shaving	0	1	3		
" shoe, polishing	0	1	1		
" " blacking	0	1	1		
" tooth	0	0	4½		
Holdall	0	0	7½		
Housewife	0	0	6½		
Bottle water	0	2	9		
Helmet steel	0	6	0		
Tins, mess	0	1	2		
Cape anti-gas	0	9	1		
Ground sheet	0	9	4		
Mug drinking	0	0	5		
Belt waist	0	2	5		
Braces W.E. left	0	1	0		
" W.E. right	0	1	0		
Frog bayonet	0	0	7½		
Pouches, basic, left	0	4	0		
" " right	0	4	0		
Straps shoulder haversack	0	1	1		
" " Left					
" " right	0	1	1		
Haversack	0	6	0		
Totals :	3	1	5		

Signed at In the Field
this 7th day of Feb 1945.

C.E. Senechal Lieut President.
C.A.A. Cox CSM Member.
AA. Shan Sgt Member.

Signature of Commanding Officer "J P Ensor" Lt.-Col
Comd Carlt & York Regiment.

Certified True Copy "C.C. Huggard Capt"
Signature of Officer having custody of original record)

(over)

XX "C"

ARMY FORM B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be)
G 23877	Pte	Doiron, E.J.	Carleton & York R. Supplementary Field

1. The following is a fair and true summary of the entries in the ~~regimental and squadron (battery or company~~ conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not entered in the proceedings.

† See para. 477, K.R., 1940.

* The number inserted should correspond with the number of entries in the conduct sheets, particulars being given in the next column where in each entry, and in any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of ~~gallantry or distinguished conduct~~,

or

There ~~are no entries in~~ the conduct sheets of the accused

2. ~~The accused has not been previously convicted.~~ or

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. or ~~The accused at the present time is under sentence for~~

~~beginning on the~~ day of

4. The accused has been in confinement, awaiting trial on the present charges, for N i l days in civil custody, and 17 days in military custody, making a total of 17 days, of which N i l days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22 yrs

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 13 Sep 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs 5 mos

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 5 mos service.

9. The accused is entitled to reckon 4 yrs 5 mos. service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, ~~no~~ military decoration or military award *(or is in possession of or entitled to (state any military decoration or reward).)*

11. *(If the accused is a warrant officer.)* The accused before he was made a warrant officer ~~last held the regimental~~ rank of

12. *(In the case of an officer.)* The accused holds in the army the rank of dated and in his regiment (or corps or department) the rank of dated

(P 41228) W 11602/143 175,000 6/41 A.A.&Q.M.G. Gp.698

"LAND"

Exhibit "D"

CERTIFICATE UNDER ARMY ACT SECTION 163 (1) (JJ)

I Lt. Col L. J. Flynn certify that No. G. 23377 Rank Pte Name Doirion E. J. of the CARLTON&YORK Regt was arrested by B.33216 R. Stothers CMMS of the 4 Cdn Rft Bn. B Coy at FANO on the 7 -2-45 at approx 1800 hrs as an absentee without leave.

From ?
"A.E.T."

" L. J. Flynn Lt Col" Capt.
S
APM
W
S

This is Exhibit "D" referred to in the Summary of Evidence in the case of G.23377 Pte Doiron E.J. taken down by me this 15th day of February 1945.
" C.E. Senechal Lieut" Officer taking the Summary.

Exh "E" In Lieu of AFB 115

RECORD of the Declaration of a Court of Inquiry assembled at IN THE FIELD on the 18th day of Jan 1945.. for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipment, Instruments, Regimental Necessaries, or clothing of.

No. G.23377 Rank Pte Name Doiron E. J.

DECLARATION.

The Court declares that No. G.23377 Pte Doiron E.J. - Carlt & York R. illegally absented himself without leave from 2000 hrs at IN THE FIELD on the 11th day of Oct 1945.. that he is still so absent, and that on the 2 Nov 44 2000 hrs. he was deficient, and that he is still deficient of the following articles:-

ARTICLES	VALUE £.	s.	d.	ARTICLES	VALUE
Shirt Angola, dreb	0	6	2		
Brush hair	0	0	4		
" shaving	0	1	3		
" shoe, polishing	0	1	1		
" " blacking	0	1	1		
" tooth	0	0	4½		
Holdall	0	0	7½		
Housewife	0	0	6½		
Bottle water	0	2	9		
Helmet steel	0	6	0		
Tins, mess	0	1	2		
Cape anti-gas	0	9	1		
Ground sheet	0	9	4		
Mug drinking	0	0	5		
Belt waist	0	2	5		
Braces W.E. left	0	1	0		
" W.E. right	0	1	0		
Prog bayonet	0	0	7½		
Pouches, basic, left	0	4	0		
" " right	0	4	0		
Straps shoulder haversack	0	1	1		
" " Left					
right	0	1	1		
Haversack	0	6	0		
Totals	£ 3	1	5		

Signed at In the Field
this 7th day of Feb 1945.

C.E. Senechal Lieut President.
C.A.A. Cox CSM Member.
AA. Ryan Sgt Member.

Signature of Commanding Officer "J P Ensor" Lt.-Col
Comd Carlt & York Regiment.

Certified True Copy "C.D. Hugyard Capt"
Signature of Officer having custody of original record)

(over)

Exhibit "D"

CERTIFICATE UNDER ARMY ACT SECTION 163 (4) (11)

I Lt. Col. I. T. Flynn certify that No. O. 23377 Rank Pte Name Dolton R. of the O'DARLTON&YORK Regt was arrested by R.3321G R. Stockers CQMS of the 4 Cdn Rft Bn. B Coy at YANO on the 7-2-45 at approx 1800 hrs as an absentee without leave.

FROM ?
"A.E.F."

AFM
3
W
8

" I. T. Flynn Lt Col" Capt.

This is Exhibit "D" referred to in the Summary of Evidence in the case of O.23377 Pte Dolton R.T. taken down by me this 15th day of February 1945.
" O.C. Sanochal Lieut" Officer taking the Summary.

Exh "D"

In Lieu of AFB 122

RECORD of the Declaration of a Court of Inquiry assembled at IN THE FIELD on the 15th day of Jan 1945.. for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the of.

Army, Ammunition, Equipment, Instruments, Regimental Necessaries, or clothing

No. O.23377 Rank Pte Name Dolton R. T.

DECLARATION.

The Court declares that No. O.23377 Pte Dolton R.T. - Darlt & York R. Regt was 14 2000 hrs. He was deficient, and that he is still deficient of the following articles:-

ARTICLES VALUE

Shirt Angola, Khaki
Brush hair
" shaving
" shoe, polishing
" " dressing
" tooth
Holdall
Housewife
Kettle water
Mirror steel
Time, Mess
Cape anti-gas
Round sheet
Mug drinking
Belt waist
Braces W.E. left
" W.E. right
Fixed bayonet
Pouches, basic, left
" " right
Straps shoulder braces left
" " right
Waistcoat

This is Ex 3 referred to in the summary of evidence in the case O.23377 Pte DOLTON, R.T. taken down by me this 15.2.45

C.F. Sanochal Lieut.
Officer taking the Summary.

XX "C"

ARMY FORM B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
G 23877	Pte	Doiron, E.J.	Carleton & York R. Supplementary Field

1. The following is a fair and true summary of the entries in the ~~regimental and squadron (battery or company~~ conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not entered to the proceedings.

† See para. 671, K.R., 1940.

* The numbers to be stated should correspond with the number or entry in the conduct sheets, permission being given to the court to refer to any offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of ~~gallantry or distinguished conduct~~,

or

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted.~~ or

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. ~~or The accused at the present time is under sentence for~~ ~~beginning on the~~ day of

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 17 days in military custody, making a total of 17 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 22 yrs

6. The date of his ~~enlistment~~ attestation specified in his ~~attestation paper~~ record of service is 13 Sep 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs 5 Mos

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 5 Mos service.

9. The accused is entitled to reckon 4 yrs 5 Mos service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, ~~no~~ military decoration or military award (or is in possession of or entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the ~~regimental~~ rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated and in his ~~regiment (or corps or department)~~ the rank of dated

(1) [illegible] W 11402/143 125,000 6/41 A & E W Ltd Gp.682

"READ"

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. 6233177 Rank Pte Name Doiron E.J. of Cord Work Regiment (or as the case may be).

(INSTRUCTION—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18th day of Feb. 45

Lt. Duggan Capt Adj.
Cord Work Regt

---

18. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

In the rank of ..... years.
Date of Promotion.

In the rank of ..... years.

In the rank of ..... years.

(Description.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be obtained from such sources as are available and the particulars inserted accordingly.*)

No. 23377 Name Doiron, E J Sqn, Battery or Company — Corps C.A.C. — Date of enlistment 13/9/40 — OC Badges — Service of Supplement — Proficiency Pay — 14FA 61 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified Supplementary Sheet Embarkation Off Records Canloan Regt In the field 3-Mar-45				EX "B" "E A A Doiron Major" President.	

(PTO)

List of Witnesses
In the case of G23377 Pte Doiron,E.J. a soldier of the Cdn Overseas, on strength of the Carlt & York R.

For the Prosecution

F35184	L/Sgt	Dearman,C.J.	Carlt &
A11b243	CQMS	Boudreau,C.T.	Carlt &

For the Defence

NIL

List of Exhibits
In the case of G23377 Pte Doiron,E.J. a soldier of the Cdn Army Overseas,on strehgth of the Carlt & York R.

For the Prosecution

Exhibit "A" Certificate under Sec 163 (i)(jj) A.A.
" "B" Extract of unit part 11 ordersissued by Cdn Sec GHQ 2nd Ech AAI.
" "C" Extract of unit part 11 orders issued by Cdn Sec GHQ 2nd Ech AAI
" "D" Certificate under Sec 163 (i) (jj) A.A
" "E" Declaration of a Court of Inquiry

For the Defence

NIL

Certificate by the Accused
I Certify that I have received free of charge a copy of the Charge Sheet, Summary of Evidence, List of Witnesses and List of Exhibits pretaining to my trial by Court Martial.

I desire the services of Adv. [illegible] to defend me at my trial.

Date. 13..Feb.45 E.J. Doiron

"E.A.D"

List of Witnesses
In the case of G23377 Pte Doiron,E.J. a soldier of the Cdn Army Overseas, on strength of the Carlt & York R.

For the Prosecution

J35184	L/Sgt	Dearman,C.J.	Carlt & York
A116243	CQMS	Boudreau,C.T.	Carlt & York

For the Defence

NIL

List of Exhibits
In the case of G23377 Pte Doiron,E.J. a soldier of the Cdn Army Overseas,on strength of the Carlt & York R.

For the Prosecution

Exhibit "A" Certificate under Sec 163 (1)(jj) A.A.
" "B" Extract of unit part 11 ordersissued by Cdn Sec GHQ 2nd Echn AAI.
" "C" Extract of unit part 11 orders issued by Cdn Sec GHQ 2nd Echn AAI
" "D" Certificate under Sec 163 (1) (jj) A.A
" "E" Declaration of a Court of Inquiry

For the Defence

NIL

Certificate by the Accused
I Certify that I have received free of charge a copy of the Charge Sheet, Summary of Evidence, List of Witnesses and List of Exhibits pretaining to my trial by Court Martial.

I desire the services of Mr. Hearn..to defend me at my trial.

Date. 13..Feb.45 E.J. Doiron

"EAAD"

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 23377 Pte EMERY Joseph Doiron

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15 (1)	Guilty	Guilty	
2nd	AA 15 (1)	Guilty	Guilty	
3rd	AA 24 (2)	Guilty	Guilty	
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: ~~FORFEIT (12) months detention~~ To undergo detention for a period of twelve months and to be put under stoppages of pay until he has made good the sum of £ 3-1-5 in respect of deficiencies of Kit

(Sgd) N/A — Judge-Advocate, if any. 24 Feb 1945 — Date awarded. (Sgd) [illegible] Major — President. (RP 45, 90.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 766.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 4th March 45 (Sgd) [illegible] Lieut-Col

Commanding 3 Can Inf Bde — Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G23377 Pte Emery Joseph Doiron	2 Mar 45	[illegible] Lt Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 182, 5 3 136

RECEIVED 28 MAR 1945 JAG BRANCH O.M.H.Q.

FIELD GENERAL COURT-MARTIAL (CPA96 (In lieu of AFA3) 40 P & S 7656 (2864))

Convened by Order of Brig P.E. Bernatchez DSO OBE Comd 3 C I B dated 23 Feb 45

, ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183. Cpl, KR Can 308, 328, 330.)

Number	(a) Prmnt R. ~~(b) Appmt, A/R or A/Appmt~~	Full Christian Names.	Surname.	Unit.
G 23377	Pte	Emery Joseph	Doiron	C.Y.R.

PROCEEDINGS REVIEWED 31 Mar 45 [illegible] Capt. REVIEWING OFFICER, JAG BRANCH O.M.H.Q.

PROCEEDINGS REVIEWED BY JAG 2 Apr 45

Cdn Sec GHQ 22 Echn AFHQ DJA

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy. on (date(s)) 24 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2 J-52

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~was~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~was~~ brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~was~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 23, 71, 111, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.A.A. Doiron M.B.E.	R.22R.
Member	Capt.	C.H. Smith.	W.N.S.R.
Member	Lieut.	W.E. Brosseau.	C.Y.R.
Judge-Advocate		N/A	
Prosecutor	Lieut.	C.E. Senechal.	C.Y.R.
Defending Offr	Capt.	E.M. Leonard	C.Y.R.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
Q. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 32.)

A8. The accused G 23377 Pte Emery Joseph Doiron before arraignment make(s) (no) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposing, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in NG none and name of the accused making the plea.)

A9. The accused is ~~was~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

A42 PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of J.A see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of J.A or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or J.A. if any~~ Trial Judge, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~ Said
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1) Said
(1. *RP* 37(*A*) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. Cf A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~of~~ of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statements and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any.~~(2)
(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 128, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, *Sch 3-bbb, Overseas RO* XIX, 22(2), *RP* 48. *As to sentences assigned for civil offences by the law of England see AA* 41(2), *MANL p* 130. *When accused MANL p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(2), *MANL p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 98(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Convening Offr see KR Can* 367. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Charge Sheet

The Accused G23377 Pte Emery Joseph Doiron ~~George Robert Larose~~, a soldier of the Carleton & York Regiment, Canadian Army Overseas, Central Mediterranean Force, on active service, is charged with:-

First Charge
s 15 (1)A.A.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from 0630 hrs 4 Oct 44 until apprehended at 1030 hrs 4 Oct 44

Total time absent 4 hrs.

Second Charge
s 15 (1)A.A.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from 2000 hrs 11 Oct 44 until apprehended by B33216 CQMS Stothers of 4 Cdn Rft Bn at 1600 hrs 7 Feb 45.

Total time absent 118 days 22 hrs.

Third Charge
Sec 24 (2)A.A.

WHEN ON ACTIVE SERVICE, LOSING BY NEGLECT HIS EQUIPMENT CLOTHING AND REGIMENTAL NECESSARIES

in that he

In the Field, in Italy, on 13 Feb 45 was deficient of

	£.	s.	d.
One Shirt angola, drab	0	6	2
One Brush hair	0	0	4
One " shaving	0	1	3
One " shoe, polishing	0	1	1
One " shoe blacking	0	1	1
One " tooth	0	0	4½
One Holdall	0	0	7½
One Housewife	0	0	6½
One Bottle water	0	2	9
One Helmet steel	0	6	0
One Tins, mess	0	1	2
One Cape anti-gas	0	9	1
One Ground sheet	0	9	4
One Mug drinking	0	0	5
One Belt waist	0	2	5
One Braces W.E. left	0	1	0
One " W.E. right	0	1	0
One Frog bayonet	0	0	7½
One Pouche basic left	0	4	0
One " " right	0	4	0
One Strap shoulder haversack left	0	1	1
One " " " right	0	1	1
One Haversack	0	6	0
Total	£.3	1	4½

being 75% value of vocabulary price.

In the Field Date 14 Feb 45

(J.P. Ensor) Lt.-col.
Comd Carlt & York R.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field Date 15 Feb 45

(J.P.E. Bernatchez) Brigadier
Commanding 3 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2)
40/FA95/1697 (2008)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court, RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G23377	Pte		Emery Joseph	DOIRON	CYR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 23 Feb 45 endorsed by me, ~~(or by an offr of my staff for me)~~," To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reason I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereof the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	T A A Doiron MBE	~~HQ~~ R22R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	C H Smith	WOSB
Lt	W E Prowse ~~A~~	CYR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	P J Lane	R22R

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 23 Feb 45

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding 5 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use at trial.)

MEDICAL OFFICERS CERTIFICATE

KR(CAN) 357

I certify that I have this morning examined

No. S 73377 Pte Dainow G.F.

of the Carleton & York Regiment and in my opinion he is

fit to undergo trial by Court Martial

~~Unfit~~

Station In the field

Date 24 Feb 44

R J Zeuderkapt

Medical Officer

R.C.A.C. Carlt & York R.

Plea of Mitigation Davis

The accused has pleaded Guilty to charges of A.W.L. and being Guilty must be punished. But in passing sentence on the accused, there are a few things which the court should bear in mind.

(1) The offense was committed when the Bn was in rest and not in action, the accused has seen previous service with the Bn in action apparently satisfactory

(2) The conduct sheet of the accused, apparently has first mistake.

(3) His age 22, volunteered in 40, apparently his motives were above reproach.

In closing I would say, the court should remember in passing sentence, the accused previous satisfactory service, and why give him Penal servitude or detention for a long period, he is no good to his country there. I recommend leniency for the accused.

C M Leonard Capt

Ex "A"

Summary of evidence in the case of G23377 Pte Doiron,E.J. a soldier of the Canadian Army Overseas, Central Mediterranean Force, on strength of the Carleton & York Regiment.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for Prosecution

F35184 L/Sgt Dearman,C.J. having been duly sworn states:-

I am F35184 L/Sgt Dearman,C.J. of "C" Coy Carlt & York R. On 4 Oct 44 I was platoon Sgt of No. 13 pl "C" Coy Carlt & York R. at 0630 hrs 4 Oct 44 I checked the platoon and the accused G23377 Pte Doiron,E.J. was absent. I reported him as absent to Coy HQ.

C.J. Dearman

The accused declines to cross-examine this witness.

Second Witness for Prosecution

A116243 CQMS Boudreau,C.T. having been duly sworn states:-

I am A116243 CQMS Boudreau,C.T. CQMS for "C" Coy Carlt & York R. I inspected the kit of G23377 Pte Doiron,E.J. on 13 Feb 45 and found to be deficient of the articles of clothing and equipment, as listed on the declaration of the Court of Inquiry dated 18Jan 45, to the value of $3-1-4(Witness shown the above mentioned document) I have a vocabulary price list of clothing and eqhipment and am familiar with its contents.

C.T. Boudreau CQMS

The accused declines to cross-examine this witness.

The Certificate under Sec 163 (i)(jj) A.A. produced, read over, shown to the accused, and marked EXHIBIT "A" and attached to the summary.

Certified true extract from Carlt & York Regt part II orders ~~xxxxx~~ by No. 116 d/14 Dec 44 and issued by Cdn Sec GHQ 2nd Echn AAI produced, readover, shown to accused, marked Exhibit "B" & "C" and attached to summary.

The Certificate under Sec 163 (i)(jj) A.A. produced, read over, shown to accused, marked Exhibit "D" adn attached to summary.

The declaration of a Court of Inquiry produced, readoover, shown to accused, marked Exhibit "E" and attached to summary.

Question to the Accused
Do you wish to make a statement or give evidence upon oath? You are not obliged to say anything, or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the Accused
No Sir.

I Certify that the foregoing summary was taken down by me in the presence of the accused and that Rules of Procedure 4 (c)(d)(e) and (f) have been complied with.

In the Field

Date 18 Feb 45

J. Gerald Lux
Officer taking Summary.

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT. Section 103 (1)(11)

I certify that No. [illegible] Rank Pte

Name [illegible] Unit [illegible]

was arrested at 1630 hours on the 14 OCTOBER 1944

Signature of Provost Marshal, A.P.M. or other officer into whose custody the above named was taken on arrest } [signature] Major Rank

This is Exhibit "A" referred to in the Summary of Evidence in the case of G.23377 Pte. Doiron, E.J. Taken down by me this 15th day of February, 1945.

Lieut
Officer taking the Summary.

Certified True Extract from Carleton & York Regiment Part II Orders.

Exh "B"

Last Order No. 117 13 Dec 44

CARLETON & YORK REGIMENT
PART II ORDERS ISSUED BY
CDN SEC GHQ 2nd ECH - AAI

This Order No. 118 14 Dec 44

5. ABSENT WITHOUT LEAVE

(b) AWL from 0830 hrs 4 Oct 44. Apprehended at 1030 hrs 4 Oct 44.
G23377 Pte Doiron, E.J.
G56788 Pte Drisdelle, E.J.
G 1739 Pte Gilliss, G.F.

Sgd (F.F. Knight) Lieut.,
for Officer i/c
Canadian Section GHQ 2nd Echelon -AAI

Certified True Extract from the Regimental Books in my custody.

Officer i/c Records
Carleton & York Regiment.

Exh "C"

Certified True Extract from Carleton & York Regiment Part II Orders

Last Order	CARLETON & YORK REGIMENT	This Order
No. 117	PART II ORDERS ISSUED BY	No. 118
13 Dec 44	CDN SEC GHQ 2nd ECH - AAI	14 Dec 44

5. ABSENT WITHOUT LEAVE

(c) AWL from 2000 hrs 11 Oct 44. Still AWL 2000 hrs 19 Oct 44 (8th day). Still AWL 2000 hrs 2 Nov 44. (22nd day).

G23377 Pte Doiron, E.J.
G56788 Pte Drisdelle, E.J.
G 1739 Pte Gilliss, G.F.

Sgd (F.F. Knight) Lieut,
for Officer i/c
Canadian Section GHQ 2nd Echelon - AAI

Certified True Extract from the Regimental Books in my custody

Officer i/c Records
Carleton & York Regiment.

Exh D

CERTIFICATE UNDER ARMY ACT SECTION 163 (1) (11)

I Lt Col L J Flynn certify that No G 23377

Rank Pte Name DOIRION E.J. of the

Carlton & York Regt was arrested by B33216

R Stothers C.G.M.S. of the 4CDN RET. BN. B.COY.

at FANO on the 7.2.45 at approx 1800 hrs

as an absentee without leave / ~~deserter~~.

FROM P.

C.E.F.

Capt

Signature of Provost Marshall APM or other officer into whose custody the above-named soldier was taken on arrest.

This is Exhibit "D" referred to in the Summary of Evidence in the case of G. 23377 Pte. Dorion E.J. taken down by me this 15th day of February 1945.

C.E. Fenwick Lieut.
Officer taking the Summary.

Lab "E"

In Lieu of AFB 115

RECORD of the Declaration of a Court of Inquiry assembeled at In the Field on the 18th day of Jan ..... 1945.....for the purpose of investingating and ~~remarking~~ recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipment, Instruments, Regimental Necessaries, or clothing of

No.022377.....Rank.Pte.....Name.Doiron,E.J.....

D.E.C.L.A.R.A.T.I.O.N.

The Court declares that No..022377.Pte Doiron,E.J.t.Carlt & York.R.

illegally absented himself without leave.From 2000 hrs.....

at In the Field.....on the .11th.....day of ..Oct...1945.....

that he is still so absent, and that on the...2.Nov.44.2000 hrs.....he was...

deficient, and that he is still deficient of the following articles:-

ARTICLES	VALUE £.	s.	d.	ARTICLES	VALUE
Shirt angola, drab	0	6	2		
Brush hair	0	0	4		
" shaving	0	1	5		
" shoe, polishing	0	1	1		
" " blacking	0	1	1		
" teeth	0	0	4½		
Holdall	0	0	7½		
Housewife	0	0	6½		
Bottle water	0	2	9		
Helmet steel	0	6	0		
Tins, mess	0	1	2		
Cape anti-gas	0	9	1		
Ground sheet	0	0	4		
Mug drinking	0	2	5		
Belt waist	0	1	5		
Braces W.E. left	0	1	0		
" W.E. right	0	0	7½		
Frog bayonet	0	4	0		
Pouches, basic, left	0	4	0		
" " right	0	1	1		
Straps shoulder haversack left					
" " right	0	1	1		
Haversack	0	6	0		
Totals	£.3	1	×5		

C.E. Jenvey Lieut President

E.A.H. Lacy Capt Member

A.A. Ryan Lieut Member

Signed at In the Field

this...7th.....day of...Feb.....1945

Signature of Commanding Officer.....Lt.-Col.
Comd Carlt & York Regiment.

Certified True Copy.....
(Signature of officer having custody of original record)

This is Exhibit "B" referred to in the Summary of Evidence in the case of G.23377 Pte. Dorion, E.J. taken down by me this 15th day of February 1918.

Lieutenant
Officer taking the Summary

Ex "C"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
G22377	Pte	Doiron E.J.	Scarleton & York R. Supplementary Field

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheets mentioned should be produced in court with this statement but not inserted in the proceedings.

† See para. 877, K.R., 1940.

* The common forms should correspond with the number of entries in the conduct sheets, preference being given to the most serious offences in each entry, and to any recorded gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	Nil times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused

2. The accused has not been previously convicted by

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or The accused at the present time is under sentence for

beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 17 days in military custody, making a total of 17 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service attestation paper is 22 yrs

6. The date of his attestation specified in his record of service attestation paper is 13 Sep-40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs 5 Mos

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 5 Mos service.

9. The accused is entitled to reckon 4 yrs 5 Mos service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or award)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the substantive rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated and in his regiment (or corps or department) the rank of dated.

(Pilkington Wilkinson Ltd) 12/1000 8/41 A.A.F.W.1.146 Gp.678

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	years,	
In the rank of	years	
In the rank of	years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused. Regiment (or as the case may be).

No. 2/23327 Rank Pte Name Fraser, J. Unit 2nd Bn. Seaforth Highlanders

(INSTRUCTION.—*A separate record is to be made from the regimental books, stating the convictions and dispositions with trial, must be entered.*)

Description of Court by which tried, or Order of officer dispensing with trial	Date and place of trial, or summary award, or date of dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority dispensing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispositions with trial is a true extract from the regimental books in my custody.

Signed this 1st day of Feb 15

Adjutant 2nd Bn. Seaforth Highlanders

B23777 Name Boiron, E.J. | Sqn, Battery or Company | Corps C.A.M.C. | Date of enlistment 17/9/40 | Trade or Proficiency Pay | Supplementary

MFM 6 (AFB 122) 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | GC Badges | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified supplementary copy O.Haggard Capt/Adj. O/C N.P.Records - Canadian Scottish Regt. in the Field 18-7-45		Ex. B Good conduct badge Previously			

(PTO)

List of Witnesses
In the case of G23377 Pte Doiron,E.J. a soldier of the Cdn Army Overseas, on strength of the Carlt & York R.

For the Prosecution

F35184	L/Sgt	Dearman,C.J.	Carlt & York
A11&243	CQMS	Boudreau,C.T.	Carlt & York

For the Defence

NIL

List of Exhibits
In the case of G23377 Pte Doiron,E.J. a soldier of the Cdn Army Overseas,on strength of the Carlt & York R.

For the Prosecution

Exhibit "A" Certificate under Sec 163 (i)(jj) A.A.
" "B" Extract of unit part 11 ordersissued by Cdn Sec GHQ 2nd Ech AAI.
" "C" Extract of unit part 11 orders issued by Cdn Sec GHQ 2nd Ech AAI
" "D" Certificate under Sec 163 (i) (jj) A.A
" "E" Declaration of a Court of Inquiry

For the Defence

NIL

Certificate by the Accused
I Certify that I have received free of charge a copy of the Charge Sheet, Summary of Evidence, List of Witnesses and List of Exhibits pretaining to my trial by Court Martial.

I desire the services of Mr. Hyde to defend me at my trial.

Date. 13. Feb.45

E. Doiron

18 B. Ste. Doiron, L. (2.5967) 10/Doiron, L/1/
W. N. A.

B-18

Army Form A.3.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 13th day of April, 19 41.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable that they should be tried by a superior Court~~*

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~I am duly authorized~~

*(1. ~~Three Officers (including the Chair)~~

*(2. ~~A Field Officer as President~~

*(3. ~~Three Officers having held Permanent Rank~~ for ~~five~~ years.)

~~as the Regular Forces Rank~~ —]

President.

Rank.	Name.	Regiment.
Major	R.S. Hallett	No.1 Cdn Arty Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	H.R. Cleveland	No.1 Cdn Eng Hldg Unit
Lieutenant	A.G. Burritt	No.1 Cdn Arty Hldg Unit
Lieutenant	N.C. McLeod	No.2 Cdn Arty Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

**Signed* L. F. Page. Brigadier

Commanding Cdn Base Units, Cdn Army.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F-59667 PTE. DOIRON,L. (W.N.S.R. reinforcement) No.2 Can Inf Bldg Unit.	First Charge A.A. Sec 6 (2)(h) as per charge sheet	NOT GUILTY	GUILTY TO UNDERGO DETENTION FOR A PERIOD OF SIXTY DAYS.	Confirmed L

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):— NO.

(Signed) L. F. Ralph Brigadier (Signed) R. Stallett Maj
Commanding Cdn Base Units, Cdn Army. President.
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 29th day of April, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The ~~interpreter~~) Court Stenographer
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 29th day of April 1941.

R. Stallett Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (f) on page 762 M.M.L. 1929.

~~I certify that the terms of P.A.C.A. 570 of 1918 have been complied with.~~

Signed this day of 19

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison until further orders.~~

L

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 2nd day of May 19 41.

L. F. Ralph, Brigadier.
Confirming Officer.

Promulgated and extracts taken in the case of F59667 Pte Doiron, L, W.N.S.R. (2 C.I.H.U.)

(a) (Dated) 6-5-41 (Signed) J. Forbes Capt.
F. I. Matheson Capt.
C[illegible]
No. 2 Can. Inf. Training Unit
Can. A.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] 81-40112—83] 200 0 1940 P.Q. G.Co

CHARGE SHEET

The accused, F-59667 Pte. L. Doiron, West Nova Scotia Regiment Reinforcement, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas) is charged with:

First charge Sec. 6 (2) (h) Army Act. When a soldier acting as sentinel (on active service) leaving his post before he was regularly relieved,

in that he,

at about 1600 hours, on 29th March 1941, after being posted as a sentry on No. 4 Post, Quarter Guard, Camp 102, Witley, Surrey, left his post without having been regularly relieved.

(F.S. MATHESON) Lt.-Col.
Officer Commanding
No. 2 Cdn. Inf. Holding Unit.

Camp 102
Witley, Surrey
3 April 1941

To be tried by Field General Court Martial

Brigadier
Commanding Cdn Base Units

Bordon, Hants
This 23rd day of April 41.

M-59667, Pte. Doiron, L., No. 2 Cdn. Inf. Holding Unit, tried by Field General Court-Martial at Witley, Surrey, on the 29th day of April, 1941.

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

Prosecutor - Lieut. Malcolm MacPherson
Defending Officer - Lieut. J.R. Prefontaine.

At 1000 hours the Trial commences.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Q1 - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1 - No, sir.

The President and members are duly sworn.

Q2 - Do you object to M-15277 Sgt. Stanley Fidler, The Edmonton Regiment, C.M.H.Q., acting as Court Stenographer?
A2 - No, sir.

The Court Stenographer is duly sworn.

The charge-sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon the charge in the above mentioned charge-sheet.

Q3 - Are you guilty or not guilty of the charge against you, which you have heard read?
A3 - Not guilty, sir.

The prosecutor proceeds to call witnesses.

First witness for the prosecution, F-80372, Pte. Amon, T., No. 2 Cdn. Inf. Holding Unit, being duly sworn, is examined by the prosecutor.

Q4 - Are you a member of the M.M.S.R. Company, No. 2 Cdn. Inf. Holding Unit?
A4 - Yes, sir.
Q5 - What duties were you engaged on in this unit on the 29th March, 1941?
A5 - I was on guard.
Q6 - What guard?
A6 - Well, it was not a detention guard but another guard, I can't think of the name.
Q7 - The quarter guard?
A7 - Yes, sir.
Q8 - During what time of the day were you on duty?
A8 - It began at 1600 hours.
Q9 - Are you quite sure of that?
A9 - Yes, sir.
Prosecutor - May I have this man's statement in the summary of evidence read?
President - Yes. (Reads)
Q10 - You told us at the summary of evidence that your duties finished at 1600 hours; is that correct?
A10 - Yes, sir.
Q11 - What post were you on?
A11 - I call it No. 4 post.
Q12 - When you left No. 4 Post who was posted in your place?
A12 - This man here. (Indicates the accused)
Q13 - Do you know his name?
A13 - I can't pronounce it.
Q14 - But you recognize him?
A14 - Yes, sir.

Cross-examination by the defending officer.

Q15 - Do you know Pte. Doiron as being the man who relieved you at the post on the 29th March?
A15 - Yes, sir.

RSH

Q16 - Have you known this man long?
A16 - No, sir.
Q17 - What condition was this man in when he relieved you?
A17 - Good condition as far as I know.

Second witness for the prosecution, F.[illegible], Sgt. Taylor, C.C., No. 2 Can. Inf. Holding Unit, being duly sworn, is examined by the prosecutor.

Q18 - You are in the W.N.S.R. Company of this holding unit?
A18 - Yes, sir.
Q19 - On what duties were you employed on the 29th March, 1941?
A19 - Commander or sergeant of the quarter guard at Witley Camp, sir.
Q20 - Do you recognize the accused?
A20 - Yes, sir, I do; Pte. Doiron.
Q21 - What duty was he on?
A21 - A member of the quarter guard of that date.
Q22 - Will you give to the Court the names of the n.c.o's of that guard?
A22 - There was one corporal, Cpl. Meister.
Q23 - What were his duties?
A23 - It was his job to post and relieve the sentries.
Q24 - What were the duties of Doiron?
A24 - His duty was to be a sentry at any point posted and patrol the beat and see no-one came in where they shouldn't.
Q25 - At what time was Doiron posted on a beat that day?
A25 - I would have to look over the guard report to find that out.
Q26 - Did you visit any of the posts in the course of the afternoon that day?
A26 - Yes, sir.
Q27 - About what times or time did you make that visit?
A27 - About half an hour after they were posted.
Q28 - At what actual hour did you visit the posts?
A28 - Usually about half an hour after the sentries were posted.
Q29 - I take it a number of sentries were posted at four o'clock?
A29 - Yes, sir.
Q30 - Did you visit No. 4 Post about half an hour after posting at four o'clock?
A30 - I did, and found Pte. Doiron not at his post.
Q31 - Doiron, then, should have been at his post, Post 4, is that correct?
A31 - Yes, sir.
Q32 - Was anyone on duty at Post No. 4 at that time?
A32 - No, sir.
Q33 - What did you do when you discovered that state of affairs?
A33 - I put Pte. Adams on that post; about four-thirty or 1630 hours, sir.

Cross-examination by the defending officer.

Q34 - You state that Doiron, the same as any other man, knew what he had to do on his beat; were the rules in the hands of the guard commander and read over to the guard?
A34 - Yes, sir.
Q35 - Have you known Doiron as a soldier for a long time?
A35 - For about three months in my platoon as a soldier.
Q36 - What kind of a soldier is he?
A36 - An upright and honest soldier and I never had any trouble with him before.
Q37 - Would you say that if Doiron had been in his normal senses he would have acted in the way he did in leaving his post?
A37 - I don't know how to answer that question.
Q38 - If Doiron is a good upstanding soldier he would normally have stuck to his post, wouldn't he?
A38 - I would think he would, sir.

Re-examination by the prosecutor.

Q39 - When the members of the guard were posted did they know how long they were to stay on their posts?
A39 - Yes, sir.
Q40 - How long was Doiron to stay on?
A40 - Two hours from 1600 to 1800 hours.

R2M

Third witness for the prosecution, F-[illegible]172, Cpl. Meister, R.T., No. 2 Can. Inf. Holding Unit, being duly sworn, is examined by the prosecutor.

Q41 - You belong to the W.M.S.R. Company of No. 2 Can. Inf. Holding Unit?
A41 - Yes, sir.
Q42 - What duty were you engaged in on the 29th March, 1941?
A42 - Corporal of the quarter guard.
Q43 - Do you recognize the accused?
A43 - Yes, sir.
Q44 - What duty was he engaged on?
A44 - No. 4 Post.
Q45 - What hours was he there?
A45 - From the first shift on No. 4 Post; from 1000 hours to 1200 hours and from 1600 hours to 1800 hours.
Q46 - You posted Doiron to No. 4 Post at 1600 hours?
A46 - I did.
Q47 - When you left him at No. 4 Post were you quite sure he knew his duties?
A47 - Yes, sir.
Q48 - In particular, he knew how long he was to stay there?
A48 - Yes, sir, two hours.
Q49 - Had he been relieved in any way before 1630 hours?
A49 - No, sir, not that I know of.
Q50 - In the normal rote he wouldn't have been relieved until 1800 hours?
A50 - Yes, sir.
Q51 - And he wasn't relieved?
A51 - No, sir.

Cross-examination by the defending officer.

Q52 - How long have you known this man?
A52 - About eight months, sir.
Q53 - You have had him under you quite a while?
A53 - Yes, sir.
Q54 - What kind of a soldier was he?
A54 - A good soldier.
Q55 - A stickler for rules?
A55 - A good man, sir.
Q56 - Would you think Doiron would leave his post without a good reason or without advising the authorities?
A56 - I don't know why he left his post, sir.
Q57 - When you advised Doiron he was taking post from 1600 to 1800 hours did you notice anything wrong with him?
A57 - No, sir.
Q58 - Had he left the guard-house at any time during the day?
A58 - Probably. They leave to get washed and shaved and he might have gone out during that time.
Q59 - Do you know anything about the length of time he might be away?
A59 - No, sir, it is hard to keep track of them; a couple go at a time.
Q60 - Do you mean during his four hours time off?
A60 - Yes, sir.

Fourth witness for the prosecution, F-[illegible]01, Pte. Adams, J.P., No. 2 Can. Inf. Holding Unit, being duly sworn, is examined by the prosecutor.

Q61 - Will you tell the Court what duty you were engaged on on the 29th March, 1941?
A61 - I was a member of the quarter guard of that date, sir.
Q62 - During what period were you doing sentry duty?
A62 - I was appointed runner on that particular guard, sir; two hours on and two hours off.
Q63 - Did you have to take over as sentry?
A63 - I had to take over and take a man's place between two and four on the 29th. I believe it was the 29th.
Q64 - On the 29th did you have to take over at any other period?
A64 - Not that I remember, sir.
Prosecutor - I think, sir, again the summary must be read.
President - Yes. (Reads)
Q65 - Is that evidence correct, Adams?
A65 - I made a mistake in the times of the shift; it was from half past four to six o'clock.

Q66 - When you took over Post No. 4 was there any other sentry on duty?
A66 - No, sir.
Q67 - How long did you remain?
A67 - Until supper time and then I came back until the guard was changed.
Q68 - When was that?
A68 - Nearly six o'clock.

Cross-examination by the defending officer.

Q69 - Do you recognize the accused?
A69 - I have only known him since I came to this country.
Q70 - Have you soldiered with him since you have been in this country?
A70 - I couldn't say I have soldiered with him; I have seen him on the square.
Q71 - Was he in the same platoon?
A71 - No, sir.
Q72 - What kind of a soldier do you think he was?
A72 - From what I saw of him on and off the square, a good soldier.
Q73 - You were present all day in the guard-room, did you see him absent from there any length of time?
A73 - Not that I can remember, but I wasn't in all day because I was runner.
Q74 - You wouldn't be able to tell us if he had gone out or not?
A74 - He might have gone out without me knowing.

The case for the prosecution is closed.

Q75 - Do you apply to give evidence yourself as a witness?
A75 - Yes, sir.
Q76 - Do you intend to call any other witness in your defence?
A76 - Yes, sir.
Q77 - Is he a witness as to character only?
A77 - Yes, sir.

First witness for the defence, F-29667, Pte. Doiron, L., No. 2 Can. Inf. Holding Unit, being duly sworn, is examined by the defending officer.

Q78 - Will you tell us in a few words what happened on the 25th March, 1941?
A78 - I was a member of the quarter-guard and I thought my duty was from 1400 to 1800 hours and at dinner time I went down to the canteen, sir, and had a beer and so I came back at 1800 hours and was placed on guard at 1800 hours and I don't remember nothing about it. I left the post, by the way they say, and went to my billet and the orderly corporal found me in bed around 0030 hours. I didn't even know what I was arrested for and I asked what for and he didn't know. I found out the next morning, Sunday, that I was arrested for leaving my post without being properly relieved.

Cross-examination by the prosecutor.

Q79 - You have heard the charge read over to you, and the particulars. Do you agree that you had been posted?
A79 - I wouldn't say, but I understood that I took over the second beat and that left me from eight until ten, and from two to four.
Q80 - Were you actually on a sentry post from two to four?
A80 - No, sir, it's funny I had the second relief on the day of the 26th which would take me from eight to ten and from two to four.
Q81 - You don't actually deny that you were posted at 1800 hours; we are dealing with the period you were actually put in.
A81 - No, sir.
Q82 - The next part of the charge -- leaving your post without being regularly relieved -- do you deny that?
A82 - No, sir.

Re-examination by the defending officer.

Q83 - Do you admit it; do you admit being posted and being relieved?
A83 - I don't remember, sir.

RSM

econd witness for the defence, Capt. J. Coles, a/O.C. No. 2 Company, No. 2 dn. Inf. Holding Unit, being duly sworn, is examined by the defending officer

Q84 - Would you tell us in a few words what you know of the accused, Doiron?
A84 - I have known him since he enlisted and before that in private life, and since he has been with us he has always been a real good soldier but he seems to have the one bad failing of getting a drink of beer and going screwy. Since coming to England he has been trying very, very hard. He can be relied on and he is clean and smart and has just the one fault. He is rather to be pitied because if he only takes one drink he is away.

The prosecutor declines to cross-examine this witness.

Third witness for the defence, F-3024, Pte. Schofield, H., No. 2 Can. Inf. Holding Unit, being duly sworn, is examined by the defending officer.

Q85 - Will you tell us what you know, in a few words, of Pte. Doiron.
A85 - I haven't known him very long and I have heard a lot of the boys talking about him in camp and they all liked him and I have thought the same too. I have heard the sergeant say, lots of times, that he liked him too.

The prosecutor declines to cross-examine this witness.

Closing address by the prosecutor.

All I wish to say is that the particulars in the charge have been proved one by one and that at 1600 hours Doiron was posted as a sentry and we have proved the day and we have proved he was posted at No. 4 Post and that he left that post and it is proved by Sgt. Taylor that when he visited the post half an hour later Doiron was not there and when the succeeding man arrived Doiron was not there. Without being regularly relieved has been proved. In addition there is Doiron's statement that he doesn't deny. There is a suggestion that Doiron was been a good soldier and that he might not have been in good condition. The evidence that he has been a good soldier I am not going to contest. I am merely concerned with proving the facts.

Closing address by the defending officer.

The defence can't say very much on what has been proven. We can't disprove the fact that Doiron was not found at his post on March 29th, 1941, and you have the testimony of witnesses as to the character of the accused and you have heard, further, the testimony of Capt. Coles stating that if the accused ever touches so much as one glass of beer he goes screwy and in so doing loses his sense of direction. The accused himself admits that he did take a couple of glasses of beer so that when he returned to the guard-house and sat down and when he was posted on guard duty he does not remember it. From the character of the man we can say that there seems to be one great drawback and that is liquor and he assures us he has taken a last drink for a long time. He has served in the Canadian Army, both N.P.A.M. and C.A.S.F. I understand for sixteen years, so that unless his character really was bad he would not have stayed that long with an almost clean crime sheet with exceptions of minor conduct offences all of which, when finding the cause of same, are due to liquor. It is very difficult to admit that a man posted on duty to stay there for two hours, if he doesn't know he has been posted, can possibly leave that post without knowing. In the first place he didn't know he was there.

The Court is closed for the consideration of the finding.

Lieut. Malcolm MacPherson, No. 2 Can. Inf. Holding Unit, is duly sworn.

Q86 - Have you any evidence to produce as to the character and particulars of service of the accused?
A86 - A.F.H. 296 and N.F.M. C.
Q87 - Is the accused the person named in the statement which you have heard read?
A87 - Yes, sir.
Q88 - Have you compared the contents of the above statement with the regimental books?
A88 - Yes, sir.

ROA

89 - Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
89 - Yes, sir.

The accused declines to cross-examine.

90 - Do you wish to address the Court?
90 - No, sir.

The Court is closed for the consideration of the sentence.

R Stobbart Maj

SUMMARY OF EVIDENCE

in the case of

F-59667 Pte. L. Doiron, West Nova Scotia Regiment, Reinforcement, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Evidence taken on oath by order of the Commanding Officer.

First Witness Prosecution F-42554 Sgt. C.C. Taylor, having been duly sworn, states:

"I am a sergeant on the strength of the West Nova Scotia Regiment Company, #2 C.I.H.U., Camp 102, Witley, Surrey. On the 29th March 1941, I was Commander of the Quarter Guard. Pte. Doiron, who was a member of that guard, was detailed to #4 Sentry post, by Cpl. Meister, at 1600 hrs. At about 1630 hours I visited No. 4 sentry post, and found that Pte. Doiron was not on duty."

Sgt Taylor C.C. Sgt.

Accused declines to cross-examine ~~this~~ witness.

Second Witness Prosecution F-40172 Pte. P. Amon, having been duly sworn, states:

"As a member of the Quarter Guard, Camp 102, Witley, Surrey, on the 29th March 1941, I was relieved from No. 4 sentry post, at 1600 hours, by Pte. Doiron.

P Amon Pte

Accused declines to cross-examine this witness.

Third Witness Prosecution F-40401 Pte. J.R. Adams, having been duly sworn, states:

"I was a member of the Quarter Guard, Camp 102, Witley, Surrey, on 29th March 1941. The Commander of the Guard, Sergeant Taylor, ordered me, at 1630 hours, to take over sentry post No. 4, ~~as Pte. Doiron, whose post this was, had left it without being properly relieved~~. I did so.

J.R. Adams Pte.

Accused declines to cross-examine this witness.

Compliance with R.P. 4 (c) (d) (e) certified.

Lieut.

Officer detailed by O.C. #2 C.I.H.U. to take summary of evidence.

Camp 102
Witley, Surrey
3rd April 1941

SUMMARY OF EVIDENCE

in the case of

F59667 Pte. L. Doiron, West Nova Scotia Regiment, Reinforcement, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Evidence taken on oath by order of the Commanding Officer.

Fourth Witness F40172 Cpl. R.T. Meister, having been duly sworn, states:

Prosecution I am a corporal on the strength of the West Nova Scotia Regiment, No. 2 Canadian Infantry Holding Unit. As Corporal of the Quarter Guard, No. 2 C.I.H.U. on the 29th March 1941, I posted Pte. Doiron to sentry duty at No. 4 Sentry Post, at 1600 hours.

R.T. Meister Cpl.

Accused declines to cross-examine this witness.

Compliance with R.P. 4 (c) (d) (e) certified.

James Cameron Lieut.

Officer detailed by O.C. No. 2 Canadian Infantry Holding Unit to take Summary of Evidence.

Camp 102
Witley, Surrey
16 April 1941

LIST OF WITNESSES

in the case of

Pte. F-59667 Pte. L. Doiron, West Nova Scotia Regiment, Reinforcement, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

PROSECUTION

F-42554	Sgt.	Taylor C.C. W.N.S.R.	(#2 C.I.H.U.)
F-40372	Pte.	Amon, P. W.N.S.R.	(#2 C.I.H.U.)
F-40401	Pte	Adams J.R. W.N.S.R.	(#2 C.I.H.U.)
F-40172	Cpl.	Smith A.T. W.N.S.R.	(#2 C.I.H.U.)

LIST OF EXHIBITS

in the case of

Pte. F-59667 Pte L. Doiron, West Nova Scotia Regiment, Reinforcement, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

N I L

Description of Court by which Tried, or status of Officer disposing of the charge or proceeding with Trial	Date and place of Trial or summary award, or of Order disposing with Trial	Charges upon which convicted, or with which accused was dispensed	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted
/				

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th day of April 1941

[signature] Adjutant,
Lieut. & Inf. Rifle Holding Bn. (C.A.F.)

R.S.M.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

F. 59667 Pte Davison L. of the 1st Nova Scotia Regiment (R.C.I.C.)
(Regiment)

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—The Regimental and Squadron, Battery or Company Conduct sheets are to be produced in Court with this statement but are not to be accessed to the proceedings.

See Form 464, S.F. 1072.

*The numbers here stated should correspond with the number of Entries in the Conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For A. W. L.	4 times	4 times.
For Absent Without Leave	1 times	1 times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~

—

~~There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted,

or,

~~Previous convictions†~~ of the accused by a court martial ~~or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 74 of the Army Act~~ are set out in the Schedule annexed to this statement.

W1. 40048/40 30,000 2/40 W. & L.td. 52—4465

R.S.M.

3. The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence for .....
..... beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges

for ..... days in Civil Custody,

and 5 days in Military Custody.

Total 5 days.

Of which ..... days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 35

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 12 Sept 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is .....

8. The accused is entitled to deferred pay or gratuity in respect of ..... years' service.

9. The accused is entitled to reckon ..... years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [*or* is in possession of *or* entitled to

.....

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of .....

12. (*In the case of an officer.*) The accused holds in the army the rank of ..... dated ....., and in his regiment (*or* corps *or* department) the rank of ..... dated .....

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion.
In the rank of	, years,	.....
In the rank of	, years,	.....
In the rank of	, years,	.....

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ....., signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name ..... of the .....

NOTE.—*A verbatim extract from the regimental books, stating their corrections and dispensations with trial, must be inserted.*

Description of Court by which Trial, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

(*Continued overleaf.*)

No. P59667 Name DOIRON, Lawrence George | Sqn., Battery, or Company | Corps P.E.I.H. | Date of enlistment 1/9/39 | G.C. Badges nil | Service or Proficiency Pay nil | M.F.M. & (A.F.B. 1328) 5809M—8.39 (17032) H.Q. 1772-40-13

Date of last entry in Company Conduct Sheet 1/6/40 | No. and date of last drunk 3rd 1/6/40 | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. E.H. SMALL Major | Character Fair

Place	Date of offence	Rank	Cases of previous entry	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	N.S. 30-6-40	Pte		AWL 1200 2-7-40 - 0200 4-7-40	Cpl Jarrett	Admonished	6-7-40	E.H. Small Major	1 dy pay
Jordon	23-10-40	Cpl.		WOAS absent from N.C.O. School	CSM Cotton	Admonished	24-10-40	T.B.Rogers Major	
Louisburg Brks	10-12-40	Pte		WOAS absent from 0630 hrs 10-12-40 till 1430 hr 10-12-40. Absent 8 hr	Cpl Weatherbed Sgt. Vernotte	7 days C.B.		J.Coles Capt	1 days pay
Witley	10-1-41	Pte		WOAS absenting himself from 0730 hr 10-1-41 to 13-1-41 1000 hr. Time absent 3 days 2 hr 30 min	CSM Cotton	14 dy pay	14-1-41	F.S.Mathewson Lt.Col	
Witley	10-2-41	Pte		WOAS being absent without leave from 1515 hr to 0630 hr 12-2-41	CSM COTTON	14 days C.B.	12-2-41	P.E.Belanger Major	
				2. WOAS having been warned for quarter guard did absent himself	CPL KEDDY	2 days pay			

At first Hrs Capt
Lawson Commanding

(P.T.O.)

Promulgated as 200 d/ 20-8-41

P.C. 700

Correspondence to be PINNED here.

WNSR. . P-59667 Pte. Doiron,L.G. C-76
No.2 Cdn Inf Hldg Unit

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 19th day of August, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS,CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~And that it is not practicable to delay the trial for reference to a superior qualified officer~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~I am unable to appoint~~ —

*(1. ~~Three Officers to form the Court~~)

*(2. ~~A Field Officer as President~~)

*(3. ~~Three Officers having more than five years~~ service)

~~as Officers to whom service counts~~]

President.

Rank.	Name.	Regiment.
Major	M.G. Hanson	No.2 Cdn Arty Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	J.W. Drennan	No.1 Cdn Gen Hldg Unit
Lieutenant	M.J.A. Cote	No.2 Cdn Inf Hldg Unit
Lieutenant	H.M. Dillon	No.1 Cdn Inf Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed [signature] Brigadier

Commanding Cdn Base Units,Cdn Army.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F-59667 PTE. DOIRON, L.G. No.2 Cdn Inf Hdqs Unit.	First Charge A.A. sec 15(1) Second Charge A.A. sec 40 See charge sheet attached.	Guilty Guilty	Guilty 120 days detention Stoppages ~~If any awarding~~ ~~$ 1.14.8~~ Guilty to undergo detention for a period of 120 days and to be put under stoppages of pay until he has made good the sum of $ 1.14.8 in respect of costs of apprehension and return WHH	Confirmed J.M. Milton Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) J.M. Milton Brigadier (Signed) W.H.H. Anson Major R.C.A.
Commanding Cdn Base Units, Cdn Army. President.
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the twenty first day of August 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this twenty first day of August 19 41
W.H.H. Anson Major, R.C.A.
President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentence.

~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 22d day of August 1941.
J.M. Milton Brigadier.
Confirming Officer.

Promulgated and extracts taken in the case of F59667 PTE DOIRON, L.G.
(a) (Dated) D.O. #200 26 Aug 41 (Signed) J.M. Milton Lieut. Col.
Officer Commanding No. 2 Cdn ... Unit.

Promulgated and extracts taken in the case of
(Dated) (Signed)

Promulgated and extracts taken in the case of
(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.S. Hansen Secretary of President

CHARGE SHEET

The accused, Reg. # F59667 Pte. Doiron, L.G., West Nova Scotia Regiment Reinforcement, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas) is charged with:

First charge

Whilst on active service, absenting himself without leave,

in that he,

at Laurentide Camp, Witley, Surrey, at 2230 hours on the 30th June 1941 absented himself without leave until apprehended by the Military Police at about 1220 hours on 31st July 1941, at Boar Lane, Leeds, thereby incurring expenses for his return to the amount of £1-14-8

Second charge

Conduct to the prejudice of good order and military discipline,

in that he,

at Leeds, Eng., at about 1200 hours on the 31st July 1941 was masquerading as a Corporal, by wearing Corporal's stripes, well knowing that he was not entitled to do so.

(F.S. MATHESON) Lieut.-Col.
Officer Commanding
No. 2 Cdn. Inf. Holding Unit

Laurentide Camp
Witley, Surrey
13 August 1941

To be tried by Field General Court Martial

(E.R. Pie...) Brigadier
Commanding Cdn Base Units

Gordon Hants
This 19th Day of Aug 41.

MEDICAL OFFICER'S CERTIFICATE

M.D. (CAN) PARA 552

W4104

I certify that I have this morning examined

No. F59667 Pte Doiron, L.C.

of W. N. S. R. Coy. and in my opinion he

is ~~unfit~~ fit to undergo Trial by Court Martial.

Station. Laurentide Camp. Witley, Surrey.

Date 21 Aug 41

Medical Officer

W.J.S.A.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT Witley, Surrey ON THE 21st DAY OF August 41.

TRIAL OF:- No. [illegible] Pte Doiron, L.G., No.2 C.I.A.U.
The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.
The Court satisfy themselves as provided by R.P. 22 & 23.
The accused is brought before the Court.
Prosecutor:- (Name) [illegible] (Unit) No.2 C.I.A.U.
Defending Officer:- (Name) [illegible] (Unit) No.2 C.I.A.U.
At 0900 hrs the trial commences.
The order convening the Court is read, signed by the President and attached to the proceedings.
The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.
Q1. Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1- No sir
The President, members ~~and judge advocate (if any)~~ are duly sworn.
The officers under instruction are duly sworn.
Q2. ~~Do you object to~~ ~~acting as shorthand writer?~~
A2.-
~~The shorthand writer is duly sworn.~~
The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.
The summary of evidence is read, signed by the President, and attached to the proceedings.
Q3. Do you wish to make any statement in mitigation of punishment?
A3.- No sir.
Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4.- [illegible]

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER.

Accused resigns his mandate 24 years of age with five children. In 1932 2 years and prior to the war in the 2 Para.

SUMMARY OF EVIDENCE

in the case of

F59667, Private Doiron, L.G. on the strength of West Nova Scotia Regt. Reinforcements, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Evidence taken under oath by direction of the Commanding Officer.

First Witness for Prosecution DOCUMENTARY

Statement of L/C A. Glover, Canadian Military Police:

"At LEEDS on the 31st July 1941 at about 1220 hours I was on duty in Boar Lane accompanied by L/Cpl. A.W. Palmer, C.M. Police, when I saw the above named soldier who was wearing Corporal's chevrons.
I asked him to produce his leave pass, but he was unable to do so; he was also unable to produce documentary evidence to prove his identity, Upon questioning he stated that he was on 14 days' leave from BORDON CAMP and that his leave pass and documents were stolen from him at ROTHERHAM about a week ago.
I asked him to accompany me to GIBRALTAR BARRACKS, LEEDS, in order to verify his identity and his statements.
Upon arrival at Gibraltar Barracks he admitted that his previous statements were false and that he was a Private and an absentee from his unit.
I arrested him and handed him over to the N.C.O. in charge Guard to be detained.

LEEDS 31st July 1941 (Sgd) A. Glover L/Cpl CM Police"

The Accused does not question this statement and does not require the presence of the Witness for cross examination.

Second Witness For Prosecution DOCUMENTARY

Statement of L/Cpl. A.W. Palmer, Canadian Military Police:

"I have read over and corroborate the above statement
LEEDS 31st July 1941
(Sgd) A.W. Palmer, L/C C.M. Police"

The accused does not question this statement and does not require the presence of the Witness for cross examination.

Third Witness For Prosecution

F54728 Corporal Bailey, C.A. having been duly sworn states:

"I am on the strength of West Nova Scotia Regiment Reinforcements, No. 2 Canadian Infantry Holding Unit. I was Orderly Sergeant that week, and I went to call the Tattoo Roll-Call on 30th June 1941, and found that Private Doiron, L.G. and Private Harte, W.J. were both absent from their quarters. I reported this on the Tattoo Report. They remained absent."

Cpl Bailey C.A.

The accused declines to cross-examine this witness.

FOURTH WITNESS PROSECUTION

F44641 Cpl. Hartling, J.E. having been duly sworn States

"I am on the strength of West Nova Scotia Regiment Reinforcements, No. 2 Canadian Infantry Holding Unit. On 30th June 1941 I was Company Orderly Corporal. I accompanied the Orderly Sergeant on his tour of duty and at Tattoo-Roll Call found Private Doiron L.G. and Private Harte W.J. absent from their hut. They remained absent."

J E Hartling Cpl

The accused declines to cross-examine this witness.

The accused having been duly warned under R.P. 4 (e) stated that he wished to give evidence under oath on his own behalf.

Private Doiron L.G. having been duly sworn, states:

"When they stopped us on that street, that lane, I don't remember the name, they came over and asked us for a pass, which I told them I did not have. They asked me for my pay-book. I told them I had none. They asked me if I had any identification at all. I told them yes, and handed them my identification disks. They said they were not good enough evidence, and asked me if I had anything else. I held out a letter from my wife with my own name on it. They said I could have picked them up on the street at any time. It seems to me that the identity disks should be accepted as proper identification."

L G Doiron

Fifth Witness Prosecution

Lieut. W.A. Leask, having been duly sworn, states:

"I am Records Officer of No. 2 C.I.H.U. On 30th June 1941 Pte. Doiron L.G. was on the strength of this Unit as a Private and was not entitled to wear the ensignia of rank of Corporal at any time since that date."

Lieut. Leask

Certified that R.P. 4 (c) (d) (e) (f) and (g) have been duly complied with.
Owing to the exigencies of the Service, the 1st and 2nd witnesses for the prosecution were not required to attend. Written evidence given by these witnesses has been read over to the accused, who did not question their evidence nor require the presence of the witnesses for cross-examination.
Taken down in the presence and hearing of the accused.

J.H. Chicoine

(J.H. Chicoine) Lieut
Officer detailed by C.O. No. 2 C.I.H.U to take Summary of Evidence.

Laurentide Camp
Witley, Surrey
12 August 1941

CANADIAN FORCES

CHARGE

O.C. Details Gibraltar Barracks, Leeds, 3 Army Form D.A.P.M.

THE FIRST NOVA SCOTIA

No. [illegible] CANADIAN MILITARY POLICE

LONDON AREA

Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. F 51667 Rank PTE

Name DICKON, L G

Place LEEDS Date of Offence

OFFENCE WHEN ON ACTIVE SERVICE

(a) Absent from 8 Hours Apprehended by the Military Police at 90 BOAR LANE LEEDS on the 3rd JULY 1941 about 0.30 hrs

(b) Improperly dressed & misbehaving himself in N.A.A.F.I.

(c) Not Trying to Prevention of any means of Identification

(d) Stating his address to A.N.C.C. & the Military Police

Names of Witnesses:—

LCPL H GROVER CMPOLICE

LCPL A W PALMER CMPOLICE

Signature of O.C. Battery, Squadron, Troop or Company } Remanded for C.O. J Colclough

Punishment Awarded }

By whom Awarded }

Adjutant

P.T.O.

Q4753 W1-W1962-5 2nd 2,000,000 7/40 K. & H., Ltd. Gp.57/42

Statement of

EVIDENCE in the Case of

No. [illegible] Sgt. 67 Pte L.G DIXON,
No. 2 COMPANY,
No. 2 HOLDING UNIT,
THE WEST NOVA SCOTIA REGT.
WHITLEY.
SURREY.

To

At LEEDS on the 31st July 1941 at about 12.20 hrs I was on duty in BOAR LANE accompanied by Sgt. A.W. PALMER C.M. POLICE when I saw the above stated soldier who was wearing corporals chevrons.

I asked him to produce his leave pass but he was unable to do so, he was also unable to produce documentary evidence to prove his identity. Upon questioning he stated that he was on 14 days leave from DIXON CAMP and that his leave pass and documents were stolen from him at ROTHERHAM about a week ago.

I asked him to accompany me to GIBRALTER BARRACKS, LEEDS in order to verify his statements and he consented.

Upon arrival at GIBRALTER BARRACKS he admitted that his previous statements were false and that he was a private and an absentee from his unit. Further enquiries revealed his identity and he was detained in LEEDS.

C.H. Flower Hitt
C.M. POLICE

31st JULY 1941.

To

I have read over and corrected the above statement

LEEDS.
1st JULY 1941

A.W. Palmer Sgt
C.M. POLICE.

REMARKS

The m/n has no Complaints
W.H.C. Capt.

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Laurentide Camp on the 23rd day of July 19 41, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.F59667 Pte Doiron, L., W.N.S.R. (#2 C.I.H.U.)
(D.O. Part I d/22-7-41)

DECLARATION.

The Court declare that No. F59667 Pte Doiron, L., W.N.S.R. (# 2 C.I.H.U.) illegally absented himdelf without leave at Laurentide Camp, at 2230 hours, on the 30th June 1941, that he is still so absent; and that, on the 22nd of July 1941, he was deficient and is still deficient of the following articles to the amount of £7.11.0:

	£	s	d		£	s	d
1 pr anklets	0.	4.	4	1 knife table	0.	6.	10
1 blouse serge	1.	2.	6	1 shirt angola	0.	10.	0
1 pr trousers	1.	0.	6	1 pr shoes canvas	0.	3.	6
2 prs boots and laces	2.	5.	0	1 towel hand	0.	1.	6
1 cap field service	0.	2.	5	1 bag ration	0.	0.	2½
1 comb hair	0.	0.	2	1 belt waist	0.	3.	9
2 discs identity	0.	0.	2	1 helmet steel	0.	7.	9
1 pr gloves woollen	0.	1.	11	1 messtin	0.	2.	10
1 knife clasp	0.	2.	10	1 respirator complete	1.	0.	9½
					£7.	11.	0

Signed at Laurentide Camp this 23rd day of July 1941.

Names of President and Members

President: Lieut. G.G. Tayler, W.N.S.R. (#2 C.I.H.U.)
Members: " F.H. Burns, W.N.S.R. (#2 C.I.H.U.)
" A.H. MacLean, W.N.S.R. (#2 C.I.H.U.)

Signature of Commanding Officer

CERTIFIED TRUE COPY

Signature of Officer having custody of the Original Record.

Forms/B115/56

W.N.S.

Ref: K.R.& O.(Can.)

Regt.No: R-80667

Rank: Pte.

Name: Doirn L.G.

Regt: West Nova Scotia.

Unit:

The following expenses were incurred in apprehending and returning the m/n soldier to his unit from York.

DATE	PARTICULARS	AMOUNT		
	(Portion)			
London 8-8-41.	Escorts return fare from London to York.		14s	6d
	Prisoners single fare to London from York.		14s	6d
	Prisoners single fare from London to (Portion.)			
	Escorts expense for bus fares and meals for the prisoners.		5s	0d
	TOTAL -- £	1£	14s	0d

I certify that the above statement of expenses is correct and that the amounts are fair and just.

M. E. Byers. Lieut.

[illegible] Road,
[illegible] R.A.F.M. Canadians.
[illegible] COMPANY
CANADIAN PROVOST CORPS.

NOTE.

No reimbursement for this account is to be sent to our office from your goodself, as the amount has been paid from petty cash and charged to Public Funds.

If the accused is found guilty a stoppage of pay should be put through your units Part II Orders.

No. F59667 Name Doiron, L.G. | Sqn., Battery, or Company | Corps P.E.I.H. | Date of enlistment 1-9-39 | G.C. Badges Nil | Service or Proficiency Pay Nil | M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet 1-6-40 | No. and date of last drunk 1-6-40 | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. E.H. Small, Major | Character Fair

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot		Pte		A.W.L. from 2200 hrs 2-7-40 to	Cpl Jarrett	Admonished	6-7-40	E.H. Small Major	Forfeits 2 days pay
C.S.	30-6-40			0200 hrs 4-7-40					
Gordon	31-10-40	CPl		W.O.A.S. absent from [illegible] [illegible].C.O.'s school	CSM Cotton	Admonished	24-10-40	T.B. Rogers Major	
Louisburg									
Barracks	10-12-40	Pte		W.O.A.S. absent from 0630 hrs 10-12-40 till 1430 hrs 10-12-40	Sgt Veinotte	7 days C.B.		J. Coles Capt	Forfeits 1 days pay
Aldershot	10-1-41	"		W.O.A.S. absenting himslef from 0730 hrs 10-1-41 to 1000 hrs 13-1-41	CSM Cotton	14 days pay	14-1-41	F.S. Mathewson, LT./Col.	
Aldershot	10-2-21	"		W.O.A.S. being absent without leave from 1515 hrs to 0630 hrs 12-2-41 (2) W.O.A.S. when warned for guard duty did absent himself	CSM Cotton Cpl Keddy	14 days C.B. 2 days pay	12-2-41	P.E. Belanger Major	

(P.T.O.)

Place	Date of offence	Rank	Corps or Regiment or Regimental No.	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley Camp	29-3-41	Pte		W.O.A.S. when a soldier acting as sentinel, leaving his post before he was regularly relieved, in that he, about 1600 hrs on 29-3-41, after being posted as a sentry on No. 4 Post, Quarter Guard, Camp 102, Witley, Surrey, left his post without having been regularly relieved.	Sgt Taylor	60 days det. (RELEASED FROM DETENTION BARRACKS, ALDERSHOT; O ON 7-6-41 SENTENCE HAVING EXPIRED. REMISSION EARNED UNDER RULES FOR DETENTION BARRACKS AND MILITARY PRISONS 20 DAYS.)	29-4-41	F.G.C.M.	

Certified True Copy.
H.C. Lincoln

Description of Court by which Tried, or status of Officer dispensing of the charges dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charge upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or of the Dispensing Authority	Punishment remitted

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21 day of August 1941

J. W. Brierley Capt.
Adjutant
No. 2 Can. Inf. Re. Holding Unit (O.A.S.S.)

W.O.A.

Army Form B.296.

Statement as to Character and Particulars of Service of Accused.

Reg. #F59667 Pte. Doiron L.G. of the West Nova Scotia Regt. Reinforcement No. 2 CDN. INF. HOLDING UNIT

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be exhibited to the proceedings.

See Para. 684, K.R. 1940.

*The numbers inserted should correspond with the number of entries in the Conduct sheets, provision being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

		*Within last 12 months.	*Since Enlistment.
For	15(1) A.A.	3 times	4 times.
For	15(2) A.A.	1 times	1 times.
For		times	times.
For		times	times.

Number of instances of gallantry or distinguished conduct.

or,

There are no entries in the Conduct sheets of the accused.

2. The accused has not been previously convicted.

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

W. 4444/4504 30,000 2/40 W. & Co., Ltd. 11—5874

3 The accused is not under sentence at the present time.

or,

The accused was sentenced at [illegible] to [illegible] on the [illegible] day of [illegible]

4 The accused has been in confinement, awaiting trial on the present charges

for Nil days in Civil Custody,

and 22 days in Military Custody.

Total 22 days.

Of which 20. days were spent in hospital.

5 The present age of the accused according to his attestation paper is 34

6 The date of his ~~attestation~~ specified in his attestation paper is 30-9-39

7 The service which the accused is allowed to reckon towards discharge or transfer to the reserve is nil

8 The accused is entitled to deferred pay or gratuity in respect of two years' service.

9 The accused is entitled to reckon two years' service for the purpose of determining his pension, &c.

10 The accused is in possession of, or entitled to, no military decoration or military reward

11 (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12 (*In the case of an officer.*) The accused holds in the army the rank of , and in his regiment (or corps or department) the rank of , dated

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of , years,

In the rank of , years,

In the rank of , years,

In the rank of , years,

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name F59667 Pte. Doiron, L.C. of the West Nova Scotia Regt. Reinforcements No. 2 CIHU

NOTE.—*Verbatim extracts from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer imposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
F.G.C.M.	Witley Camp 29-3-41	A.A. Sec 6(2) f - Leaving his post before being regularly relieved.	60 days detention	20 days

(Continued overleaf.

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

W-120 (Case #3)

Pte DOIRON, L.G.

See B.18 for 1st case
C-76 2nd

W-120

3rd Cdn. Inf. Bde
C.A.O
31 JAN P.M.
ORDERLY ROOM
1943

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 27th day of JANUARY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to a superior qualified officer].

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* [it appears to me impracticable to appoint]

*Omit if not applicable.

*[1. Three Officers to form the Court.]

*[2. A Field Officer as President]

[for the following reasons, namely:—]

1

President.

Rank.	Name.	Regiment.
Major	J.A.A.G. Valee	R 22e R

Members.

Rank.	Name.	Regiment.
Capt	J.G. McKinney	Carlt & York R
Capt	C.R. Day	West NSR
(Waiting) Lieut	J.B. Starr	Carlt & York R

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [illegible] Brigadier,

Commanding 3 Cdn Inf Bde

Convening Officer.

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
P59867 Pte. Lawrence George, DOIRON West N.S.R.	First Charge Sec 18 (4) A.A.	Guilty	Guilty	Confirmed Carlos Coulthard Brigadier, Comd. 3 Cdn. Inf. Bde. 27 January 1943
	Second Charge Sec 15 (1) A.A.	Guilty	Guilty	
	Third Charge Sec 40 A.A.	Guilty	Guilty To undergo detention for a period of 6 months and to be put under Suspension of pay 28-7-9 Court of Appreciation Garnishee Order President 28 Jan 43	

* Question to be asked of accused, if he pleads not guilty (R. of P. 29 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) Carlos Coulthard Brigadier, (Signed) Garnet Dallie Major,
Commanding 3 Cdn Inf Bde, President.
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

CHARGE SHEET

F59667 Pte Lawrence George DOIRON, "D" Coy, West N.S.R., a soldier of the Canadian Army Overseas, stationed in the Field, is charged with:

1st CHARGE
Sec 18 (4)
Army Act

WHEN ON ACTIVE SERVICE, STEALING GOODS THE PROPERTY OF A PERSON SUBJECT TO MILITARY LAW,

in that he,

In the Field, at approximately 2300 hrs, 17 Jan 43, stole a wrist watch valued at ten pounds (£10), the property of F59556 L/Cpl Bower, H.L.C., of the West N.S.R., a person subject to Military Law.

2nd CHARGE
Sec 15 (1)
Army Act.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the field, did absent himself without leave from 0930 hrs 18 Jan 43 until he was apprehended by the Military Police in Liverpool Road, Talke, at 1050 hrs 20 Jan 43, thereby incurring expenses of £1-16-0, costs of returning him to unit. (Total Absence 2 days 2 hrs 20 mins).

3rd CHARGE
Sec 40
Army Act.

WHEN ON ACTIVE SERVICE, NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in the Field, at approximately 0930 hrs 18 Jan 43, did neglect to clean his rifle (No. B30987), and left it in an unserviceable condition.

In the Field,
27 Jan 43.

(R.D. King), Lt.-col.,
Comd. West N.S.R.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
27 Jan 43

(C. Foulkes), Brigadier,
Comd 3 Can Inf Bde.

WEST NOVA SCOTIA REGIMENT

This is to certify that F 59667 Pte Dotson Le G

of the West NSR, Cdn Army (Overseas), has this day been examined by me, and found medically fit/~~unfit~~ to undergo trial by Court Martial.

Date 28 Jan 43

R. L. Walker
Medical Officer
West NSR

Gaston Dallin major
president

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at In the Field.

on the 28 day of January 1943 by order of

Brig Charles Pobbles

Commanding 3rd Canadian Infantry Brigade

dated the 27 day of January 1943

President.

Major J.G.A.G. Vallee R 22 R.

Members.

Capt J. J. McKinney Carle & York R

Capt C.R. Day. West N.S.R.

Trial of* 45967 Pte Lawrence George Dixon ~~Junior Advocate~~

West Nova Scotia Regt

The order convening the Court, the charge-sheet and the summary (~~of evidence~~) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~

~~to serve owing to~~

~~waiting member takes his place as a member of the Court~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut J.H. Jones. West N.S.R.

~~The Counsel~~, or defending officer† Capt A.W. Rogers. West N.S.R.

At 1400 o'clock the Trial commences.

The order convening the Court is read, and is marked R signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).

† Here state Rank and Name, and Regiment (if any).

‡ Qualification to be stated.

Q80. 93/98/23 45. 15,000 sets. I/C. R. & B. Ltd. 9/42 [illegible]

B

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~ NV

The medical certificate is brought before the Court marked X and signed by the president

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty. *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Guilty *Answer.*

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ NV *Question.*

Answer.

The accused having pleaded Guilty to first, second + third charges, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

NV

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been recorded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused is found guilty of the first, second and third charges.

†The summary ~~(or abstract)~~ of evidence is read, marked Z signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Nil.

Defending Officer

Answer. The ~~accused~~ in mitigation of punishment says:—

~~(or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.)~~

The accused Dorion L.J. has been known to me since before war broke out and I am well acquainted with him and his family. For the holding that he was in some trouble and came to me for advice regarding family troubles. It seemed to help him and he went straight. He also had word that his wife had died in Canada. He became a good soldier so keen otherwise until the debit in his pay book came down from $300 to $50. I had a chat with him at the regiment and he told me that he was greatly worried about his children. He has five children the mother and father were aged and disabled. They had a hard job to take care of the children. Shortly afterwards he received word from Canada that two little girls and daughter had died. From then on he went himself

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

And was drinking quite heavily. At the time of the theft of the watch he was under the influence of alcohol and went A.W.O.L. After he had been apprehended, he came back and voluntarily made a clean breast of things and signed a confession. He realized his mistake, that he wasn't helping his children any and decided to face the music. In my opinion, this soldier has had more than his share of sorrow and hard luck. I would like to ask the Court to consider these things on behalf of this soldier in the mitigation of sentence. I would also like to say that the accused has been under close arrest from 23 Jan. 43 to the present time

Do you wish to give evidence yourself or to call any witnesses as to character? N.D.

Question to the accused

Answer

Evidence as to character

mmary of evidence in the case of F 59667 Pte Lawrence George
DOIRON, West N.S.R., a soldier of the Canadian Army Overseas, stationed
in the Field

By order of Lt-Col R.D. King, Officer Commanding, West N.S.R.

Evidence taken on oath.

Z Gaetz Dalley major
president

FIRST WITNESS for the Prosecution:

F-39558, L/Cpl Bower, H.L.C, "D" Coy, West N.S.R, having been duly ~~warned~~ sworn states:

I, F 39558, L/Cpl Bower H.L.C., am a N.C.O. in #17 Pln, "D" Coy, West N.S.R. I share a room with Cpl Douglas W.B. The accused, Pte Doiron, L.R. is also in #17 Pln, "D" Coy, West N.S.R. and lives in the same house as I do.

At about 2200 hrs, 17 Jan 43, I went to my room and went to bed, having first taken out my watch and placing it on the table beside my bed.

At about 0600 hrs, 18 Jan 43, the guard came into the room and called me. When I got up the watch was gone. I reported to Sgt. Mackay that the watch was missing. Cpl. Douglas was on pass till midnight 17 Jan 43.

The following is a description of the watch. The name of the watch was Rolex Standard. It was valued at approx $10 and had 17 rubies. The part of the case that holds the crystal was gold as was the part that the strap was attached to. The part of the case that the working parts fit into was silver coloured. The hands & the numerals were gold. It had a brown leather strap, a little less than 1/2" wide. It also had a small second-hand. The strap was the ordinary type with a buckle.

Capt. H.L. Bower

The accused declines to cross-examine this witness.

SECOND WITNESS for the Prosecution:

F-39776, Sgt Tupton W.B., Provost Sgt, West N.S.R having been duly sworn states:

I am and have been at all times materiel hereto Provost Sergeant of the West N.S.R.

At approx 0845 hrs, 18 Jan 43, I received a telephone communication from Capt. Smith, Offr Commanding "D" Coy West N.S.R, to the effect that a watch had allegedly been stolen. The accused Pte Doiron with two other members of D Coy, had gone A.W.L. that morning. I took the necessary action to have the apprehended, and on the 22 Jan 43, the accused was turned over to me, under close arrest. Before questioning the accused about the alleged theft I cautioned him, and he, having signed the caution, made the following statement, which has been marked Exhibit "A" and which I hereby produce as evidence.

The accused declines to cross-examine this witness.

THIRD WITNESS FOR THE PROSECUTION:

F-40421, Pte Waters, P.E., Provost Section, West N.S.R.

having been duly sworn states:

When Pte Doiron L.G. made the statement, marked EXHIBIT "A", I was present. Pte Doiron was cautioned before he made the statement, and ~~when~~ made it of his own free will.

The accused declines to Cross-examine this witness.

P.E. Waters

FOURTH WITNESS FOR THE PROSECUTION:

F-43626 Sgt McKay, F.H., #17 Pln, D Coy, West N.S.R.

having been duly sworn states:

I am and was at all times material hereto Pte ~~Sgt~~ of #17 Plt, West N.S.R. F 59669 Pte Doiron L.G. is in my platoon.

At 0830 hrs, 18 Jan 43, Pte Doiron, L.G. (on 22 Jan 43) was absent from morning parade. It was reported to me that ~~they~~ he had been picked up by the Provost.

Sgt F.H. McKay

The accused declines to Cross Examine this witness.

FIFTH WITNESS FOR THE PROSECUTION:

F40606 C.S.M. Cooper R.M., C.S.M., D Coy, West N.S.R.

having been duly sworn states:

At about 0930 hrs 18 Jan 43 I ordered Doirons kit to be turned into the C.Q.M.S. to be checked. This was done and I received his rifle, P-30989 and put it in my own storeroom. While taking it to my storeroom I noticed it was dirty and rusty. I examined it more closely and decided that it had not been cleaned for some days. I remarked this to my Coy Cmdr. and he instructed me to lay a charge against Pte Doiron L.G.

R.W. Cooper, C.S.M.

The accused declines to cross examine this witness.

SIXTH WITNESS FOR THE PROSECUTION (DOCUMENTARY)

The accused is informed as follows:

Take notice that at your trial by C.M. will be produced marked exhibit "B" & "C" Expense Vouchers (C.M.H.Q. 200-65-46(P & S/483), to show expenses incurred in apprehending and returning you to the W.N.S.R. from STOKE ON TRENT VIA LONDON to make up a total of £1-16-0.

Also:

Take notice that at your trial by C.M., F/Sgt Riddle C., Corps of Military Police, will be called to give evidence as to the time, date, place and circumstances of your apprehension on 22 Jan 43.

J.H. Jones, Lieut.
Officer taking Summary

Having been duly warned in accordance with R.P.4 the Accused reserves his defence.

Certified that R.P. 4 (c), (d), (e), (f), and (g) have been complied with.

Taken down by me in the presence and hearing of the accused this 24th. day of January 1943.

In the Field
24 Jan 43.

J.H. Jones, Lieut.
Officer taking
Summary of Evidence.

LIST OF WITNESSES in the case of F59667 Pte Doiron L.G.,West N.S.R.

PROSECUTION:

1. F39558 L/Cpl Bower H.L.C., West N.S.R.
2. F39776 Sgt Lupton W.B., West N.S.R.
3. F40421 Pte Winters P.E.,West N.S.R.
4. F43626 Sgt MacKay F.H., West N.S.R.
5. F40556 CSM Cooper,R.M.,West N.S.R.
6. L/Cpl Criddle,C, Corps of Military Police.

DEFENCE: NIL

EXHIBITS:

Exhibit # "A" ---- Statement by accused.
" "B" ---- Expense Vouchers.
" "C" ---- Expense Vouchers.

STATEMENT BY ACCUSED AS TO A DEFENDING OFFICER:

If I am to be tried by Court Martial on charges now pending against me I wish to have ...Capt. A.H. Rogers.....to act in my behalf.

Date 25 Jan 43. .....(Signature of Accused)

This is to certify that I, F59667 Pte Doiron L.G. have
(number) (rank) (name)
been given free of charge a copy of the Charge Sheet, Summary of Evidence, documents etc, relating to my trial by FGCM .

Date: 25 Jan 43. .....(Signature of Accused)

F59667 Pte Doiron, L.G., West N.S.R.

Take notice that at your trial by Court Martial will be produced Expense Vouchers (CMHQ 1000 : 55 40/P&S/483) marked Exhibit "B" & "C" to show expenses incurred in apprehending and returning you to the West N.S.R. from Stike-on-Trent to Lewes via London to make a total of £1-16-0.

J.H. Jones, Lieut.
(J.H. Jones), Lieut.,
Officer taking Summary of Evidence.

F59667 Pte Doiron, L.G., West N.S.R.

Take notice that at your trial by Court Martial L/Cpl Criddle, C. of the Corps of Military Police will be called to give evidence as to the time, date, place and circumstances of your apprehension on 20 Jan 43.

J.H. Jones, Lieut.
(J.H. Jones), Lieut.
Officer taking Summary of Evidence.

EXHIBIT "A"

Caution given to F. 59667. Pte Doiron. L. G.
"D" Coy. West Nova Scotia Regt
Canadian Army Overseas.

January 22/1943.

You are warned that you need not say anything unless you wish to do so. but everything you do say will be taken down in writing, and may be given in evidence.

F. 59667. Pte Doiron. L. G. have been duly cautioned as above, and fully understand same. I am giving this statement freely. without threat or compulsion, and without any promise of favor or affection

signed L Doiron
Witness P.E. Winters
" W.B. Lapthorn Sgt.

~~On Monday morning January 18th 1943. between 0000 hrs and 0330 hrs.~~
On Sunday night January 17th 1943 at about 2300 hrs. or 2330 hrs. I went into the room occupied by L/Cpl Bowers R.C. of "D" Coy. West Nova Scotia Regt. I saw a watch on the table. it was a mans wrist watch, it was oblong shape with gold top and silver case, brown leather strap. The face was dashed brown and it had gold hands. no one else was in the room, so I took it, and put it in my pocket, and went down stairs to my own room, and went to bed. next morning, Monday January 18th 1943. I got up at Reveille made my bed, and after breakfast, Pte Smith, Pte McDonald and I. went to Brighton. and from Brighton on to Worthing. after waiting till the Parks opened, we went in and had a few drinks at the Fountain and Dragoon. I told McDonald and Smith to wait there for me a few minutes and I would be back. I then went to a pawn shop, on Warwick Road, Worthing. and sold the watch for £3-10-0.

signed L Doiron
witness W.B. Lapthorn Sgt
witness P.E. Winters

EXHIBIT "G"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. F.S.9667 Rank PTE Name Dorion Unit W.N.S.R.

The following expenses were incurred in apprehending and returning the M/N's Soldier to his Unit From London

Date	Particulars	Amount		
22 Jan 43	Escorts return fare from LONDON To Levis 1/2 Portion		3	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Levis		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

CMHQ 1000-55
40/F & S/485

EXHIBIT "C"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. F-5-9667 Rank Pte Name Dorion. L.L. Unit W.N.S. Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London

Date	Particulars	Amount		
22 Jan 43	Escorts return fare from LONDON To Stoke on Trent ½ Portion		11	2
21	Prisoners single fare to LONDON From Stoke on Trent.		11	2
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares ½ Portion		6	0
	Total £	1	8	4

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-55
40/P & S/483

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused is guilty of the first, second and third Charges.

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

~~*The Court being reopened, the accused is again brought before it~~ Lieut J. H. Jones West W.S.R. is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings. (with appendices A, B, C.)

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes.

~~Cross-examined by the accused.~~

[Explanatory. If he swears to the register of the service of the witness or a departmental copy, or otherwise, the finding of the Court renders that matter in any disciplinary investigation or action to that to be submitted to the Court the previous work on the directions of the Court in the case, and the Court must inquire into the nature and amount of the additional punishment.]

Question to the accused.

~~Do you wish to address the Court? Answer~~

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused To undergo detention Sentence.
for a period of 6 months and to be
put under stoppages of pay for £1-16-0

Gaston Dallie major
president
28 Jan 43

No. F 57667 Name Dolman Laurence George. Sqn., Battery, or Company — Corps R.E.3 H.Q. — Depot Establishment 1939 — G.C. Badges A.1 — Service or Proficiency Pay A.1

Date of last entry in Company Conduct Sheet 16.7.40 — No. and date of last drunk 3 AE 16.7.40 — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc. [illegible] — Character V.G.

M.F.M. 6 (A.F.B. 122) 11M—7-40 (1215—29) H.Q. 1775-39-1000

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot H.Q.	30.6.40	Pte		A.W.L. 1700 hrs 27.7.40 - 0200 7-7-40	Cpl Jarrett	Admonished	6-7-40	J.H. Jones maj	Forfeit 2 days pay
Bordon	23.12.40	Cpl		W.A.O.S. absent from 1 Coy H.Q. [illegible]	C.S.M. Carter	Admonished	24-12-40	J.B. Rogers maj	
Training Bn	10.12.40	Pte		W.A.O.S. absent from 0600 hrs 10.12.40 until 1730 hrs 10.12.40 [illegible] hrs	Cpl Jarrett	7 days C.B.		J. Coles Capt	Forfeit 1 day pay
Whitley Camp	10.1.41	Pte		W.A.O.S. absenting himself from 0730 hrs 10.1.41 until 13.1.41 at 1000 hrs Total absence 3 days 2 hrs 30 mins.	L/Cpl Carter C.S.M.	14 days pay	14.1.41	J.S. matheson Lt.Col.	
Whitley Camp	10.2.41	Pte		1. A.W.O.L. from 1030 hrs 10.2.41 until 0630 hrs 12.2.41	C.S.M. Carter Cpl Reddy	14 days C.B. 21 days pay	12.2.41	A.C. Calanger maj	
				2. W.A.O.S. When warned for Guard Duty did absent himself					
Whitley Camp	2.3.41	Pte		W.A.O.S. When a Soldier acting as Sentinel leaving his post when he was regularly relieved in That he at about 1600 hrs on 2.3.41 after being posted as a Sentry on No 7 Post Quarter					

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Home the Camp	30-6-41	Pte		Guard Camp 102 Whitby Sunray left his post without having his regularly relieved (1) A.A - 15 (1) (2) A.A - 40 Guilty on both Charges.	Sgt Ray Lee C.C.	60 days D.F.	29. 3. 41	Field General Court martial	
Field	18-12-41	Pte		(1) W.P.A.S. Failing to appear at the Place of Parade appointed by his C.O. on that Date & Hour Parade Warning at 1300 hrs. 18-12-41 Invited to appear at Afternoon Parade. (2) Being under open arrest in Camping area from 1600 hrs 19-12-41 Absenting himself without leave from his post from 0630 hrs to 2300 hrs 19-12-41 Sec 15 A.A.	Sgt Prunk C.A.	To undergo Detn 120 Days F.D. 173 Days Pay. R.A.L Jaipur 1 Day Pay 28 Days F.P.	21-8-41 29-12-41	Field General Court martial Sentence Confirmed by Brig P.R. Whelan H.P. Jackson Capt	

M.F.M. 5
A.F.B. 122B
1733M—7-41 (1218-20)
H.Q. 1772-39-1632

No. 39667 Name DOIRON Lawrence George | Sqn., Battery, or Company | Corps R.E.T.N. | Date of enlistment 1.9.39 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 1.6.40 | No. and date of last drunk 3rd 1.6.40 | Period not reckoning towards freedom from extra fine | Sheet No. 2. | Signature O.C. Company, etc. E. H. Dowell maj | Character Fair.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	29 April 42	Pte		(1) W.O.A.S. D. stopped out of a Route march without permission Sec 40 A.A. (2) W.A.O.S. A.W.L. from 1415 hrs. 28 April 42 until 2230 hrs 28 April 42. Sec 15 A.A.	Sgt Daniel J.G.	120 Hrs each to run consecutively 14 Days F.P.	2nd April 42	Lt Col. H.A. Hubbard maj.	
Field	30 June 42	Pte		W.A.O.S. A.W.L. from 0600 hrs. until 2230 hrs 2 July 42. Sec 15 A.A.	Cpl Deane W Cpl Downey J.B.	10 Days F.P. to run consecutively 7 Days F.P.	4 July 42.	J. Hubbard maj.	
Field	31.7.42	Pte		(1) W.A.O.S. Fell out of Route march without permission (2) A.W.L. from 0900 hrs 31.7.42 until 1045 hrs 3.8.42.	Sgt. McNay Cpl Dowey Pte	28 Days F.P. 7 Days F.P.	11 Aug 42.	M. A Bryant Maj	

Certified true Copy
S. A. Smith Capt.

F.T.O.

Garlondale major
president

M.F.B. 355
22M—5-41 (372-3)
H.Q. 1772-39-620
A.F.S. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F 59667	Pte	Dorion, L. G.	West N.S.R.

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act / Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AWL	3 times	AWL	11 ~~11~~ times
For	3 40	2 times	sec 40	1 ~~2~~ times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has ~~not~~ been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act / Air Force Act and dispensations with trial under A.A. 73 / A.F.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the ~~present~~ time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for 7 days in civil custody, and 7 days in military / Air Force custody, making a total of 7 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation paper is~~ 36 yrs

6. The date of his ~~commission~~ attestation specified in his record of service is ~~attestation paper~~ 1 Sep 39

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force / military decoration, or air force / military reward (or is in possession of or entitled to). State any air force / military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of / Air Force .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated, and in his regiment (or corps), the rank of dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank Unit Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

	Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
(1)	F G C M	29 Mar 41	WOAS - When a soldier acting as sentinel leaves his post, etc	60 days detention.	—
(2)	F G C M	21 Aug ~~Sept~~ 41	AA Sec 15 (1) AA Sec do	120 days detention	—

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27 day of Jan 43 [illegible] Capt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of January 1943 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~) N/A
*(4. ~~The officers under instruction~~) N/A

*Omit if not applicable.

were duly sworn.

Signed this 28th day of January 19 43

Frederick Allen Wright
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (3) on page 767 M.M.L. 1939.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial. N/A

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or having such authority, recommends suspension

*I direct that the soldier named in the margin be released from ~~prison~~ detention barracks ~~with ignominy~~ DJ

Signed this 29 day of January 19 43

Confirming Officer Brigadier, Comd 3 Cdn Inf Bde

Promulgated and extracts taken in the case of F39667 Pte Dorion, L.G. Regt #1R

(a) (Dated) 30 Jan 43 (Signed) J.A. Klemmer Capt Adjt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] W1.47333/247 35,000 7/42 A.E.F. (H.Q.) Ltd. Gp.630
[illegible] W1.18008/1269 40,000 7/42

4W-53.

te. Dorion. L. G.

Missing

59 V (case #2)

Pte DOIRON, H.J.

See 220 E for 1st case

C-17867 Pte. Michael Joseph DOIRON
Carlt. & York R. 1 C.D.I.R.U. 59 V

DO-5/9-1-43

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this 8th day of JANUARY, 19 43

Whereas it appears to me, the undersigned, an officer in A/Command of "A" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O). , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~.

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~I am unable to appoint~~

*~~(1. Three Officers to form the Court~~.

*~~(2. A Field Officer as President~~.

for the following reasons, namely ~~:~~

* Omit if not applicable.

Proceedings Returned to Convening Officer for Reconsideration 22 June 43. A/C Campbell

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	N.D. THEOBALD, M.M.(Westmr.R.)	5 C.I.R.U.(Arm'd Div.)

Members.

Rank.	Name.	Regiment.
Captain	J.C. Newlands (P.P.C.L.I.)	1 C.D.I.R.U.
Lieutenant	C. Merrill (Fus.M.R.)	2 C.D.I.R.U.
Lieutenant	R.M. Rich (R.Regt.C.) Waiting Member	2 C.D.I.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed Colonel,
A/Commanding "A" Group Can. Reinf. Units,
Convening Officer (O).

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
G-17867 Pte. Michael Joseph DOIRON Carlt. & York R. 1 C.D.I.R.U.	First Charge A.A. Sec. 15(1) SEE CHARGE SHEET ATTACHED.	Not Guilty	Guilty To undergo detention for ~~4 months~~ 120 days. 8th Jan/43 H.D. Theobald major President	Confirmed Intd Maxwell Cd a/Comd A 4 p CRU 8 Jan 43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" ~~Yes~~ No.
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) W.J. Maxwell Colonel (Signed) H.D. Theobald major
A/Commanding "A" Gp. Cdn. Reinf. Units, Hqtrs Regt 5 CIRU (AS)
Convening Officer (c). President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 8th day of Jan 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

* Omit if not applicable.

~~H.D.T. (3. The interpreter)~~ H.D.T.
~~H.D.T. (4. The officers under instruction)~~ H.D.T.

were duly sworn.

Signed this 8th day of Jan 1943.

H.D. Theobald major
President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

~~H.D.T.~~
President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 8th day of Jan 1943

W.J. Maxwell Lt Col
Confirming Officer.
*(Comd A 4 p CRU)

Promulgated and extracts taken in the case of G17867 Pte. Doiron, M.J. (C. & Y.R.)
Promulgated in Part II D.O. 46 dated 9 Jan 43

(*a*) (Dated) 9 Jan 43 (Signed) A. Pearson Colonel
(A.S. Pearson) Commander, 1 C.D.I.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, No G-17867, Private Michael Joseph DOIRON, of the Carleton & York Regiment, on the strength of 1 Canadian Division Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas), is charged with:

FIRST CHARGE
SECTION 15 (1)
ARMY ACT.

When on active service, absenting himself without leave,

in that he,

at Algonquin Camp, Witley, Surrey, did absent himself without leave from 2359 hours on the 27th of December, 1942, until apprehended at 0415 hours on the 2nd of January, 1943.

(Total absence 5 days 4 hours 16 minutes).

.....Lt-Col
(A.S. PEARSON), Commander
1 Cdn Div Inf Reinf Unit

Algonquin Camp,
Witley, Surrey,
6 Jan 43.

To be tried by Field General Court Martial.

(M.K. Greene) Colonel,
A/Commander,
"A" Group Cdn. Reinf. Units,
C.A.(O).

Convening Officer.

Witley, Surrey,
8 Jan. 43.

W. D. Shebbeare Major
President

MEDICAL OFFICER'S CERTIFICATE

- K.R. (Can) Para. 557 -

I certify that I have this morning examined No. G-17867 Pte Boiron, M.J., C & Y R, 1 CDIRU

No. 1 Cdn. Div. Inf. Reinf. Unit, and in my opinion,

he is fit ~~unfit~~ to undergo trial by Court-Martial.

Algonquin Camp,
Witley, Surrey,
8 Jan 43

R. D. Thorndike Capt.
(Medical Officer)

Pages.

Record of Evidence taken at
Trial by Court Martial of
G 17867 Pte Michael Joseph Doiron
held at Camp 101 on 8 Jan. 1942.

Prosecuting Officer: Capt. K.D. Clifford.

No Defending Officer by request of accused
Trial Commenced at 1610 hrs 8th no. in/43.

First Witness: a/Cpl. Fleming. R. - J20003
Carleton & York Regt.

Having been duly sworn states:
"On the 21 of Dec. 1942 I was detailed
as Bde. Orderly Sergt. On the afternoon
of that day a list of late passes
from the Carleton and Yorks Coy.
was given to me. The name
of Private Doiron M.J. was on
that list. At 2357 hrs. When the
passes expired he had not
turned his pass in. His name
was on the absentee report
at Reveille the following morning
& I turned the absentee report over
to the Clerk whose duty it was
to check. That is all so."

Question by Court: "Do you recognize
the accused as Pte. Doiron."

A. - "Yes Sir."

Q. - "As Bde. Ord. Sgt. it is your duty
to check late pass registers".

A. - "Yes Sir."

K. A. Chamberlain
President

Pte (2) M. J. Doiron

Q. - Do it also part of your duties to have men booking late passes when passes into you

A. - Yes Sir.

Accused refused to Cross-examine

Second witness: G. 17815 A/Sjt. Richards J. A.

having been duly sworn states: "On the 28th of December I went to work in Orderly Room as Orderly Sjt. The night H.C.O. told me the accused Pte. Doiron M. J. whom I now recognize was present. After I was told he was absent I checked the line and found out myself he was absent at that time. That is all I can say sir. Returned his pass into Q.M. Stores"

Accused declined to Cross-examine

Third witness W/4. 20017 A/Cpl. Hurd Carleton of York Regt. having been duly sworn states: "I was acting Ord. Cpl. from 26 Dec 42 to 2 Jan 1943. On the morning of the 28 Dec. 42 at 0620 hrs I called roll call in all the huts of the Carleton and York Coy. The accused Pte

Doiron whom I now recognize was absent at reveille roll call. I checked the huts night and morning since that date reveille and tattoo and the accused failed to answer his name.

"Fourth Witness. Documentary

(1) Certificate of apprehension by Military Authorities marked Exhibit "A".

Defence - First witness The Accused. Having been duly sworn states "When I joined the army 12 March 1942 I was told that if I signed on mother would get the dependents allowance. I was the only support for mother for 4½ yrs. I had a sick brother who had been in bed for 7 yrs. From that time I seen the paymaster to get this dependent's allowance for mother. I asked Aspaymaster several times. I got the answer mothers could not be granted Dependents Allowance. I went A.W.A. last January 1942 and I come back and they had stopped Mothers assigned pay. It kind of hurt my feelings Sir but I didn't

fell much like soldiering. I had to sign the pay over again when I came out. Every Christmas or New Year I never get anything from home. I don't know whether they have anything to eat or not. So it kind of hurt me and that why I went Sir.

~~Note: The accused wishes to give evidence on oath but to be written in his own writing. This is not very important. Statement attached is what he really wishes to say. and to be handed in as a plea in~~

Prosecuting Officer being duly sworn produces A.F.B. 296 M.F.M.6.

The Accused also handed in attached Statement marked "B" in mitigation of punishment.

B M Rice

4 Pages.

H. L. Christoffersen Major
President.

Lieut

Rules of Procedure for Court Martial Chapt 5 Paragraph 47

"Keep in touch with the folks at home"

THE SALVATION ARMY

ON ACTIVE SERVICE
WITH THE
CANADIAN FORCES

H. A. Ghesquière
President

194

President Court Martial.

Sir.

I desire it is quite in order to enter a plea of not guilty in a charge of a.w.o.l. providing there is provocation and extenuating circumstances. If this is in correct procedure with Rules of procedure for court martial I hereby enter my plea of Not Guilty

The court I feel I hope realize the unfortunate state of affairs at My Mothers home.

When I joined the Army 12/3/40 I was told that My Mother would receive dependents allowance and to the present day she has not received anything except My $20.00 which was also cut off for a period of 4 months.

The reply I received after about two months in the Army in regard to her allowance was that she was married and her husband was living therefore he was to support her and on this reason was disallowed allowance for her.

I would like to explain to the Court that my step father did not support our family for a period of 4½ years before the War. And that we have never had any direct communication with him since that time.

I have one older Brother but he also is of no help to my Mother being semi Bed ridden for about 2 years.

My Mother has had to do the best she could for the family for years. But from correspondance received lately

"Keep in touch with the folks at home"

THE SALVATION ARMY

ON ACTIVE SERVICE
WITH THE
CANADIAN FORCES

3. [illegible] Christian Jr. [illegible] 194

Things are becoming very hard for her she is very badly in debt. and were it not for the kindness of a man for whom she used to work. She would be out on the street.

I tender this letter to the Court for consideration and to prove my statement to be correct.

I have on various occasions gone to the pay masters where ever we happened to be stationed at different times. Trying to see if they could help me.

Each time I received the same answer That they could do nothing in the allowance question Canada disallowed the dependance allowance they could not start it.

each time I received the information it did not help the state of my mind it became a great worry

This was explained at a Court-martial I was given in Jan. of 1942. for 4½ days absent for which I received 60 days detention I realize that we must pay for our crimes. But I wish to explain to the Court that a great crime is being comitted in the case of my mother who is very badly in need of help.

My mother who gave up many things in her life that we children should have what little things she could give us

The woman who looked after me when I was too small to look after myself and who has made possible the fact that I am here to fight against the persecution

"Keep in touch with the folks at home"

THE SALVATION ARMY

ON ACTIVE SERVICE
WITH THE
CANADIAN FORCES

A. D. Chesterton Jr. "B"
President 194

which is slowly closing in the Countries taken now by the enemy yet she while willing to sacrifice me in in the same position her self she is not strong enough to continue this work much longer.

I must beg the court to except the Truth that Blood is thicker than Water. And that it is impossible for me to be 100% efficient while the one person in the world I Must stand by is forced to continue under such circumstances as exist with her to day.

It is my duty to try and repay her in full for her devoted duty to me when a child.

My record in the Army is not really what one could classify as being terrible.

One ~~soldier~~ has the usual sum of misdemeanours - some are ~~poor~~ lucky enough to get away with things other are not.

My longest period of ~~arrest~~ was 15 days. I do not consider this is so awful bad under the circumstances of my worried mind.

In closing may I ask the court to try and realize what this means to me. It is very trying I try to keep going doing the duty that is expected of me by the army but it is hard to take.

Will the court kindly understand that it is most new year it is harder to bear than any other time of the year. It got me. My court martial last year

"Keep in touch with the folks at home"

THE SALVATION ARMY

ON ACTIVE SERVICE
WITH THE
CANADIAN FORCES

[illegible] "B"

Trinidad 194

it has again the same pressure it had then with all the joy & the spirit going around at this time of year. And I speak of My Mother with God knows what for as she has in the house for food and Clothing & I simply seem to go Berserk Surely, I know are understanding can wholly condemn me for my unrealizing actions.

I beg the court to weigh the Mental strain and punishment. inwardly I have suffered inwardly before passing judgement on me

SUMMARY OF EVIDENCE

In the case of No G-17867, Private Doiron, M.J., of the Carleton & York Regiment, 1 Canadian Division Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas)

By direction of the Commanding Officer, this Summary of Evidance was taken under oath.

FIRST WITNESS FOR THE PROSECUTION — G-20003 A/Cpl Fleming, R., of the Carleton & York Regiment, 1 CDIRU, having been duly sworn, states:

I am G-20003 A/Cpl Fleming, R., of the Carleton & York Regiment Company, 1 CDIRU. On 27 Dec 42, I was BOS at 3rd Brigade Wing, 1 CDIRU. On that day Pte Doiron's name was on the list of late passes submitted by his Company. He did not report back at 2359 hours, the time of expiration of his pass. I reported the fact to his Company.

The accused declines to cross-examine this witness.

R.F. Fleming .....A/Cpl.

SECOND WITNESS FOR THE PROSECUTION — G-17815 A/Sgt Richard, J.A., of the Carleton & York Regiment, 1 CDIRU, having been duly sworn, states:

I am G-17815 A/Sgt Richard, J.A., of the Carleton & York Regiment Company, 1 CDIRU. On the 28 Dec 42, I was COS of the said Company. When I came to work that morning, the night NCO told me that Pte Doiron, whom I now recognise, had been reported absent from 2359 hrs the previous day. Pte Doiron was in possession of a pass which expired at that time. I made a check and found the accused to be still absent. He remained absent until it was reported to me that he was in the Unit Guard Room on the 3 Jan 43.

The accused declines to cross-examine this witness.

J.A. Richard .....A/Sgt

THIRD WITNESS FOR THE PROSECUTION — Capt J. Coles, Adjutant 3rd Brigade Wing, 1 CDIRU, having been duly sworn, states:

I am Capt J. Coles, of the Prince Edward Island Highlanders, Adjutant of the 3rd Brigade Wing, 1 CDIRU. I produce herewith a Certificate in accordance with PC 2797 of 10 Apr 42. This document concerns the accused whom I now recognise.

The accuseddeclines to cross-examine this witness.

J. Coles .....Capt.

The accused, having been duly cautioned in accordance with Rule of Procedure (4) (E) and CARO 1424, reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down ny me in the presence and hearing of the accused, at Algonquin Camp, Witley, Surrey, on the 5th day of January, 1943, and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been duly complied with.

.....Lieut.
(Officer taking Summary)

Algonquin Camp,
Witley, Surrey,
5th day of January, 1943.

H.D. Thistlethwaite
President

DCE/JLN

SUPPLEMENTARY SUMMARY OF EVIDENCE

In the case of G-17867, Private Michael Joseph DOIRON, of the Carleton & York Regiment, on the strength of 1 Canadian Division Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas).

FIRST WITNESS FOR THE PROSECUTION

G-23017 A/Cpl Huard, C., of the Carleton & York Regiment, 1 CDIRU, having been duly sworn, states:

I am G-23017 A/Cpl Huard, C., of the Carleton & York Regiment Company, 1 CDIRU. I called the roll of the said Company every day at 0630 and 2200 hours from 0630 hours 28 Dec 42 until 2200 hours 1 Jan 43 inclusive. The accused, whom I now recognise failed to answer his name at any of these roll calls.

The accused declines to cross-examine this witness.

.....C. Huard.....A/Cpl.

The accused, having been duly cautioned in accordance with RP 4 (E) and CARO 1424, reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the accused, at Algonquin Camp, Witley, Surrey, on the 7th day of January, 1943, and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been duly complied with.

.....D.D. Kennedy.....Lieut.
(Officer taking Summary)

Algonquin Camp,
Witley, Surrey,
7th day of January, 1943.

DCK/JLN

H. D. Graham Major
President

I CERTIFY that No .Private. Rank Pte.. .Name.....

Unit .RCD.I.Bde.....

at .0815..(Hour) on .8.Jan.42.....(Date) and that at the time of his arrest he was wearing (Military Uniform) or (Civilian Clothes).

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named [illegible] was taken on arrest.

(Strike out part inapplicable).

.....Lieut.

No. [illegible], Canadian Provost Corps.

Exhibit 'R' N. A. Chubaldaeff
President

Last Sheet Destroyed 12 Sep '40

M.F.M. 6 (A.F.B. 122) 175M—7-41 (1210-20) H.Q. 1772-39-1652

No. G/7867 Name Doiron, M.J. Sqn., Battery, or Company — Corps Carleton & York Date of enlistment 12 Mar '40 G.C. Badges N/A Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet 9 Jul '40 No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc. W.J.R. Newroth, Major Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13 Nov 40	Pte	(1)	AA 19 Drunkenness	Sgt Greenblagh	12 days FP	15 Nov 40	Lt-Col Ganong	
"	10 Dec 40	"		AA 40 Neglect to prejudice of good order and military discipline (Neglect to obey order by NCO)	Sgt Arsenault	14 days CB	10 Dec 40	Major McCallum	
"	12 Dec 40	"		1)AA 15-2 Failing to appear on defaulters' parade 2)AA 15-1 AWL from 2200 hrs 12 Dec 40 to 0600 hrs 13 Dec 40 (8 Hrs)	L/C Merritt Sgt Arsenault Sgt Mouland	15 days pay	14 Dec 40	Lt-Col Mathewson	Forf 1 days pay for AWL

Certified true copy [signature]

Officer having custody of original documents

FTO

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8 Jan 41	Pte		1)AA 15-2 Failing to appear at place of parade appointed by C.O. 2)AA 9-1 Disobeying in such a manner as to show wilful defiance of authority a lawful command given by his superior officer in the execution of his office	RSM Girling Bdr Hinds	28 days FP	15 Jan 41	Lt-Col Ganong	
"	8 Mar 41	"		AA 15-1 AWL from 1900 hrs 8 Mar 41 to 2255 hrs 8 Mar 41 (3 hrs 55 min)	L/C Craig	7 days CB 1 days pay	11 Mar 41	Major McCallum	
"	31 Mar 41	"		AA 15-1 AWL from 2200 hrs to 2230 hrs 31 Mar 41 (30 min)	Cpl Tonas	7 days CB	1 Apr 41	Major McCallum	
"	14 Apr 41	"	(a)	AA 19 Drunkenness	L/C Rice L/C Fortner	$5.00 fine	16 Apr 41	Major McCallum	

Certified true copy [signature] Lieut

Officer having custody of original documents

M.F.M. 5
A.F.B. 122
(15M—7-41 (1215-30)
H.Q. 1772-39-1652

No. G17867 Name Doiron, M.J. Sqn., Battery, or Company — Corps Carleton & York Date of enlistment 12 Mar 40 G.C. Badges N/A Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine N/A Sheet No. 2 Signature O.C. Company, etc. — Character W.J.R. Newroth, Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3 May 41	Pte		AA 15-1 AWL from 2359 hrs 3 May 41 to 0530 hrs 5 May 41 (5 hrs 31 min)	Cpl Thomas	14 days CB	5 May 41	Major McCallum	Forf 2 days pay for AWL
"	7 May 41	"		AA 40 Conduct to prejudice of good order and military discipline (Failing to arise at Reveille)	Sgt Lane Cpl Carpenter Sgt McGinn	14 days CB	7 May 41	Lt-Col Mathewson	
"	19 Jul 41	"		AA 15-1 AWL from 2230 hrs 19 Jul 41 to 1715 hrs 29 Jul 41 (9 days 18 hrs 45 min)		27 days detn	30 Jul 41	Lt-Col Mathewson	Forf 10 days pay for AWL Rem 3 days 22 Aug 41
"	6 Sep 41	"		AA 15-1 AWL from 2200 hrs 6 Sep 41 to 2339 hrs 6 Sep 41	Cpl Roberts	3 days CB	8 Sep 41	Major Waterson	

Certified true copy [signature] Lieut

Officer having custody of original documents

(P.T.O.)

H.S. Hutchinson
Lieut.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16 Sep 41	Pte		AA 15-2 Absent from parade at 0900 hrs	Sgt Gregson	7 days CB	16 Sep 41	Capt Bonnell	
"	18 Sep 41	"		AA 40 Neglect to prejudice of good order and military discipline (Neglect to appear on Coy parade)	Lieut Abell	7 days CB	18 Sep 41	Capt Bonnell	
"	9 Nov 41	"		AA 40 Conduct to the prejudice of good order and military discipline (Using disrespectful language to an NCO)	Sgt Cleary	7 days CB	10 Nov 41	Lt Abell	
"	15 Dec 41	"		AA 15-1 AWL from 2200 to 2300 hrs 14 Dec 41 (1 hour)	Cpl McCallum	7 days CB	15 Dec 41	Capt Simms	
"	29 Dec 41	"		AA 15-2 Failing to appear at place of parade appointed by CO	Sgt Wright	7 days CB	31 Dec 41	Capt Simms	
"	31 Dec 41	"		AA 15-1 AWL from 1800 hrs 31 Dec 41 to 1025 hrs 5 Jan 42 (4 days 14 hrs 45 min)	L/Sgt Coates	56 days detn & stoppages for 10s 3d	15 Jan 42	FGCM	Forf 5 days pay for AWL & 10 days for time in arrest Rem 18 days 21 Feb 42
				Certified true copy					

Officer having custody of original documents

M.F.M. 6
A.F.B. 122
(175M—7-41 (7215-20)
H.Q. 1572-20-1602

No. G17867 Name Doiron, M.J. Sqn., Battery, or Company — Corps Carleton & York — Date of enlistment 12 Mar 40 — G.C. Badges N/A — Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine N/A — Sheet No. 3 — Signature O.C. Company, etc. W.J.R. Newroth, Major — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	29 Mar 42	Pte		1)AA 11 Neglecting to obey garrison standing orders 2)AA 15-2 Failing to appear on church parade	Sgt Gillan L/C Crossman	7 days CB	8 Apr 42	Lt-Col Tweedie	
"	27 Apr 42	"		AA 40 Neglect to prejudice of good order and military discipline (Failing to carry field dressing)	L/C Crossman	3 days CB	28 Apr 42	Lt-Col Tweedie	
"	12 Jun 42	"		AA 15-1 AWL from 2300 hrs 12 Jun 42 to 0700 hrs 13 Jun 42 (0 day 8 hrs 00 min)	L/C Dickinson	14 days FP	16 Jun 42	Capt MacBeth	Forf 1 days pay for AWL
"	13 Jun 42	"		AA 15-1 AWL from 1930 hrs 13 Jun 42 to 2400 hrs 14 Jun 42 (1 day 5 hrs 30 min)	CSM Doran L/C Rioux	14 days FP	16 Jun 42	Capt Mac Beth	Forf 2 days pay for AWL

Certified true copy.....
Officer having custody of original documents

(P.T.O.)

Place	Date of offence	Rank	Cause of detention	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 29	Jun 42	Pte		AA 15-1 AWL from 2215 hrs 29 Jun 42 to 0230 hrs 30 Jun 42 (4 hrs 15 min)	Sgt Gillan L/C Rickman	3 days CB	30 Jun 42	Major Newroth	
" 17	Jul 42	"		1)AA 15-1 AWL from 2215 hrs 17 Jul 42 to 0630 hrs 18 Jul 42 (8 hrs 15 min) 2)AA 40 Neglect to prejudice of good order and military discipline (Did not remain in billets when told to do so)	Sgt Gillan L/C Dickinson	10 days pay	24 Jul 42	Major Newroth	Forf 1 days pay for AWL
" 30	Jul 42	"		AA 15-1 AWL from 1930 hrs 30 Jul 42 to 0500 hrs 31 Jul 42 (19 hrs 30 min) 2)AA 15-1 AWL from 0700 hrs 31 Jul 42 to 1200 hrs 3 Aug 42 (4 days 5 hrs)	Cpl Orr L/C Dickinson	27 days pay	10 Aug 42	Lt-Col Tweedie	Forf 5 days pay for AWL
" 19	Sep 42	"		AA 15-1 AWL from 2359 hrs 19 Sep 42 to 2200 hrs 28 Sep 42 (8 days 22 hrs 1 min)	Sgt Lane L/C Everett	28 days FP	29 Sep 42	Lt-Col Lawson	Forf 9 days pay for AWL

Certified true copy.....
Officer having custody of original documents

No. 61786 Name Doiron, M.J. Sqn., Battery, or Company — Corps Carleton & York — Date of enlistment 12 Mar 40 — C.C. Badges — N/A — Service or Proficiency Pay N/A

M.F.M. 6 (A.F.B. 122) (1st M. 7-41 (15-5-20) H.Q. 1773-35-1602)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine N/A — Sheet No. 4 — Signature O.C. Company, etc. — Character W.J.R. Newroth, Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11 Oct 42	Pte		AA 15-1 AWL from 1800 hrs 11 Oct 42 to 1800 hrs 16 Oct 42 (5 days)	Cpl Huard	27 days detention to run concurrently with previous sentence	19 Oct 42	Major Berringer	Forf 5 days pay for AWL & 2 days for time in arrest

Certified true copy consisting of 4 sheets.

.....Lt. McDougall. Lieut....

Officer having custody of original documents

(P.T.O.)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
G-17867	Private	Doiron, M.J.	Carleton & York Regt, 1 CDIRU

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this statement may be compiled from the field conduct sheet.

The conduct sheets† mentioned should be produced in court with this statement but not entered in the proceedings.

† See para. 877, K.R., 1940.

* The numbers herein stated should correspond with the numbers to appear in the conduct sheets, zero, wherever being given in the last column, should be entered in each case, and no exceptional special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Army Act 15 (1)	7 times	11 times.
For Army Act 19	times	2 times.
For Army Act 40	1 times	3 times.
For Army Act 9 (1)	times	1 times.
For Army Act 15 (2)	times	1 times.

Number of instances of gallantry or distinguished conduct, NIL

or

~~There are no entries in the conduct sheets of the accused.~~

~~The accused has not been previously convicted.~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time ~~The accused at the present time is under sentence for~~ imprisoning, etc. ~~imprisonment~~ for ~~imprisonment~~ ~~days~~ from the ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for ~~days~~ days in civil custody, and ~~days~~ days in military custody, making a total of ~~days~~ days, of which ~~days~~ days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 30

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 12 Mar 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 129 days

8. The accused is entitled to deferred pay or gratuity in respect of 2 years 129 days service.

9. The accused is entitled to reckon 2 yrs 129 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~or is in possession of or entitled to wear any military decoration or reward~~

~~11. If the accused is a warrant officer.—The accused before he was made a warrant officer had held the regimental~~ rank of

12. (*In the case of an officer.*) The ~~accused~~ holds in the army the rank of dated and in the Regiment (or corps or department) the rank of dated

(P.) 8/2/40 W.L.24402.144 225,000 6/40 A.S.S.W.Ltd Gp.498

N. D. Theriault Major
President

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. G-17867 Rank Private Name Doiron, M.J. of C & Y R 1 CDIBU Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
FGCM	Field 15 Jan 42	AA 15 (1) AWL from 1800 hrs 31 Dec 41 to 1025 hrs 5 Jan 42 (4 days 14 hrs 45 min)	56 days detention & 18 days placed under stoppages of pay to make good £0. 10. 3	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7th day of Jan 42

J.R. Chouinard Lieut
Officer having custody of original documents

In the case of ..... Date of Promotion.

(1) I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Algonquin Camp, Witley, Surrey, preliminary to my court-martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at Witley, Surrey,
this 6th day of
January 1943.

.....M.J. Doiran.....

(2) I hereby acknowledge that I have been served with a true copy of an additional Summary of Evidence taken at Algonquin Camp, Witley, Surrey, preliminary to my Court-Martial.

Dated at Witley, Surrey,
this 7th day of
January 1943

.....M.J. Doiran.....

(3) I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Capt W.R. Moore, WNSR, 1 CDIBU if he is available.

Dated at Witley, Surrey,
this 6th day of
January 1943

.....M.J. Doiran.....

H.B. Chamberlain
Private

220 E - Ste Dorion M. J.

O. H. M. S.

M. F. B. 270

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this Tenth day of January, 1942.

Whereas it appears to me, the undersigned, an officer in Command of Third Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *and that it is not practicable to delay the trial for reference to a superior qualified officer;

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

*I am unable to appoint—

*(a) Three Officers to form the Court;

*(b) A Field Officer as President;

*(c) Three Officers having more than one year's service;

for the following reasons, namely:—

PROCEEDINGS REVIEWED

President.

Rank.	Name.	Regiment.
Major	F.B. Courtney	West N.S.R.

Members.

Rank.	Name.	Regiment.
Capt.	J.L.S. Foulin	R 22e R
Lieut	H.C. Canney	Sask L.I.
Lieut	C.P. Chicoine	R 22e R.(MM)

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brig.,

Commanding 3rd Cdn Inf Bde

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
G-17867 Pte Doiron, E.J. Carlt & York R	1st Charge:- Sec 15 (1) A.A.	Guilty	Guilty Forfeits pay for time absent Pay the costs for apprehension 10 shillings & 3 pence (£-0-10-3) 56 Days Detention [illegible]	
	See Charge Sheet attached			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*):—

(Signed) [illegible] Brig., (Signed) [illegible] Major

Commanding 3rd Cdn Inf Bde, *Convening Officer* (*e*) — *President.*

(*a*) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 15 day of Jan 42, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court

*(2. ~~The witness~~)

*(3. ~~The interpreter~~)

*(4. ~~The officers under instruction~~)

* Omit if not applicable.

were duly sworn.

Signed this 15 day of Jan 1942.

[illegible] Lieut-Col
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*c*) on page 769 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the sentence imposed in the margin be not carried into effect pending further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 16 day of Jan 1942

[illegible] Brig., Cond
Confirming Officer. 3rd Cdn Inf Bde

Promulgated and extracts taken in the case of

(*a*) (Dated) 17 Jan 42. (Signed) [illegible] Lieut-Col

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

96
1 Can
112.30

Charge Sheet

The accused, G17867, Pte Doiron, M.J., a soldier of the Carleton & York Regiment, Canadian Army (Overseas) is charged with:-

First Charge
Sec 15(1) A.A.

When on Active Service, absence without leave

in that he

in the field, did absent himself without leave, while a defaulter, from 1800 hrs 31 Dec 41 until apprehended by the military police at Seymour Place at 1025 hrs 5 Jan 42, the cost of apprehension being 10 shillings, threepence.

In the Field

(W.C. Lawson) Lt.-Col.,
Comd Carlt & York Regt.

Date 8 Jan 42

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(H.F. GANONG) BRIG
COMD 3 CDN INF BDE

G/7867 Pte DOE RAY, M.J.
CARLETON AND YORK. REGT

Prosecutor. Lieut C.M.G. ARTHURS C & Y Regt

Defending Officer. LIEUT. E.G. MAXWELL. C & Y Regt.

Plea under Instruction.

charge

N/A

remarks.

Summary of evidence in the case of G17867, Pte Doiron, M.J., Carleton & York Regiment, Canadian Army (Overseas).

By direction of the Commanding Officer the summary is taken on oath.

First Witness for Prosecution

G17758, L/Sjt Coates, K., HQ Coy, Carleton & York Regt., having been duly sworn states as follows:-

I am and was at all times material hereto a lance-serjeant in the Carleton & York Regiment. I was company orderly serjeant for the period from 27 Dec 41 until 3 Jan 42. On 31 Dec 41 Pte Doiron was awarded 7 days C.B. by the company commander. At 1730 hrs that night I warned Pte Doiron that he was to scrub out the transport office starting at 1800 hrs. When I went to the transport office at about 1805 hrs he had not reported there. At 2215 hrs Pte Doiron had not yet appeared at the transport office, nor was he in his platoon room at that time. During the evening between 1800 hrs and 2215 hrs I went all through the building which houses the company and I could find no trace of Pte Doiron. He was reported absent to me as orderly serjeant every night I held that position, that is, until the night of 2 Jan 42.

G Coates

Accused declines to cross-examine the witness.

Accused having been duly cautioned in accordance with Rule of Procedure 4 E elected not to make a statement.

Certified that Rule of Procedure 4 (C)(D)(E)(F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this seventh day of January 1942 in the field.

[signature] Lieut.

[signature]

List of Witnesses in the case of G17867, Pte Doiron, M.J.

Carleton & York Regiment

For the Prosecution

Name	Unit	Address
G17758, L/Sjt Coates, K.	Carleton & York R	In the Field

For the ~~Prosecution~~ Defence

Name	Unit	Address
	NIL	

List of Exhibits in the case of G17867, Pte Doiron, M.J.

Carleton & York Regiment

1. Certificate of arrest under Sec 163(1)(jj) A.A.
2. Statement of expenses incurred in apprehending and returning accused to his unit.

Defaulting Officer in the case of G17867 Pte Doiron, M.J.
Carleton & York Regiment

I, G17867 Pte Doiron, M.J. desire to have an Officer designated to represent me at my trial by Court Martial.

I, G17867 Pte Doiron, M.J. desire the services of Lieut

M.J. Austin Carlt & York Regt if he is available.

M J Doiron

No

No

N/A

LIEUT CMC ARTHUR

'B' att short Statement of particulars of the accused.

no

2he lack of

Lieut.R.C.Barwell.

Exhibit 'A'

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No. G 10867 Pte. Doiron, M.J.

of Carleton & York Regiment and in my opinion he is fit

to undergo Trial by Court Martial

Station In the Field

Date 15 Jun. 42.

Ian S. Maclean Capt.
Medical Officer

CERTIFICATE OF ARREST UNDER SECTION 163 (1) (JJ) ARMY ACT.

I certify that No C. 17867 RANK PTE

NAME BOYSON, E. J. UNITH. 4. GUY. HO.S.CARLTON AND YORK AGT.

was arrested at SEYMOUR PLACE. at 1025hrs hours on 5/1/42

and that at the time of his arrest he was wearing military uniform.

Central London Recruiting Depot,
Great Scotland Yard,
Whitehall, S.W.1.
5 / 1 / 42

Lieut.
O. i/c Detention Room
No. 6 Provost Company.

CAPT.
Deputy Assistant Provost Marshal
London District.

Ref: K.N.& O.(Can.)639

Regt. No. C-17867

Rank Private.

Name Doiron M.J.

Regt. Carleton and York Regt.

Unit:

The following expenses were incurred in apprehending and returning the M/N soldier to his unit from London

DATE	PARTICULARS	AMOUNT		
	rifth(Portion) 3 escorts(			
6 Jan.42	Escort return fare fromLondon to Worthing	0.	5.	7.
	Prisoners single fare to London from			
	Prisoners Single fare from London to Worthing	0.	4.	8.
	Escorts expense for bed,meals,bus fares and meals for the prisoner.			
	TOTAL ---------- £	0.	10.	3.

I certi y that the above statement of expenses is correct and that the amounts are fair and just.

Capt.
O.C. No 6 Prov. Coy.
Canadian Provost Corps.

No. G17867 Name Doiron, M.J. Sqn., Battery, or Company HQ. Corps C. & Y. REG'T Date of enlistment 12/3/40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. — Character Fair

M.F.M. 6 (A.F.B. 122) 100M—8-39 (1703) H.Q. 1777-44-18

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	7-5-40	Pte.		Absent from 2200 hrs. 7-5-40 to	Sgt. Scott	14 Days C.B.	8-5-40	Major	Forfeits
H.S.	8-5-40	"		0600 8-5-40.	Cpl. Armstrong			Morrisey	1 Days Pay
Aldershot	5/6/40	"		Absent from 0745 hrs parade 8-5-40	L/Sgt Coates				
H.S.				A.W.L. from 2359 hrs 28/5/40	Sgt. Prouse	14 Days C.B.	6/6/40	Major	Forfeits
Aldershot	1/7/40	"		to 1630 hrs. 5/6/40	Cpl. Michaud			Holder	8 Days Pay
H.S.				A.W.L. from 2359 hrs 1/7/40	Cpl. Wiseman	28 Days Det-	9/7/40	Lt. Col.	Forfeits
Aldershot				until 1600 hrs 6/7/40		ention		Jefferies	6 Days Pay
H.S.									
In the Field	13/11/40	"	1	Drunkeness when called for Duty	Sgt. Greenhalgh.	12 Days Field Punishment	15/11/40	Lt. Col. Canong	Forfeits 12 Days Pay
Borden	10/12/40	"		Neglected to obey an order given by an N.C.O. AM 40	Sgt. Arseneau	14 Days C.B.	10/12/40	Major MacCallum	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Borden	12/12/40	Pte.		(1) Failed to appear on Defaulters Parade A.A. 15 (2)	Sgt. Moulant		14/12/40	Lt. Col. Mathewson	Forfeits 1 Days Pay.
				(2) A.W.L. from 2200 hrs 12/12/40 to Reveille 13/12/40 AA 15 (1)	Sgt. Arseneau Lt. Merritt		"	"	Forfeits 15 Days Pay
Ford Manor	5/1/41	Pte.		W.O.A.S. failed to appear at the place of parade affronted by his superior officer in that he after warned to report to R.M. Stores for fatigues at 1330 hrs 5/1/41 by Lt. Hinds did not do so	R.S.M. Girling Bdr. Hinds	28 Days Field Punishment	15/1/41	Lt. Col. Simonds	
Witley	8/3/41	Pte.		(2) W.O.A.S. Disobeyed an order of his superior officer A.W.L. from place of duty from 1900 hrs 6/3/41 making it necessary to replace him AA 15 (1)	L/Sgt. Craig.	7 Days C.B.	11/3/41	Major MacCallum	Forfeits 1 Days Pay.

No. G17867 Name Doiron, M.J. Sqn., Battery, or Company HQ. Corps C. & Y. REG'T Date of enlistment 12/3/40 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 38674—8.31 (1703) H.Q. 1777-41-15

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.) | Character Fd r

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	31/3/41	Pte.		A.W.L. from 2200 hrs 31/3/41 to 2230 hrs 31/3/41 AA 15 (1)	Cpl. Thomas	7 Days C.B.	1/4/41	Major MacCallum	
Aldershot	14/4/41	"	2	Drunkeness	L/Sgt. Rice L/Sgt. Santner		16/4/41	Major MacCallum	Fined five Dollars
Aldershot	3/5/41	"		AA 15(1) A.W.L. from 2359 hrs 3/5/41 to 0630 hrs 5/5/41.	Cpl. Thomas	14 Days C.B.	6/5/41	Major MacCallum	Forfeits 2 Days Pay
Aldershot	7/5/41	"		AA 40 Conduct to Prejudice.... did not get out of bed when ordered to do so.	Cpl. Carpenter Cpl. Thomas Sgt. McGim	14 Days C.B.	7/5/41	Lt. Col. Mathewson	
Laurencekirk	29/7/41	"		A.W.L. from 2230 hrs 29/7/41 to 1715 hrs 29/7/41. AA 15 (1)		27 Days Detention	30/7/41	Lt. Col. Mathewson	Forfeits 10 Days Pay
Camp	6/9/41	"		A.W.L. from 2200 hrs 6/9/41 to 2330 hrs 6/9/41.	Cpl. Roherty	3 Days C.B.	8/9/41	Major Waterson	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Caterham	16/9/41	Pte.		AA 15 Absent from parade at 0900 hrs.	Sgt. Gregson	7 Days C.B.	16/9/41	Capt. Bonnell	
Caterham	18/9/41	"		Absent from Coy. Parade Sec. 40	Lt. Abell	7 Days C.B.	18/9/41	Capt. Bonnell	
Caterham	9/11/41	"		Using disrespectful language to an N.C.O.	Sgt. Cleary	7 Days C.B.	10/11/41	Lieut. Abell	
Highden House	14/12/41	"		Absent from Tattoo 14/12/41 until 2300 hrs 14/12/41	Cpl. MacCallum	7 Days C.B.	15/12/41	Lt. Simms	
Highden House	29/12/41	"		Failing to appear on place of Parade Sec. 15 (2) AA	Sgt. Wright	7 Days C.B.	31/12/41	Lt. Simms	

R.E. Simms Lieut. A/OC HQ Coy. C.R. 1st Bn

This is a Certified True Copy 7 Jan 42

A Court Manager
Pres. F.S.C.M.

Exhibit "B"

Exhibit "C"

SHORT STATEMENT AS TO PARTICULARS OF SERVICE OF THE ACCUSED

C17867 Pte Doiron, M.J. Carleton & York Regiment

(a) The accused has been in confinement awaiting trial on the present charges for.....days in Civil Custody and..9.....days in military custody making a total of...9.....days of which.....days were spent in hospital.

(b) The present age of the accused according to his attestation paper is.....yrs...

(c) The date of his attestation specified in his attestation paper is..12.2.40

(d) The accused is in possession of, or entitled to no military decoration or military reward,(~~or is in possession of or entitled to~~

I hereby certify that the foregoing particulars are true extracts from the Regimental Books in my custody.

Lt Commanding Coy

Lieut

4R-7

Pte Dixon V.

10

YM
No 36

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B-55456 Pte Doiron V. R RWGT OF C

Charge. (Insert " alternative " where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for.~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be imprisoned with hard labour for two years.

(Sgd) ..... Judge-Advocate, if any. 14 Jan 45 Date awarded. (Sgd) "E. MacIntyre" Maj. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(2). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1) JECP

(1. AA 57A. Delete if not used.)

(Sgd) "J.E.C. Pangman

Date 15 Jan 45 Commanding 4 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B55456 Pte Doiron V.	17 Jan 45	"E. Jones" Lt I C Regt of C.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4 R 7

CPA&R (To lieu of AFA&R) 40/P de B/1698 (F144) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col J.E.C.Pangman Comd 4 Cdn Inf Bde dated 11 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or substantive rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-55456	Pte	Victor	DOIRON	R Regt C

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) AT TRA on (date(s)) 3rd Jan 45

Can. Sec. G.H.Q. 2 Echn. 21 Army Gp.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance as procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which insets are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (~~,~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1435 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused : ~~Do you object to~~ as interpreter I. Ans .....

~~The interpreter is sworn.(1)~~ ~~Do you object to~~ as shorthand writer I Ans .....

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	E. MacIntyre	Essex Scot
Member	Capt	G.T. Galbraith	R.H.L.I.
Member	Capt	D.B. Friar	R RWGT C
Judge-Advocate			
Prosecutor	Lieut	N. Sutton	R RWGT C
Defending Offr	Capt	T.B. Wilcox	R RWGT C

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 2.)

A8. The accused B-55456 Pte Doiron, V. before arraignment make(s) (no) (~~a~~) plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(C), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(1) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~re-closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

WOL IV WOL 22

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 144 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. ....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ..C.., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if on his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. The alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. .....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..D.. and Ex ..E.. respectively.(3)
(1. MFB 351 or AFB 294. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. .....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(F).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 66, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see orders on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused H-55[illegible]6 Pte Doiron, V., 1 En The Royal Regt of Canada, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE:

Sec 15 (1) Army Act

In the Field, absented himself without leave from 2130 hrs 6 Nov 44, and remained absent until apprehended at 1300 hrs 4 Dec 44, by the Canadian Provost Corps, in the city of Antwerp, Belgium. (Total time absent: 26 days, 16 hrs)

In the Field
6 Jan 45.

"R.N. Lendrum" Lt Col
(R.N. Lendrum,) Lt Col
Officer Commanding
1 En The Royal Regt of Canada

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
11 Jan 45

"J. E. C. Jongman" Lt Col
(J. E. C. Jongman) Lt Col
A/C-in-C 4 Can Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-55456		Pte	Victor	DOIRON	R Regt C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 11 Jan 45 endorsed by me, ~~or by an offr of my staff for me~~, " To be tried by Field General Court-Martial ". KMT

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.) KMT

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ KMT

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereof the Offr mentioned hereunder~~. KMT

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	K. A. MacIntyre	Essex Scot

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
	A Capt to be detailed by CO EWLI	
	A Capt to be detailed by CO R Regt C	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	A Capt to be detailed by CO R Regt C	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	A Capt to be detailed by CO R Regt C	

On Active Service in the Fd

in Holland — W.J.E.C. Pangman — Lt-Col

(Country.) (Signed personally. RP 105 fn 2.) (Rank.)

Dat: 11 Jan 45 Commanding 4 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (To Rev of AFA 3) 40-7 & E-1501 (6148)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE
KR (CAN) PARA 57

I certify that I have this morning examined F-[illegible]5456
Pte Dofron V of 1 R Regt C and in my opinion he is fit to undergo
trial by courtmartial.

14 Jan 45

W. W. Ramsteen Capt.
Medical Officer

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B-[illegible]6 Pte Boiron, Victor 1 Bn The Royal Regiment of Canada, a soldier of the Canadian Army Overseas:

The accused is informed of his rights.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Lt. G.H. James, 1 Bn The Royal Regiment of Canada, an Officer of the Canadian Army Overseas, having been duly sworn, states:

I am Lt. G.H. James, Asst-Adjt, and in charge of all regimental documents for 1 Bn The Royal Regiment of Canada. I present herewith Army Form B-115, Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier, which shows that the accused, B-[illegible]6 Pte Boiron V., whom I now recognize, was declared illegally absent from this unit as of 2130 hrs, [illegible] Nov 44, and still absent on 3 Dec 44, the day on which the Court of Inquiry was held. I also present herewith Certificate of Apprehension in accordance with Sec 163 (1) (jj) AA, which shows that the accused was apprehended by the Canadian Provost Corps in the city of Antwerp, and which is annexed hereto and marked as Exhibit "B".

The accused declines to cross examine this witness.

"G.H. James"
(G.H. James) Lieut.

The accused was cautioned as follows: "Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything, or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence on oath or to call witnesses in his defence at this point.

I certify that the foregoing Summary of Evidence, consisting of One page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

"R. Hutton"
(R. Hutton) Lieut.
Officer detailed to Take Summary.

In the Field
8 Jan 45

RECORD OF THE DECLARATION OF A COURT OF INQUIRY ON THE ILLEGAL ABSENCE OF A SOLDIER.

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 3rd day of December 1944, for the purpose of investigating and recording the absence, without leave, from his duty and deficiency, if any, in the Arms, Ammunitions, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-55456 Pte Doiron, V.

DECLARATION

The Court declare B-55456 Pte Doiron V., illegally absented himself without leave from 1 Bn the Royal Regiment of Canada at 2100 hours, 5 May 44 and that he is still absent this date of 3 December 1944.

CERTIFICATE OF ARREST IN ACCORDANCE WITH A.A. SEC 163 (1) (ii)

I certify that B- 5486 Pte Doiron V of R.H. of C. "B" Coy was arrest in Antwerp at 1300 hrs on 5 Dec 44. He was dressed in uniform.

Date 5 Dec 44

Signature of Provost Marshall APM or other officer into whose custody the above named person was taken on arrest.

"E.M. Sweets"

7 Cdn L of C Pro Sec
2 Cdn L of C Pro Coy

MFM 6
(AFB 122)
40/P&R/136 (3438)

No B-5545 Name Doiron V | Sqn. Battery or Company | Corps C.I.C. | Date of enlistment 13-2-41 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc T.F. Whitley, Capt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	SHEET DESTROYED 13-8-41 Last Entry 18-5-41 Cases Drunkenness (1) 8/4/41 (2) 11/5/41 (3) 1[illegible]/4/41 T.F. Whitley, Capt.								
Chippewa	2-1-42	Pte		AA Sec 15 (1) AWL 13 days 7 hrs	Sgt Cragg	14 days C.B.	3-1-42	Lt Col Stewart	Forf 14 d.P. FRI 149 (1a)
Niagara	28-1-42	Pte		AA Sec 15 (1) AWL 1 day 12 hrs	Cpl Buffie	7 days C.B.	31-1-42	Maj Troy	Forf 2 d.P. FRI 149 (1a)
Botwood	25-4-42	Pte	4	AA Sec 19 Drunkenness	Lt Mayer	Admonished	28-4-42	Capt. Allehurst	
				AA Sec 11 Breaking Camp Standing Orders.		3 days C.B.			
Botwood	23-7-42	Pte		AA 40 Conduct etc Lying in Bed	Cpl Cross	4 days C.B.	24-7-42	Lt Mayer	
				AA Sec 15 (2) Absent from Duty.	Cpl Prentovitch	3 days CB	"	"	
Botwood	27-7-42	Pte		AA Sec 15 (1) absent from fatigue	" "	7 days C.B.	30-7-42	Lt Col Stewart	
				AA Sec 40 Conduct etc Lying in Bed	Cpl Sammon	3 days C.B.			

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14-11-43	Pte		AA Sec 15 (1) AWL from 2350 hrs 14-11-43 to 1530 hrs 16-11-43 (1 day 15 hrs, 30 mins)	Documentary Sgt Pitts	forf 6 days p FRI 149(2)	17-11-43	Lt Col MacPherson	Forf 2 days pay FRI 149 (1a)
Field	24-8-43	Pte		AA Sec 9 (2)		forf 10 d.p. FRI 149 (2)	17-11-43	Maj.E.G. Young.	

CERTIFIED TRUE & CORRECT COPY OF
ORIGINAL DOCUMENT IN MY POSSESSION.
"G.H. James" Lt.
(G. H. James) Lieut.
Officer IC Records, 1 R Regt C

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
P-55456	Pte	Doiron, V.	1 R Regt C

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For	Sec 9 (2) Army Act 1 times	1 times
For	Sec 11 Army Act Nil times	1 times
For	Sec 15 (1) Army Act Nil times	4 times
For	Sec 15 (2) Army Act Nil times	1 times
For	Sec 40 Army Act Nil times	2 times

Number of instances of gallantry or distinguished conduct: CRO 19 Army Act
P Apr 41
18 Apr 41
11 May 41
25 Apr 42

or

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted, or~~

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 23 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, or ~~The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 40 days in military custody, making a total of 40 days, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~regimental service~~ attestation paper is 29 yrs

6. The date of his ~~conviction~~ attestation specified in his ~~record of service~~ attestation paper is 13 Feb 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs 10½ mos

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs 10½ mos. service

9. ~~The accused is entitled to reckon~~ 3 yrs 10½ mos service for the purpose of determining his pension, etc.

10. ~~The accused is in possession of, or entitled to, the military decoration or military award (or is in possession of or entitled to (state any military decoration or award).~~

11. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer had held the regimental rank of ~~Nil~~

12. ~~(In the case of an officer.)~~ The accused holds in the army the rank of ~~Nil~~ and in his regiment ~~(or corps or department)~~ the rank of ~~Nil~~

W.O.5240/1181 20M. 3/40. P. Ltd. Tin-S.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B-55456 *Rank* Pte *Name* Doiron, V. of R Regt C Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18th day of Jan 45 "G.T. James"

(G.T. James) Lt. Officer i/c Records, 1 B R C

13. The present has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion

In the rank of ... 19...

In the rank of ... 19...

In the rank of ... 19...

(INSTRUCTION—If any matter in any of the above paragraphs cannot be found from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be omitted from such books, as are available and the paragraph marked accordingly.)

STATEMENT IN MITIGATION OF SENTENCE SUBMITTED ON BEHALF OF THE

ACCUSED B-[illegible] PTE DOIRON V.

The accused is aged 30, married and has one child aged four. His civilian occupation was driving and various other jobs. His last employment being at Fort Power & Paper Mills. He enlisted on the 11th of February 1941 and came to England on the 10 October 1942. The accused was never A. .L. in England or since coming to France. He came to France with the battalion and has served continuously since that time the Regt.

According to his company commander (The defending officer) his character as a soldier was beyond reproach except that since coming to France he has had a tendency to drink intoxicating liquor to a much greater than before. As a north country man in civilian life he was a hard drinker but stayed out of trouble in the army until the stress of action made him less able to control his drinking.

The accused went A. .L. while the Bn was in a rest area in Vechelen. According to his own story he got drunk and before he realized it the Bn had gone. He then decided he was in trouble and would get court martialled anyway so went to Antwerp and was apprehended by the C.P.C. there. He had no intention of going A. .L. but unfortunatly got drunk at a time when the Regt was ready to move and from then on he was more or less a victim of circumstances and his own befriended mind.

His company commander states that in action he was nervous and high strung but could be always counted on to do his job and do it well. In fact as long as he was busy in action he was not nervous or at least didnt show it. It is understandable in a man of that type, with his background that he would turn to drink once action was over and the Bn was resting. It was his way of releasing his nervous energy. In fact it is rather to his credit that he stood out so well for so long under those circumstances. By the same token it was his misfortune to have fallen into trouble as an unlucky time. He would not go A. .L. willingly but once drunk he was no longer responsible for his actions. By the time he had sobered up it was too late.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-55456 Pte Doiron V. R REGT OF C

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1) RM

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for two years.

(Sgd) ..... 14 Jan 45 (Sgd) "K. MacIntyre" Maj.

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) JECP

(1. AA 57A. Delete if not used.)

(Sgd) "J.E.C. Pangman

Date 15 Jan 45 Commanding 4 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B55456 Pte Doiron V.	17 Jan 45	"C.L. Jones" Lt I R Regt Of C.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CFAGC 12a (Hist of AFAS) 40/P&S/1008 (6144) 4/38B

Convened by Order of Lt Col J.E.C.Pangman Comd 4 Cdn Inf Bde dated 11 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-55456		Pte	Victor	DOIRON	R Regt C

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on 23 Army Gp. on (date(s)) 14 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs as how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto. RM
The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and RM
each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1435 hours trial commences. RM

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial. RM
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1) RM

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to an interpreter?~~ Ans ... RM
~~The interpreter is sworn.(1) Do you object to a shorthand writer?~~ Ans ... RM
~~The shorthand writer is sworn.(1)~~ RM

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 26, 28, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	R. MacIntyre	Essex Scot
Member	Capt	G.T. Galbraith	R.H.L.I.
Member	Capt	D.I. Prior	R REGT C
Judge-Advocate			
Prosecutor	Lieut	M. Hutton	R REGT C
Defending Offr	Capt	T.E. Wilcox	R REGT C

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused B-55456 Pte Doiron, V. before arraignment make(s) (no) (the following) plea(s) RM
(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or rejoinder, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) RM
not object to any charge.(2) There is no amendment to be made to the Charge-Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The pro- RM
ceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

VOL IV FOL 22

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 39, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 2. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Nil.(5)
(*1. RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 3 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~ R M
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1) R M
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1) R M
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making as appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ..... Do you intend to call witnesses on your behalf ? Ans. ..... Are they witnesses as to character only ? Ans. .....
(*1. RP 115. 2. RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1. 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*B*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 34(2) (*d*), *RP* 45, 120(*A*). 2. *AA* 34(2), *RP* 43, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Character references will be made by Prosecutor after finding. RP 39(C)(4) fn 4, 46 fn 1.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 39(*C*)(4) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement of Service as to Character and Particulars of Service(1), and certified true copy extract of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(3) P M
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes.(2)
(*1. RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 34(*b*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. Where several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 332, 343-366, *Overseas NO* 309, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 4(1)(*b*), *MML p* 130. *Where accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and dispersal of accused after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B-55456 Pte Doiron, V., 1 Bn The Royal Regt of Canada, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE:
Sec 15 (1)
Army Act — In the Field, absented himself without leave from 2100 hrs 8 Nov 44, and remained absent until apprehended at 1300 hrs 5 Dec 44, by the Canadian Provost Corps, in the city of Antwerp, Belgium. (Total time absent: 26 days, 16 hrs)

In the Field
8 Jan 45.

"R.M. Lendrum" Lt Col
(R.M. Lendrum,) Lt Col
Officer Commanding
1 Bn The Royal Regt of Canada

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
11 Jan 45

"W.E.C. Pangman" Lt Col
(W. E. C. Pangman) Lt Col
A/Comd 4 Can Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-55456		Pte	Victor	DOTRON	R Regt C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 11 Jan 45 endorsed by me, ~~(or by an offr of my staff for me)~~ " To be tried by Field General Court-Martial ". KMI

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~ KMI

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ KMI

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned~~ hereunder. KMI

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	K.W. MacIntyre	Essex Scot

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
	A Capt to be detailed by CO RHLI	
	A Capt to be detailed by CO R Regt C	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	A Capt to be detailed by CO R Regt C	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	A Capt to be detailed by CO R Regt C	

On Active Service in the Fd

in Holland (Country.)

"J.E.C. Pangman" (Signed personally. RP 105 fn 2.)

Lt-Col (Rank.)

Dat 11 Jan 45

Commanding 4 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 66 (In lieu of AFA 3) (See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE
KR (CAN) PARA 557

I certify that I have this morning examined B-85456 Pte Doiron V of 1 R Regt C and in my opinion he is fit to undergo trial by courtmartial.

14 Jan 45

"E.W. Banastes" Capt.
Medical Officer

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B-85456 Pte Doiron, Victor 1 Bn The Royal Regiment of Canada, a soldier of the Canadian Army Overseas:

The accused is informed of his rights.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Lt. G.H. James, 1 Bn The Royal Regiment of Canada, an Officer of the Canadian Army Overseas, having been duly sworn, states:

I am Lt. G.H. James, Asst-Adjt, and in charge of all regimental documents for 1 Bn The Royal Regiment of Canada. I present herewith Army Form B-115, Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier, which shows that the accused, B-85456 Pte Doiron V., whom I now recognize, was declared illegally absent from this unit as of 2100 hrs, 8 Nov 44, and still absent on 3 Dec 44, the day on which the Court of Inquiry was held. I also present herewith Certificate of Apprehension in accordance with Sec 163 (1) (jj) AA, which shows that the accused was apprehended by the Canadian Provost Corps in the city of Antwerp, and which is annexed hereto and marked as Exhibit "B".

The accused declines to cross examine this witness.

"G.H. James"
(G.H. James) Lieut.

The accused was cautioned as follows: "Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything, or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence on oath or to call witnesses in his defence at this point.

I certify that the foregoing Summary of Evidence, consisting of One page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

"N. Hutton"
(N. Hutton) Lieut.
Officer detailed to Take Summary.

In the Field
8 Jan 45

RECORD OF THE DECLARATION OF A COURT OF INQUIRY ON THE ILLEGAL ABSENCE OF A SOLDIER.

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 3rd day of December 1944, for the purpose of investigating and recording the absence, without leave, from his duty and deficiency, if any, in the Arms, Ammunitions, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-55456 Pte Doiron, V.

DECLARATION

The Court declare B-55456 Pte Doiron V., illegally absented himself without leave from 1 Bn the Royal Regiment of Canada at 2100 hours, 8 Nov 44 and that he is still absent this date of 3 December 1944.

CERTIFICATE OF ARREST IN ACCORDANCE WITH A.A. SEC 163 (1) (JJ)

I certify that B-[illegible]5456 Pte Doiron V of R.R. of C. "D" Coy was arrest in Antwerp at 1300 hrs on 5 Dec 44. He was dressed in uniform.

Date 5 Dec 44

Signature of Provost Marshall
APM or other officer into whose
custody the above named person
was taken on arrest.

"R.M. Ewests"

7 Cdn L of C Pro Sec
2 Cdn L of C Pro Coy

MFM 6
(AFB 122)
40/PAG/136 (3438)

No B-554[illegible] Name Boiron V | Sqn, Battery or Company | Corps C.I.C. | Date of enlistment 13-2-41 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc T.F.Whitley, Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	SHEET DESTROYED 13-8-41 Last Entry 18-5-41 Cases Drunkenness (1) 8/4/41 (2) 11/5/41 (3) 18/4/41 T.F. Whitley, Capt.								
Chippewa	2-1 42	Pte		AA Sec 15 (1) AWL 13 days 7 hrs	Sgt Cragg	14 days C.B.	3-1-42	Lt Col Stewart	Forf 14 d.P. FRI 149 (1a)
Niagara	28-1 42	Pte		AA Sec 15 (1) AWL 1 day 12 hrs	Cpl Duffie	7 days C.B.	31-1-42	Maj Troy	Forf 2 d.P. FRI 149 (1a)
Botwood	25-4 42	Pte	4	AA Sec 19 Drunkenness AA Sec 11 Breaking Camp Standing Orders.	Lt Mayer	Admonished 3 days C.B.	28-4-42	Capt. Allchurst	
Botwood	23-7 42	Pte		AA 40 Conduct etc Lying in Bed	Cpl Cross	4 days C.B.	24-7-42	Lt Mayer	
				AA Sec 15 (2) Absent from Duty.	Cpl Prontovitch	3 days CB	"	"	
Botwood	27-7 42	Pte		AA Sec 15 (1) absent from fatigue AA Sec 40 Conduct etc Lying in Bed	" " Cpl Samson	7 days C.B. 3 days C.B.	30-7-42	Lt Col Stewart	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14-11-43	Pte		AA Sec 15 (1) AWL from 2350 hrs 14-11-43 to 1530 hrs 16-11-43 (1 day 15 hrs. 30 mins)	Documentary Sgt Pitts	forf 6 days p FRI 149(2)	17-11-43	Lt Col MacPherson	Forf 2 days pay FRI 149 (1a)
Field	24-8-43	Pte		AA Sec 9 (2)		forf 10 d.p. FRI 149 (2)	17-11-43	Maj.R.G. Young.	
				CERTIFIED TRUE & CORRECT COPY OF ORIGINAL DOCUMENT IN MY POSSESSION. "G.R. James" Lt. (G. R. James) Lieut. Officer IC Records, 1 N Regt C					

ARMY FORM B.256.

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
D-55456	Pte	Doiron, V.	1 R.Regt C

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For	See 9 (2) Army Act 1 times	1 times
For	Sec 11 Army Act N11 times	1 times
For	Sec 1[?] (1) Army Act N11 times	4 times
For	Sec 1[?] (2) Army Act N11 times	1 times
For	Sec 40 Army Act N11 times	2 times

Number of instances of gallantry or distinguished conduct ~~xxxx

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B-5546 *Rank* Pte *Name* Doiron, V. of R Regt C **Regiment (or as the case may be)**

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 1st day of Jan 45 "G.T. James"

(G.T. James) Lt. Officer i/c Records, 1 R R C

15. The accused has served as a non-commissioned officer continuously, without reduction, to the present date

	Date of Promotion
In the rank of	
In the rank of	
In the rank of	

(INSTRUCTION—If any entry in any of the above paragraphs cannot be taken from the regimental books the paragraph must be struck through, entries must be taken from the regimental books the paragraph must be struck through, entries must be taken from the regimental books, and the authority for each entry must be indicated, thus: each entry in an available and the authority for each entry must be indicated, thus: each entry in an available and the authority for each entry must be indicated.)

STATEMENT IN MITIGATION OF SENTENCE SUBMITTED ON BEHALF OF THE

ACCUSED B-55456 PTE DOIRON V.

The accused is aged 30, married and has one child aged four. His civilian occupation was driving and various other jobs. His last employment being Abitibi Power & Paper Mills. He enlisted on the 13th of February 1941 and came to England on the 10 October 1942. The accused was never A.W.L. in England or since coming to France. He came to France with the battalion and has served continuously since that time the Regt.

According to his company commander (The defending officer) his character as a soldier was beyond reproach except that since coming to france he has had a tendency to drink intoxicating liquor to a much greater than before. As a north country man in civilian life he was a hard drinker but stayed out of trouble in the army until the stress of action ma e him less able to control his drinking.

The accused went A.W.L. while the Bn was in a rest area in Mechelen. According to his own story he got drunk and before he realized it the Bn had gone. He then decided he was in trouble and would get court martialled anyway so went to Antwerp and was apprehended by the C.P.C. there. He had no intention of going A.W.L. but unfortunatily got drunk at a time when the Regt was ready to move and from then on he was more or less a victim of circumstances and his own befriddled mind.

His company commander states that in action he was nervous and high strung but could be always counted on to do his job and do it well. In fact as long as he was busy in action he was not nervous or at least didnt show it. It is understandable in a man of that type, with his background that he would turn to drink once action was over and the Bn was resting. It was his way of releasing his nervous energy. In fact it is rather to his credit that he stood out so well for so long under those circumstances. By the same token it was his misfortune to have fallen into trouble as an unlucky time. He would not go A.W.L. willingly but once drunk he was no longer responsible for his actions, by the time he had sobered up it was too late.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B55456 Pte Dairon Victor R Regt C.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~As present under sentence for~~ ~~(1)~~ ~~beginning on (date)~~ ~~(1)~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 40 days, of which No days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for two (2) years.

(Sgd) ..... 14 Jan 45 (Sgd) K Hume Wotherspoon Maj
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 15 Jan 45 (Sgd) J E C Bangman Lt-Col
A/ Commanding 4 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B55456 Pte Dairon Victor	17 Jan 45	[illegible] Lt [illegible] Regt C

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ [illegible] 4R-7

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA81) 40/P & S/1698 74000) 4/38B

Convened by Order of LT-COL J E C BANGMAN, A/ Comd 4 CDN INF BDE dated 11 Jan 45.

RECEIVED 20 FEB 1945 CMHQ

PROCEEDINGS REVIEWED 22 Feb 45 REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS REVIEWED 4 D J A Odn Sec GHQ 21 Army Gp

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-55456	PTE		VICTOR	DUIRON	R REGT C

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 14 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto. The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1135 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO(2).~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 561(c). Delete, if not applicable.

A5. President to accused: Do you object to ..... as interpreter? Ans .....
The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 31, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	K Hume Wotherspoon	5 Cdn Inf Bde
Member	Capt	ST Gilmour	RA RD.
Member	Capt	DR Pain	R Regt C.
~~Judge-Advocate~~			
Prosecutor	Lieut	N Hutton	R Regt C.
Defending Offr	Capt	TR Wilson	R Regt C.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (3) and fn 2 were not followed. See DI p 3.)

A8. The accused B55456 Pte Dairon, Victor before arraignment make(s) (no) ~~(no)~~ plea .....

(1. If a special plea is made for separate trial on one or more charges (RP 62(5), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references or fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Vol II Fd 22

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s). If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(1), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(3)

President to accused: Do you wish to make a statement? Ans. No.(3)

(1. *RP 37(B).* 2. *RP 37(D) fn 8.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
3. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (4).~~ The Court decides (not) to advise accused to change his ~~(their) plea(s)~~ of Guilty to Not Guilty on ~~its~~ charge(s). The accused is (not) so informed, ~~and he (they) change(s) his (their) plea(s) on its~~ charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be cleared to consider this statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination. But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(3) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans.....Do you intend to call witnesses on your behalf?

Ans.....Are they witnesses as to character only? Ans.....

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(2) (a), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. The alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. I tender reference will be made by Defending Offr — Plea

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(3)

(1. *MFB 355 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 158. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. No.(2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 338, 563-566, Overseas RG para 1323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No B-55456 Pte DOIRON, Victor, 1 Bn The Royal Regiment of Canada, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE — WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

Sec 15 (1) Army Act

- in that he -

In the Field, absented himself without leave from 2100 hrs, 8 Nov 44, and remained absent until apprehended at 1300 hrs, 5 Dec 44, by the Canadian Provost Corps, in the city of Antwerp, Belgium. (Total Time Absent: 26 days, 16 hrs.)

R L Mckendrum

(R.K. Lendrum) Lt-Col,
Officer Commanding,
1 Bn The Royal Regt of Canada.

IN THE FIELD
8 Jan 45.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

J E C Pangman

(J E C Pangman) Lt-Col
A/Comd - 4 Cdn Inf Bde

IN THE FIELD
11 Jan 45

2 Can Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-55456	PTE	VICTOR	DOIRON	R REGT C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 11 Jan 45 endorsed by me, ~~XXXXXXXXXXXXXXXXXXXXXXXX~~ To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~XXXXXXXXXXXXXXXXXXXX

MEDICAL OFFICER'S CERTIFICATE
MT (Gen) Para 557

I certify that I have this morning examined No R 55456
Lt Dawson J/ of 1 R Regt C and in my opinion he is
fit/unfit to undergo trial by court-martial.

Station In The Field
Date 14 Jan 45.

C H Barnett, Capt
Medical Officer.

Statement in mitigation of sentence submitted on behalf of the accused B55456 Pte Dorion V.

The accused is aged 30, married and has one child aged four. His civilian occupation was driving and of various other jobs his last employed being Electric Power & Pylon Stalks. He enlisted on the 13th of February 1941 and came to England on the 10th October 1942. The accused was never A.W.L. in England or absent from coming to Unit. He came to France with the battalion and has served continuously since that time with the Regt.

According to his Company commander (the defending Officer) his character as a soldier was beyond reproach except that since coming to France he has had a tendency to drink intoxicating liquor to a much greater extent than before. As a quiet country man in civilian life he was a hard drinker but stayed out of trouble in the army until the stress of action made him less able to control his drinking.

The accused went A.W.L. while the Bn. was in a rest area in Rochelen. According to his own story he got drunk and before he realized it the Bn. had gone. He then decided he was in trouble and would get court martialled anyway so went to Antwerp and was apprehended by the C.P.C. there. He had no intention of going A.W.L. but unfortunately got drunk at a time when the Regt was ready to move and from then on he was more or less a victim of circumstances and his own befuddled mind.

His company commander states that in action he was nervous and high strung but could be always counted on to do his job and do it well. In fact as long as he was busy in action he was not nervous or at least did not show it. It is understandable in a man of this type, with his background that he would turn to drink once action was over and the Bn was resting. It was his way of releasing his nervous energy. In fact it is rather to his credit that he stuck out as well for so long under those circumstances. By the same token it was his misfortune to have fallen into trouble at the unlucky time. He would not go A.W.L. willingly but once drunk he was no longer responsible for his actions; by the time he had sobered up he was in it was too late.

E + Obit C.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No B-55456 Pte DOIRON, Victor, 1 Bn The Royal Regiment of Canada, a soldier of the Canadian Army Overseas:-

The accused is informed of his rights.

By Direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS — Lt G.H. James, 1 Bn The Royal Regiment of Canada, an officer of the Canadian Army Overseas, having been duly sworn, states:

For the Prosecution

I am Lt G.H. James, Asst-Adjt, and in charge of all regimental documents for 1 Bn The Royal Regiment of Canada. I present herewith Army Form B 115, Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier, which shows that the accused, B-55456 Pte Doiron, V., whom I now recognize, was declared illegally absent from this unit as of 2100 hrs, 8 Nov 44, and still absent on 3 Dec 44, the day on which the Court of Inquiry was held. I also present herewith Certificate of Apprehension in accordance with Sec 163 (1)(JJ) AA, which shows that the accused was apprehended by the Canadian Provost Corps in the city of Antwerp, and which is annexed hereto and marked as Exhibit "B."

The accused declines to cross-examine this witness.

G.H. James
(G.H. James) Lt.

The accused was cautioned as follows:- "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement or to give evidence on oath or to call witnesses in his defence at this point.

I certify that the foregoing Summary of Evidence, consisting of ONE page was taken down by me in the presence and hearing of the accused, and that Rules of procedure 4 (c), (d), (e), (f) and (g) have been complied with.

R. Hutton
(R. Hutton) Lt,
Officer Detailed to Take Summary.

IN THE FIELD
8 Jan 45.

EXHIBIT "A" Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 3rd day of December 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-55456 Pte Doiron, V.

DECLARATION.

The Court declare, B-55456 Pte Doiron, V., illegally absented himself without leave from 1 Bn The Royal Regiment of Canada, at 2100 hrs, 8 Nov 44, and that he is still absent this date, 3 Dec 44.

EXHIBIT "B"

CERTIFICATE OF ARREST IN ACCORDANCE WITH A.A. SHO.165 (1)(JJ)

I certify that No. B-5.4.56 Rank Pte. Name Dawson, V. ..... (Unit) R.R. of C. "D" Coy. ..... was arrested at Hertogenbosch (place) at 1310 hrs on 5 Dec. 44 (date). He was dressed in uniform/plain clothes.

Dated 5 Dec. 44.

Signature of Provost Marshal, A/P. or other officer into whose custody the above-named person was taken on arrest. [signature] SGT. 1/C. 7 CDN. L. OF. C. PRO. SEC. 2 CDN. L. OF. C. PRO COY.

Notes:

1. This certificate MUST be signed personally by the person named.
2. In no circumstances may it be signed by one officer "for" another, or by anyone who does not hold commissioned rank.
3. In no circumstance should the place of apprehension be described as "in the Field". The actual place of apprehension should be stated, or if difficulty is experienced in describing the place, the map reference should be given.

EXHIBIT "A" Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 3rd day of December 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-55456 Pte Doiron, V.

DECLARATION.

The Court declare, B-55456 Pte Doiron, V., illegally absented himself without leave from 1 Bn The Royal Regiment of Canada, at 2100 hrs, 3 Nov 44, and that he is still absent this date, 3 Dec 44.

Names of President and Members

Major D.S. Beatty, PRESIDENT
1 Bn The Royal Regt of Canada.

Capt L.L. Pleasance, MEMBER
1 Bn The Royal Regt of Canada.

Lt J.H. Curzon, MEMBER
1 Bn The Royal Regt of Canada.

Signature of Commanding Officer Lt.-Col B.M. Lendrum,
CO 1 Bn The Royal Regt of C.

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record

(21456) W4[illegible]/721 130,000 4/42 A.& E.W. Ltd. Gp.698
(72400) W[illegible] 100,000 10/42 " " Forms.B.115-58

EXHIBIT "E"

MFM 6 (AFB 122) (149/196) (1458)

No B-55456 Name DOIRON, V. Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 13-8-41 | GC Badges | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc T.F. Whitley, Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	Sheet destroyed 13-8-41-Last Entry 18-5-41 Cases Drunkenness-(1) 8/4/41 (2) 11/5/41 (3) 28/4/41 T.F. Whitley, Capt.								
Chippewa	2-1-42	Pte		AA Sec 15(1)AWL 13 days, 17 hrs	Sjt Cragg	14 days C.B.	3-1-42	Lt-Col Stewart	Forf 14 d pay FR&I 149 (1)(a)
Niagara	28-1-42	"		AA Sec 15(1)AWL 1 day, 12 hrs	Cpl Buffie	7 days C.B.	31-1-42	Maj Troy	Forf 2 d pay FR&I 149(1)(a
Botwood	25-4-42	"	(4)	AA Sec 19 - Drunkenness	Lt Mayer	Admonished	28-4-42	Capt Allehurst	
"	"	"		AA Sec 11 - Breaking Camp Standing Orders	"	3 days C.B.	"	"	
"	23-7-42	"		AA Sec 40 - Conduct etc-Lying in Bed	Cpl Cross	4 days C.B.	24-7-42	Lt Mayer	
"	"	"		AA Sec 15(2) Absent from duty	Cpl Prentevitch	3 days C.B.	"	"	Forf 1 d pay FR&I 149(1)(a

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Botwood	27-7-42	Pte		AA Sec 15(1) Absent from fatigue	Cpl Prentovitch Cpl Sammon	7 days C.B.	30-7-42	Lt-Col Stewart	
"	"	"		AA Sec 40-Conduct etc-Lying in Bed	Cpl Prentovitch	3 days C.B.	27-7-42	Lt Mayer	
Field	14-11-43	"		AA Sec 15(1)AWL from 2359 hrs 14-11-43 to 1530 hrs 16-11-43 (1 day 15 hrs 30 mins)	Documentary Sjt Pitts	Forf 6 days pay FRAI 149(2)	17-11-43	Lt-Col MacPherson	Forf 2 days pay FRAI 149(1)(a)
"	24-8-44	"		AA Sec 9(2)		Forf 10 days pay FRAI 149(2)	25-8-44	Maj R.G. Young	

CERTIFIED TRUE & CORRECT COPY OF
ORIGINAL DOCUMENT IN MY POSSESSION:

G.H. James
(G.H. James) Lt,
Officer IC Records, 1 R REGT C.

EXHIBIT "E"

EXHIBIT "D"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
B-55456	Pte	Doiron, V.	1 R Regt C

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 617, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For Sec 9 (2) Army Act	1 times	1 times
For Sec 11 Army Act	Nil times	1 times
For Sec 15 (1) Army Act	Nil times	4 times
For Sec 15 (2) Army Act	Nil times	1 times
For Sec 40 Army Act	Nil times	2 times

Number of instances of gallantry or distinguished conduct, Sec 19 Army Act

or

There are no entries in the conduct sheets of the accused. 8 Apr 41, 18 Apr 41, 11 May 41, 25 Apr 42

2. The accused has not been previously convicted, or

Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 76 of the Army Act, are set out in the schedule attached to this statement.

3. The accused is not under sentence at the present time. / The accused at the present time is under sentence of xxxx

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No _____ *Rank* _____ Name _____ of _____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishments remitted.
		-NIL-		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of Jan 45.

(G.H. James) Lt.
Officer i/c Records 3 B REGT C.

11. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of _____ years.

In the rank of N/A years.

In the rank of _____ years.

(INSTRUCTION.—If any matter in any of the above paragraphs ceases to exist from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be obtained from such records as are available and the paragraph completed accordingly.)

Date of Promotion

137 S.

Ste. Adolan, a

1375.

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Nineteenth day of November, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~*I am unable to appoint~~
~~*(1.) Three Officers of Rank to Cadets~~
~~*2. A Field Officer as President~~
~~by reason of rank or command~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

H 3

President.

Rank.	Name.	Regiment.
Major	C.J.A. Aylan-Parker	RCR

Members.

Rank.	Name.	Regiment.
Capt	R.P. Lyon	48 Highrs
Capt	J.C. Allison	Hast & PER
Lieut	J.B. Hunt	RCR

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

Waiting Members must be

*Signed (C.C. Simonds) Brig.,
Commanding 1 Cdn Inf Bde
Convening Officer.

signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B.72973 Pte DOLAN, Alexander	1st Charge AA Sec 15 (1)	Guilty	Guilty 6 months detention and forfeit £2-15-10 for cost of apprehension 14 days field punishment	I confirm the finding and sentence 21 Nov 42

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) [illegible] (Signed) H. Aylan Parker Major
(G.G. Simonds) Brig. Commanding 2 Can Inf Bde — (H.A. Aylan-Parker) Major RCR
Convening Officer (e) — President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the twentieth day of November 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~
4. ~~The officers under instruction~~

were duly sworn.

* Omit if not applicable.

Signed this twentieth day of November 1942.

H. Aylan Parker Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 782 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 21st day of November 1942.

G. Simonds Brig
Confirming Officer.

Promulgated and extracts taken in the case of B 72973 Pte Dolan A. 48th Highlanders

(a) (Dated) 21. Nov. 42 (Signed) Konnell Capt. adjt

Promulgated and extracts taken in the case of 48th Highlanders of Canada

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

48th Highlanders of Canada

B2.

CHARGE SHEET

The Accused B.72973 Pte. Alexander DOLAN, "A" Coy, 48th Highlanders of Canada, C.A.(A.F.) a soldier of the Canadian Army (O/S) is charged with:

1st CHARGE
AA 15 (1)

When on Active Service, Absent without leave

in that he

at GREY WOOD, EAST HOATHLY, Sx. at 2300 hrs 9 Aug 42 absented himself from his battalion until 2030 hrs 11 Nov 42 when he was apprehended by the DEVON Constabulary. Costs amounting to £2/15/10 were incurred to return him to his unit (ABSENT - 93 days - 22 hrs - 30 mins.)

(J.R. GIBSON) Lt-col,
Officer Commanding,
48th Highlanders of Canada.

In the Field
19 Nov 42.

-TO BE TRIED BY FIELD GENERAL COURT MARTIAL-

(C.S. Simonds) Brig.,
Comd, 1 Cdn Inf Bde

In the Field
19 Nov 42

C.

Field ~~Ambulance~~ (ER (Can) 507)

I certify that I have this morning examined No. D.72975

Pte. DOLAN, A. of 48 Highrs of Canada and, in my opinion,

he is fit to undergo trial by Court-Martial.

~~Station~~ In the Field

Date 20 Nov 42

M.O.A. Bracco Capt. R.C.A.M.C.
Medical Officer

C/S. Officer Casualty Depot
Commandant.

D.

A

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial

Proceedings of a ~~Field General~~ Court-Martial held ~~at~~ in the field on the 20 day of November 1942 by order of Brigadier D.G. Simonds Commanding 1 Cdn Inf. Bde dated the 19 day of November 1942.

President.

Major C.S. Captain Parker R.C.R.

Members.

Capt. R.P. Lyon 48 Highrs of C.

Capt. J.C. Allison Hast & P.E.R.

~~, Judge~~ Advocate.

Trial of* B. 72973 Pte Nolan, Alexander, 48 Highrs of C.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Lieut W.P. RICHARDSON 48th Highrs of Can

~~Counsel~~‡ or defending officer† Lieut G. WHITELAW. 48th Highrs of Can.

At 1030 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Forms B. 271
10M—8-42 (3319)
H.Q. 1772-99-224

B

The President, members and ~~judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

N. A

Charge-Sheet

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the ~~[first]~~ charge against you, which you have heard read?

Question to the accused.

Answer.

GUILTY.

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~

Question.

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~

Question.

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~

Question.

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the *Instruction.* Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C

Proceedings on Plea of Not Guilty

Instruction. (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

The prosecutor makes an opening address [hands in a written address, which is read, marked , signed by the President, and attached to the proceedings].

The prosecutor proceeds to call witnesses.

First witness for prosecution.

being duly sworn, is examined by the prosecutor.

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~ 16.

The accused B72773 Pte DOLAN. ALEXANDER 48th Highrs of Can is found guilty of absence without leave.

16. *The summary ~~(or abstract)~~ of evidence is read, marked appendix E signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

YES

Answer. 16. The ~~accused~~ defending Officer in mitigation of punishment says:—

16. ~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

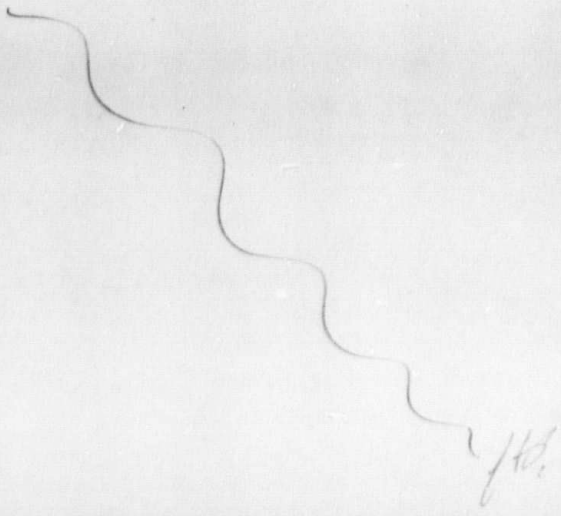
He joined up on Sept 9 1939 & he has served with H Coy for three years. One year ago after 2 years service he applied for transfer to the M.T section - having driven in peace time for Rogers Coal Co & the Hamilton Fuel Co he has applied successively to Maj Brewster, Maj Bowerman and Capt Copley without apparent result. He then applied as a cook but has been refused. He feels that he was getting nowhere and that all attempts ended in frustration influenced him to go A.W.L.

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD



Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No.

Answer.

N.A.

Evidence as to character.

D

The prosecution is closed.

Defence

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer.

Question. Do you intend to call any other witness in your defence?

Answer.

Question. Is he a witness as to character only? *Answer.*

INSTRUCTIONS TO THE COURT

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[Hands in a written address which is read, marked signed by the President and attached to the proceedings.]

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

E

Finding

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

The Court find that the accused B. 72973. PTE DOLAN ALEXANDER. 4th Hghrs/Can. Guilty of absence without leave.

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

*~~The Court being re-opened, the accused is again brought before it~~

LIEUT W.P. RICHARDSON 4th Hghrs/Can is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* YES

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked F, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* YES.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* YES.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* YES.

[Instruction.—If by reason of the nature of the service of the accused in a disciplinary corps, or otherwise, the finding of this Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the accused. NO

Question to the accused.

Do you wish to address the Court? *Answer.* NO.

The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence the accused ~~D~~ 72973 Pte Nolan, Alexander

Sentence.

~~Guilty of~~

~~absence without leave.~~ AB.

6 months detention and forfeits £2-15-10 cost of apprehension

1 f.s. Legs Pack Chaps

Free Kit

E.

Summary of Evidence in the Case of
B72973, Pte. Dolan, P.
"A" coy, 48th Highlanders of Canada

By direction of the commanding officer, all evidence is taken on oath.

1st witness for the prosecution

B72663, Cpl Riddle, W.M., "A" coy, 48 Highrs, having been duly sworn stated:- "On 9 Aug 42 at 2200 hrs it was reported to me that Pte Dolan was absent from his unit. I was his platoon sjt. I checked the lines and could not find him. I have not seen Pte. Dolan from that day until now. As his pl. sjt. had he been present with the coy at any time from 9 Aug 42 until now, I would have known it."

W Riddle Cpl.

The accused declined to cross-examine the witness.

2nd witness for the prosecution

B73413, Lcpl Hall, W.A., provost section, 48 Highrs having been duly sworn states:- "On 13 Nov 42, at approximately 1500 hrs I was detailed to pick up a man at Lewes reception depot. There I received into my custody Pte Dolan. I escorted him to the bn. detention room at Uckfield."

/Cpl W. A Hall.

The accused declined to cross-examine the witness.

Attached hereto is a certificate of apprehension of the accused by P.C. No. 502, Hurley, R.S., of the Devon Constabulary.

The accused was duly warned and receives his defence. Rules of procedure # 16(1)(b)(c) and (f) have been complied with. Taken before me, in the field, at Uckfield, Sussex, this 13th day of November 1942, in the presence of the accused.

[illegible] Lieut.-
48 Highrs.

C.F.C. by Capt Parker Morgan
Judge Advocate.

DEVON CONSTABULARY.

TELEPHONE No. 3022/3. (Criminal Investigation Dept.

Your Ref.

Our Ref. RJH/GID. "A" Division,

BARNSTAPLE.

11th November, 1942.

Dear Sir,

Re:- Alec DOLAN. No.B.7837).

As requested by Staff Sergeant CHESTER, I attach for your information a copy of report relative to the surrender of the above mentioned member of your Regiment, which is self explanatory. I do not propose to arrest him unless he refuses to surrender under the National Registration and Identity Regulations of 1941, as I should be obliged if you will take such action as you deem necessary.

It will be noted that the question of the "harbouring" of this man by Mrs. WILLIAMS is under investigation, and I should be grateful therefore, if you would inform me of the result of the action taken by you against DOLAN in due course.

Yours faithfully,

Superintendent.

The Officer Commanding,
48th Highland Regiment of Canada,
HOME FORCES.

DEVON CONSTABULARY.

Criminal Investigation Dept.
"A" Division,
BARNSTAPLE
11th November, 1942.

Report of Constable No.402. R.J.HURLEY.

Re No.B.72975. Alec DOLAN of 48th Highlanders of Canada.

Sir,

I beg to report that on the 29th October, 1942, it was ascertained that there was a man giving the name "George Albert WILLIAMS", a woman purporting to be his wife and two children staying at No.4, Highfield Villas, ILFRACOMBE. The man was not in any employment and with a view to checking the identity of these people, Constable 315, HOOPER interviewed them on the 31st October, 1942. The man "Williams" now known to be DOLAN produced Identity Card no. EMGC. 98/1 in the name of George A.WILLIAMS of 59, Pier Road, LITTLE-HAMPTON, whilst the woman produced Identity Card No.EMGC.98/2 giving her name as Vera WILLIAMS.

In order to verify the documents produced, the Police at Littlehampton were communicated with, when it was ascertained that George Albert WILLIAMS holder of NRIC. No. EMGC. 98/1 was still at Littlehampton, but that his wife and two children had left him. It appears that their domestic life had been unsatisfactory for the past few years.

In view of this information it was obvious that the individual staying at 4, Highfield Villas, was using the Identity Card of WILLIAMS, but before this information was received they had left Ilfracombe. Further enquiries were made and it was found that they had moved to Barnstaple, and were subsequently located today at No.18, Summerland Street.

I called at this address at 8.30.pm. today where I interviewed the man who had given his name as WILLIAMS at Ilfracombe. I informed him of my identity and requested him to produce the Identity Card he had shown to the Police at Ilfracombe. He produced this card from his pocket together with the cards of Mrs.Williams and the two children. I told him that I had reason to believe that the card produced in the name of George A.WILLIAMS was not his own. He said," I may as well tell you the truth, I am a deserter from the Canadian forces." He gave his name as Alec DOLAN No.B.72975 of 48th Highlanders of Canada, and stated that he had been absent from his Unit since August of this year. I invited him to accompany me to this Station where I told him that it was proposed to surrender him to his Service authority. He expressed his willingness to be so handed over.

At 10.30.pm. this day I telephoned the A.P.M. office, 8, Cockspur Street, LONDON. (Telephone Abbey 9090) and acquainted Staff Sergeant CHESTER with the above facts. This officer informed me that DOLAN had been absent from his Unit since 9-8-42, and that he would make arrangements for an escort to be sent for him tomorrow, which should arrive at about 12 noon, and requested that a report of the circumstances of the case be handed to the escort for the information of the Officer Commanding, 48th Highlander Regt.

DOLAN was wearing civilian clothes at the time of his surrender, but his uniform is deposited at the

P.T.O.

at the Office of the Southern National Omnibus Company and arrangements have been made to collect it.

DOLAND had the following property in his possession :-

Cash 2/7d. pocket knife, comb, key, mascot torch battery and tie pin. (He states that his AB.64 and other papers were left with his Regiment.)

It appears that DOLAN has known Mrs.WILLIAMS for about 12 months and during the past few months they have been living together as man and wife. Mrs.Williams is being interviewed regarding the "harbouring" of DOLAN and this will be the subject of a separate report.

I respectfully suggest that a copy of this report be handed to the escort for the information of the Officer Commanding, 48th Highland Regt.

L.J.Hurley.
Constable No.402.

Supt.MELHUISH,
BARNSTAPLE.

Regarding DOLAN's stay at No.4,Highfield Villas, ILFRACOMBE. As previously indicated he was using the name WILLIAMS and signed the Hotel Registration Form AR-E in the name of "W.Williams". I questioned him on this matter and he elected to make a written statement of explanation which is attached.

In this statement he relates that he came to Ilfracombe on the 1st September last and stayed with Mrs. Williams. He met her about 12 months ago and they became friendly. Mrs.Williams gave him a number of Identity Cards- her own, those of her children and her husband's. He states that Mrs.Williams did not give him her husband's card to use it was with the rest for him to look after. He produced this card to the Police at Ilfracombe because he did not have one of his own and he used the name "Williams" on the form AR-E for the sake of Mrs.Williams and the children by posing as her husband.

L.J.Hurley
Constable No.402.

Sd. 12.11.42
submitted. I respectfully suggest copy of the report be handed to escort against receipt

W^m G Knowles
D/Insp 23

Supt Melhuish

12

Submitted
J Boardman
Supt

BARNSTAPLE POLICE STATION.

11th November,1942. 10.10.pm

Alec DOLAN, States:-

I am a Private No.B.72973 of the 48th Highlanders of Canada. I came to this country approximately 3 years ago.

I have been told that enquiries are being made concerning a Form AR-E signed "G.Williams" and which has now been shown to me. I have been told that I need not say anything about this unless I wish to and what I do say will be taken down in writing and may be given in evidence.

A. Dolan

I came to Ilfracombe on the 1st September,1942, and stayed at No.4,Highfield Villas, with Mrs.Williams. I met Mrs.Williams about 12 months ago and we became friendly. She gave me a number of Identity Cards, her own and those of her two children and also one in the name of George Williams. She gave me these to look after and on last Friday or Saturday I was asked by a policeman to produce my Identity Card, and as I did not have one of my own I produced the one in the name of George Williams. I used this name also on the Form AR-E and I used this name for the sake of Mrs. Williams and the children and posed as her husband. Mrs. Williams did not give me the Identity Card to use, it was just given to me with the rest of them to look after. The Form AR-E which has been shown to me was signed by me in the name of G.Williams . I understand Mrs.Williams has had a very hard life and was unhappy with her husband. This statement has been read to me and is true.

A. Dolan

Statement taken and signature witnessed by

C.J. Hunkey

Constable No.402.

10.20.pm. 11th November,1942.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. B.72973 Rank Pte Name Dolan, A Unit 48 Highrs

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit from~~ London from Barnstaple

Date	Particulars	Amount		
13 Nov. 41	Escorts return fare from LONDON To Barnstaple	1	8	9
	Prisoners single fare to LONDON From Barnstaple		14	5
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares		5	0
	Total £	2	8	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J D [illegible] Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-53
40/P & S/480

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No B.72973 Rank Pte. Name Hulow, A Unit 48 Highs

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
13 Nov. 4c	Escorts return fare from LONDON To Lewes (½ portion		3	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Lewes		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	8

I certify that the above statement of Expenses is Correct. and that the amounts are fair and just.

..... Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-55
40/P & R/483

IMMEDIATE. Army Form O. 1617.

"E.2"

PART 1.

Certificate of Surrender to the Civil Police of a Deserter or Absentee without Leave.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Soldier's Unit,* stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military custody. Where a soldier's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Depot, who will arrange escort. This certificate will be handed to the escort on arrival.

---

* Stations of Units and Depots are shown in the Monthly Army List.

33561 W2911/7123 5m 1/20 J.P.2130 Gp.121 Forms/O1617/4
33753 W3214/7458 5m 2/20

No. B. 7297 Name DOLAN, A. Sqn., Battery, or Company — Corps 48th Highlanders of Canada — Date of enlistment 9-9-39 — G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F.B. 122) 17551—7-41 (1219-20) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Newdigate	17-7-42	Pte		WOAS AWL from 2230 hrs 15 -7-40 to 1200 hrs 17-7-40 (37½ hrs) AA 15. Neglect to care for equipment AA40	Sgt, Trent Pte.Eldridge		31-7-40	Lt-col.E.W. Haldenby	Forf 2 dys pay FRI 149(1)a Forf 12 dys pa FRI 158(2)
Field	7-12-40	Pte		WOAS AWL from 1700 hrs 7-12-40 to 1930 hrs 7-12-40 (2Hrs 20mins) AA 15(1)	Sgt.Connor	7 days CB	8-12-40	Capt.White	
Field	8-2-41	Pte		WOAS AWL,from 2359 hrs 8-2-41 to 1800 hrs 9-2-41 (18Hrs)aa15(1)	Sgt.Connor Cpl.Dyball	7 dys CB	10-2-41	Capt.Whyte	Forf 1 dys pa FRI 149(1)a Forf 5 dys pay FRI 149(2)
Field	4Nov41	Pte		WOAS Failing to obey an order AA11	Sgt.Peddle	5 dys CB	6 Nov 41		Forf 1 dys pay
Field	16 Nov.1	Pte		WOAS AWL 2359 hrs 16-11-41 to 1115 30 Nov 41 (13 dys 11½hrs) AA 15(1)	Sgt.Peddle Documentary		4 Dec41	Maj.Hendrie	Forf 15 dys FRI 149(1)a Forf 15 dys FRI 172(8)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order (Insert stop with date)	By whom awarded	Remarks
Field	31Dec41	Pte		WOAS Breaking out of Barracks	Sgt.Warwood	15 dys CB	4Dec 41	Maj.Hendrie	
Field	25Jan42	Pte		WOAS AWL 2359 hrs 25 Jan 42 to 2000hrs 3 Feb 42(8dys 20hrs 1 min) A.A. 15(1)	Sgt. Peddle	28 days F.P.	9Feb 42	Maj.Armstrong	Forf 9 dys pay FRI 149(1)a

I hereby certify this to be a true and exact copy

J Gunnell .....Capt.Adjt.

48th Highlanders of Canada

19 Nov 42

I hereby certify that I desire Lieut. Whitelaw, 48th Highlanders of Canada, to defend me at my pending trial by Court Martial.

Pte. A. Dolan

B.72973 Pte. Dolan, A.

F.

M.F.B. 355
22M—5-41 (379-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
R.72975	Pte.	DOLAN, A.	48 Highms of Canada

1. The following is a fair and true summary of the entries in the M.P.M.6 Service and General / Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.A. 18 (1)	Three	times	Six	times
For A.A. 40	-----	times	One	times
For A.A. 71	-----	times	One	times
For -----	-----	times	-----	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted By Court Martial or Civil Court

or.

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.F.A. 73 / A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time. NOT

or.

The accused at the present time is under sentence for N/A beginning on the day of N/A

4. The accused has been in confinement awaiting trial on the present charges, for N/A days in civil custody, and 7 days in military / Air Force custody, making a total of 7 days in custody, of which None days were spent in hospital.

5. The present age of the accused according to his record of service is 34 yrs,1 month,29 days. / attestation paper is

6. The date of his ~~commission~~ specified in his record of service is 9 Sept 39 / attestation / attestation paper

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon 5 years 1 month 11 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force / military decoration, or air force / military reward (or is in possession of or entitled to). State any air force / military decoration or reward. N/A

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of / Air Force N/A

Lt. Adjt. Major
Commanding

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated N/A, and in his regiment (or corps), the rank of

N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of N/A years.

In the rank of N/A years.

In the rank of N/A years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused. Number Rank Unit Regiment Name of

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		This soldier has NOT been previously tried by Court Martial or Civil Court.		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Twentieth day of November 42

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

J Connell Capt. Adjt.
48th Highlanders of Canada.

GG-77
L/CPL DOLAN C.K.

GG-77

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this day of June 9, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Corps R.C.A.M.C., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*(and that it is not practicable to delay the trial for reference to a superior qualified officer.)~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*I am unable to appoint—~~

~~*(1) Three Officers to form the Court.)~~

~~*(2) A Field Officer as President.)~~

~~*the following reasons, namely:—~~

RECEIVED 21 JUN 1943 Legal Branch Cdn. Corps

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	J.W. Wilkinson	7 Cdn A/Tk Regt, RCA.

Members.

Rank.	Name.	Regiment.
Captain	J.D. Wood	44 Cdn Gen Tpt Coy, RCASC.
Lieutenant	M.H. [redacted]	1 Cdn M.A.C. RCASC.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed E.A. McCusker

Commanding (E.A.McCusker) Brigadier D.D.M.S. 1 Cdn Corps.

Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
A-9361 L/Cpl Charles Kangley DOLAN No 3 Provost Company, Canadian Provost Corps	Charge Section 15(1) Army Act (as per charge sheet attached)	guilty	guilty	Sentence to be reduced to the permanent grade of private. To undergo 45 days detention 11 June 1943 J.C. Richardson Confirmed E.A. McC.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) E. A. McCusker (E.A.McCusker) Brigadier
Commanding D.D.M.S. 1 Cdn Corps
Convening Officer (*e*)

(Signed) J.C. Richardson Maj
Lt. Col. Tank Regt RCA
President

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the eleventh day of June 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The ~~Interpreter~~) Stenographer
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 11th day of June 1943.

J.C. Richardson Maj
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last columns of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 17th day of June 1943.

E.A. McCusker Brigadier
C.C. Confirming Officer Corps.

Promulgated and extracts taken in the case of A9361 L/Cpl Dolan. C.K.

(*a*) (Dated) 19 Jun 43 (Signed) Eberlee, Capt
O.C. 3 Can Provost Coy

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET.

The accused, Regt.No. A/361, Lance Corporal DOLAN, Charles Kangley, No. 3 Provost Coy., Canadian Provost Corps, a soldier of the Canadian Army Overseas, is charged with, when on active service:-

Sec 15(1) Absenting himself without leave, in that he
HA at East Grinstead, Sussex, absented himself without leave, from roll call at 0630 hours on 31 May 43, till 1739 hours on 3 June 43.

Field.
9 June 43

L.A. Whittington
(L.A. Whittington), Lieut.,
A/O.C. No. 3 Provost Coy.

To be tried by Field General Court-Martial.

E. C. McCusker
(E.A.McCusker) Brigadier
D.D.M.S. 1 Cdn Corps

Field
9 JUN 43

MEDICAL CERTIFICATE (K.R.(CAN) 557)

I certify that I have this morning examined No. A9361 L/Cpl. Dolan, C.K. of No.3 Cdn. Provost Coy. and in my opinion he is fit to undergo trial by Court-Martial.

~~unfit~~

Station Field

Date 11 Jan 43

Medical Officer. Capt. RCAMC

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field Court-Martial held at

on the 11th day of June 1943 by order of

Brigadier E. A. McCusker

Commanding D.D.M.P. / Eclu. Corps.

dated the 9th day of June, 1943

President.

Major J. W. Wilkinson RCA.

Members.

Capt. J. D. Wood RCASC.

Lieut. N. H. Regan RCASC.

, Judge Advocate.

Trial of* 4936 L/Cpl. Charles Kingsley Dolan #3 Provost Coy C.P.C.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that na is not available to serve owing to

na, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut R.P. Harrison) both of
~~Counsel~~ defending officer† Lieut H.J. McIlwraith) 3 Prov Coy.

At 10.30 o'clock the Trial commences.

The order convening the Court is read, and is marked A, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* no

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

(A274) Wt. W1/14629-7/8. 25,000 pds. 6/43. K. & H., Ltd. (A6570). Forms A 9/52.

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read ? *Question.*

Answer.

The accused having pleaded Guilty to The charge , the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused # A 9361 L/Cpl. Charles Haughey Dolan is found guilty of 1st charge

†The summary (or abstract) of evidence is read, marked B signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment ?

Answer. The accused in mitigation of punishment says :—

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer Yes

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused is guilty of 1st Charge

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut E A Mowbray C.P.C. is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement [with the schedule of convictions and of cases

FIELD GENERAL COURT MARTIAL

In the case of A.93681, L/Cpl. Charles Canley DOLAN, of No. 3 Provost Coy Can Provost Corps.

STATEMENT BY DEFENCE

The accused, L/Cpl. Dolan enlisted in the Active Forces at the outbreak of war. He enlisted with the 1st ~~XXXX~~ Div Sup Coy, and came overseas with them. Subsequently transfered to the Can Provost Copps. On the 2 May 43, the section to which accused was attached was sent out on scheme, "Curly Kale", lasted about 10 days. After arriving back at the company, he was transfered to another section of the Provost Corps and sent out on another scheme. In the north of England, he was injured and sent the No 8 York Military Hospital with a chipped ankle bone. Subsequently, ~~X~~ York Military Hospital cleared out all Cdns due to overcrowded conditions and instead of being sent to the R.U., he was returned direct to his Unit in company with an orderly from No 8 York Military Hospital. The accused was given light duty when brought back to the unit, 19 May 43. On 24 May 43, he paraded to the M.O. and asked for excused duty, so as to be able to return for a pass. His application was refused and after staying around camp, doing practically nothing or nothing at all, he made the mistake, which he admits, of going A.W.L. During the time that L/Cpl. Dolan has been serving in this country, he married an English girl and has two children. His reason for going A.W.L. was for the intention of going to visit his wife and family to see if they were all right as he worried a great deal about them during the time on scheme, and had also received anxious letters from his wife concerning his injuries. The accused went to his home, saw that his wife and family were O.K. and returned to his unit, surrendering himself.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused is guilty of 1st Charge

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lieut. E. A. Norbitery A.P.C. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked A T E, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused.

Question.—If in respect of the matters of the service of the accused on a disciplinary corps, or otherwise, the finding of the Court contains facts of any aggravated punishment, in addition to that to be awarded by the Court, the prosecutor should call the attention of the Court to the fact, and the Court should inquire into the nature and amount of the additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* Yes

The Court is closed for the consideration of the sentence.

F

Sentence.

Sentence.

The Court sentence the accused to

Reduced Permanent grade 8 private

To undergo 45 days detention

(B)

ORDERLY ROOM
NO.3 CDN. PROVOST COY.
CANADIAN PROVOST CORPS
1100 HRS. 5 JUNE 1943.

Summary of evidence in the case of A9361 L/Cpl. Dolan, C.K. No.3 Cdn. Provost Coy., Cdn. Provost Corps, stationed at East Grinstead, Sussex, taken before Lieut. R.P. Harrison, this 5th. day of June 1943.

1st. witness Regt. No. B95591 Sgt. Parker, G.F., No.3 Cdn. Provost Coy., Canadian Provost Corps, stationed at East Grinstead, having been duly sworn states:-

At 0630 hours. 31 May 43, I carried out roll call of "F" section, No.3 Cdn. Provost Coy. and on doing so found the accused to be absent from his quarters. The absence of the accused was then reported to Sgt. Nicol, the Acting Sergeant Major.

G. F. Parker Sgt.
B95591 Parker, G.F.
No.3 Cdn. Provost Coy.

Accused declines to cross - examine witness.

2nd. witness - F77046 Cpl. MacKay, E.M., No.3 Cdn. Provost Coy., Cdn. Provost Corps, stationed at East Grinstead, having been duly sworn states:-

On 3 June 43, I took over the duties of Orderly Sergeant from Cpl. Wright at 1730 hrs. L/Cpl. Dolan, C.K. reported to me at 1735 hrs. that he had been A.W.L. and was giving himself up. I then got in touch with the Acting Sergeant Major, Sgt. Nicol, by phone and reported the matter to him. He then told me to place L/Cpl. Dolan, C.K. under close arrest. Sgt. Foster then came to the Orderly Sergeant's room and I passed the duty over to him. He then placed L/Cpl. Dolan, C.K. under close arrest.

E. M. MacKay Cpl.
F77046 MacKay, E.M.
No.3 Cdn. Provost Coy.

Accused declines to cross - examine witness.

3rd. witness - H32025 Sgt. Foster, T.O., No.3 Cdn. Provost Coy., Cdn. Provost Corps, stationed at East Grinstead, having been duly sworn states:-

On 3 June 43, I was detailed to be Orderly Sergeant, duties commencing at 1800 hours. At 1755 hours I took over the duties of the Orderly Sergeant at the Parish Hall, East Grinstead, relieving Cpl. MacKay, E.M. Cpl. MacKay reported that L/Cpl. Dolan, C.K. was to be placed under close arrest for being absent from his billets. This order was detailed from Sgt. Nicol, Acting Sergeant Major. I placed L/Cpl. Dolan under close arrest at 1755 hours. L/Cpl. Dolan stated he had reported to the Order Sergeant (Cpl. MacKay) at 1730 hours.

T. O. Foster Sgt.
H32025 Foster, T.O.
No.3 Cdn. Provost Coy.

Accused declines to cross - examine witness.

Accused declines to make a statement, having been warned in accordance with R of P (4) (e).

Cont'd Page 2.

The requirements of R. of P. 4, (c), (d), (e), (f), and (g), having been complied with, taken down by me in the presence and hearing of the accused who had every opportunity to examine each witness.

At East Grinstead, sussex, this day of 5 June, 1943.

R.P. Harrison

(R.P. Harrison), Lieut.,
No. 3 Provost Coy.

J. Harrison

R.C.A.S.C.

No A9361 Name Dolan, C.K. Sqn. Battery or Company 1 Cdn. Div. Sup. Col. Corps Date of enlistment 16-9-39 G.C. Badges (B) Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. H.F.Law Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
England	This soldier having completed six months service No entries from previous sheet destroyed.								
Field	31 Mar. 41	Pte.		Sec. 15 (1) A.A. - AWL - W.O.A.S. at New Martinique Bks. absented himself without leave from 0630 hrs. 31 Mar 41 to till he reported to Cpl. Cadieux 1910 hrs. 31 Mar.41	Cpl. Cadieux.	3 dys. detent. 3 dys. pay F.R.&I.(Can) 149 (1) (b)	2 Apr.41	Lt/Col. Pocock	Forfeits 1 dys. Pay F.R.&I (Can)149 (1) (a).
	S.O.S. on posting to Cdn. Prov. Depot. w.e.f. 23 Jul.41 D.O.39/41. C.W. Graham								

(P.T.O.)

	Date of offence	Rank	Cause of punishment awarded	OFFENCE	Number of Witnesses	Punishments awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY:

E.A. Morkeberg Lieut.
(E.A.Morkeberg)
Officer i/c Records
No.3 Cdn. Provost Coy.

Field
5 June 43.

ORIGINAL NOT AVAILABLE

No. A9361 Name Dolan, C.K. Sqn. Battery or Company Corps Date of enlistment 16-9-39 G.C. Badges Service or Proficiency Pay M.F.M. 5 (A.F.B.122)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. H.F.Law Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30-9-40	Pte.		Absenting himself without leave- 1200 hrs. 30-9-41 to 2130 hrs. 30-9-41, Section 15-1 A.A.	Sgt.Leriere,J.J. Cpl.Amyott	3 days C.B.	1 Oct.41	R.J.Kidston Lieut.	Forfeits 1 days pay.
Field	9-10-41	Pte.		A.W.L. 0630 hrs. 5-10-41 to 1730 hrs. 8-10-41.	Cpl.Lucas,F.C. Cpl.Amyott,W.F.	7 days pay.	9-10-41	R.W.Frost Lt/Col.	Forfeits 4 days pay.
Field	6-12-41	Pte.		A.W.L. 2359 hrs. 6-12-41 to 1630 hrs. 7-12-41 (16 hrs. 31 mins.)	Cpl. Nash	3 days pay.	10-11-41	R.W.Frost Lt/Col.	Forfeits 1 days pay.
Field	3-5-42	L/C.		Making a false statement Sec.40 A.A.	Documentary	Reprimanded	3 May 42	M.E. Byers Capt.	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or date charged with same	By whom awarded	Remarks
eld	31 Jan 1943	L/C.		W.O.A.S. did absent himself from Coy. billets between the hrs. of 1000 hrs. 2 Feb.43 (Total absence 7 days 7½ hrs.) without permission from his O.C. Section 15(1) A.A.	Sgt.Nicol Sgt.Lenton Cpl.Babcock	Admonished Forfeits 8 days pay F.R.I.149 1 (a).	8 Feb.43	Capt. Law.	

CERTIFIED TRUE COPY:

E.A. Morkeberg Lieut.

(E.A.Morkeberg)
O i/c Records
No.3 Cdn. Provost Coy.

Field
5 June 43

M.F.R. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(c)

Number	Rank	Name	Regiment (or unit)
A9361	L/Cpl.	DOLAN, Charles Kangley	No. 3 Prov.Coy.

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	A.W.L.	One times	A.W.L.	Five times
For		times	False Statement	One times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct Nil

or,

There are ~~no~~ entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has ~~not~~ been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.F.A. 73 / A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for days in civil custody, and 4 days in military custody, making a total of 4 8 days in custody, of which -- days were spent in hospital.

5. The present age of the accused according to his record of service is / attestation paper is 31 years

6. The date of his commission specified in his record of service is / attestation paper

7. The service which the accused is allowed to reckon towards discharge is 3 yrs. 8 mos. 22 days.

8. The accused is entitled to reckon 3y8m22d service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force / military decoration, or air force / military reward ~~or is in possession of or entitled~~ to). State any air force / military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

4 Nov 42 .....Date of promotion.

In the rank of L/Cpl. 7 mos. years.

In the rank of ..... years.

In the rank of ..... years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name ..... of ..... Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11th day of June 43

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "A" Garrison Court signed by the president, and annexed to the proceedings.

"B" Provost Coy.

4R-53

Pte Dolan F. R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B.133439 Pte DOLAN F.R. HPER

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	S 15(1) AA	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

"TDJ" At present under sentence for ~~[illegible]~~ beginning on (date) ~~[illegible]~~ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which Nil days were spent in hospital.(2)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be imprisoned with hard labour for one year.

(Sgd) ~~Judge-Advocate, if any~~ "TDJ" 8 Jan 45 (Sgd) "T.D. Jatcham Maj" President. (RP 45, 50)
Date awarded.
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(1), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Finding and Sentence Confirmed

~~I direct that the accused be duly apprehended and further dealt with.~~ "JDS"
(1. AA 57A. Delete if not used.)

(Sgd) "J.D. Smith Brig".
Date 13 Jan 1945. (J.D. Smith) Brig
Comd 1 Cdn Inf Bde
Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B.133439 Pte Dolan F.R.	15 Jan 45	" G.E. Baldwin Capt". H P E R

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Certified true copy: [illegible]
(D M Carruthers, Maj)
Cdn Sec 2 Echelon AFHQ.

RECORDED AT CMHQ IN AB 168 4R-53

CPA96 (In lieu of AFA3) 47/P.G.S./1608 (2004)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier JDE Smith Comd 1 Cdn Inf Bde dated 5 Jan 45 "TDJ"

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B.133439	Private	Frank Russell	DOLAN	HPER

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date) 8 Jan 45 "TDJ"

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JAs, if any~~, and Offr under instr, ~~if any~~, assemble, and the Court is closed. "TDJ"

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(3) TDJ

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1315 hours trial commences. "TDJ"

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ "TDJ"

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to as interpreter ? Ans

The Interpreter is sworn.(1) Do you object to as shorthand writer ? Ans "TDJ"
~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JAs, if any~~, and Offr under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc : TDJ

President	Major	T D Jotcham	RCR
Member	Captain	G. A. Fraser	48 Highrs
Member	Lt	P.V. Alexander	HPER
Judge-Advocate			
Prosecutor	Lt	W. R. Walters	HPER
Defending Offr	Lt	J.W. Tompkins	HPER "TDJ"

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See 2d p 3.)

A8. The accused before arraignment make(s) (no) ~~[illegible]~~ plea. "TDJ" (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. "TDJ"

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B "TDJ"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*ii*) ; *duty and privileges of accused as* ℐ *Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interests the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 25(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence proved as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by commencing with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Argument on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....

(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* 885. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*a*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(*3*) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(*3*), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans No

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement of Particulars as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(*l*) (*g*) (*b*), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *MFB* 353 *or MFB* 294. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement and Conduct Sheet, and in mitigation of punishment ?(1) Ans Yes (2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(*6*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and then JA, if any~~.(2)

(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishments or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 363-366, *Overseas AO* 309, 2323, *RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 363-366, *Overseas AO* 309, 2323. *RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 363-366, *Overseas AO* 309, 2323. *MML p* 90, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*1*) (*b*), 98(*1*), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 367. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"TD."

COPY

No B133439 Name Bolan, F R | Sqn, Battery, or Company | Corps CIC | Date of enlistment 25 Sep 42 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) (67/PAS/126 (3438))

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 25 Mar 43 on completion of 6 months service. Entries NIL.									
Field	22/8/44	Pte		AWL from 1900 hrs 22 Aug 44 till 1800 hrs 6 Sep 44 (14 days 23 hr)	Sjt Desjardine	28 dys pay	11 sep 44	Comd Offr	forf 43 days pay 149 (1) & (2)

CERTIFIED TRUE COPY G E Baldwin CAPT AND ADJUTANT 1 Jan 45 DATE
Officer i/c Regimental Records
RPER

EX "C" "TD."

(PTO)

14

CHARGE SHEET

The accused, B 133439 Pte Frank Russell DOLAN, of "A" Coy, The Hastings & Prince Edward Regiment CMF, placed on Active Service with the Canadian Army Overseas, CMF, is charged with:-

FIRST CHARGE

Army Act

Sec 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

In that he,

In the field, did absent himself without leave from 0630 hrs 10 Oct 44 until being apprehended by the Military Police in ROME, ITALY at approx 1200 hrs 22 Dec 44.

TOTAL ABSENCE - 73 days 5 hrs 30 minutes.

In the field
1 Jan 45

(D C Cameron) Lt-Col
Officer Commanding
The Hastings & Prince Edward Regiment
CMF

To be tried by Field General Court Martial.

In the field
5 Jan 45

(J D B Smith) Brigadier
Comd 1 Cdn Inf Bde

"JD"
2 Jan 45

"JDS"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the applications see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 133439	private		Frank Russell	DOLAN	HPER

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on 5 Jan 45 (*date*) endorsed by me [redacted] "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [redacted]
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4 [redacted]
(AA 49, RP 106(B), 107(A). *Delete the whole or part, if not applicable.*)

5 [redacted]
(RP 106(E). *Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	T.D. Jotcham		RCR

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	C.A. Fraser		48 Highrs
Lt.	P.V. Alexander		HPER

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lt.	J.H. Carpenter		RCR

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (*Country.*)

Date 5 Jan 45

J.D.B. Smith Brigadier
(*Signed personally. RP 105 fn 2.*) (*Rank.*)

Commanding Comd 1 Cdn Inf Bde (J D B Smith) Brigadier
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

B133439

PTE Dolan, F R of A Coy HPER

and in my opinion he is fit to undergo trial by Court Martial.

Station In the Field

Date 6 Jan 45 J W Kirby Capt.
(Medical officer)
"DJ" HPER

Plea in Mitigation by Defending Offr. E 3 "TDJ"

X Coy - Char. Witness.
- Not available.

Pte Dolan has been in army over 2 yrs (3 mos) His record - England was good. He was in North Africa 4 mos.
Landed - Italy 1 March 44 and joined Reg't 1 April 44. Fought at Ortona Gustav Line Hitler Line and Gothic line. At Rimini ridge his Coy Cmdr. Kept him in Coy H.Q. because his nervous system had got beyond his control due to so much hard fighting. He then rejoined his platoon but the attitude of his N.C.O's. toward him changed from that time on. They inferred by numerous small incidents that Pte Dolan was not a brave soldier but his record of fighting in Italy plainly shows that he is the type of man desired at the front. This attitude of his NCO's preyed on his mind and he went AWL. Pte Dolan wants to return to the front, with another Bn if possible to carry on the job he was formely doing.

"TDJ"

Exhibit A "TDJ"

Summary of Evidence in the case of B133439 Pte Frank Russel DOLAN, of "A" Coy HPER a soldier of the Canadian Army Placed on active service overseas, CMF.

By order of the Commanding Officer this summary of Evidence is taken on oath.

1st Witness for the Prosecution

Capt GE Baldwin, Adjt, HPER having been duly sworn, states:- I am Capt GE Baldwin, Adjt, HPER. I present a certified true copy of Army Form B119 Record of a declaration of a Court of Inquiry on the absence of a soldier. This record declares that B133439 Pte Dolan, FR of "A" Coy HPER, CMF illegally absented himself without leave from 0630 hrs 10th of Oct 44 and that he was still absent on 1 Nov 44. This record is marked exhibit "A".

I also present a certificate in accordance with Army Act Sec 163 (1) (jj) signed by CS Gill, Capt., Officer Commanding 111 Prov Coy, CMP who certifies that B133439 Pte Dolan, FR, "A" Coy, HPER was arrested at ROME at 1200 hrs 22nd of Dec 44. This certificate is marked exhibit "B".

I now recognize the accused as B133439 Pte Dolan, FR "A" Coy HPER.

GE Baldwin Capt.

The accused was asked if he wished to cross examine the witness and he declined to do so.

The accused was cautioned, "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make any statement or to give evidence.

Certified that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

Taken down by me in the presence and hearing of the accused, this 1st day of January 1945.

In the field
1 Jan 45

DD Beaumont

Lieut DD Beaumont, HPER
Officer taking the summary of evidence.

"TDJ"

Exhibit "A" Exhibit "A" "TDJ" Army Form B.115

RECORD OF THE DECLARATION OF A COURT OF INQUIRY ON THE ILLEGAL ABSENCE OF A SOLDIER.

Record of the declaration of A court of Inquiry assemble at "In the Field" on the 1st day of Nov 1944 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the arms, ammunition, equipment, instruments, regimental necessaries or clothing of

B.133439 Pte Dolan, F.R. "A" Coy, H P E R - CMF.

DECLARATION.

The Court declares: B.133439 Pte Dolan, F R "A" Coy, HPER - CMF illegally absented himself without leave or other sufficient known cause "In the Field" from 0630 hrs 10 Oct 44 and that he is still so absent and that on the 1 Nov 44 he was and is still deficient:-

Deficiencies in kit not known.

Names of President and Members: Pres Capt O. W. Christiansen -HPER
Memb Lieut J I Little HPER
Memb Lieut P.V. Alexander HPER

Signature of Commanding Officer "D.C. Cameron Lt Col"

Certified True Copy:- " G. E. Baldwin Capt&Adj HPER
Signature Of Officer having custody of Regimental Records

"TDJ".

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SEC 163 (1) (ii)

I certify that

No. B.133439 Rank Private Name Dolan F.R.
of the HASTINGS AND PRINCE EDWARD REGIMENT.
was arrested at ROME at 1200 hrs.
on the 22nd day of DECEMBER 1944.

Signature of PM, APM or other officer into whose custody the above named person was taken on arrest. "C.S. Gill" Rank Captain.

Appointment (if any)

Commanding 111 Provost Company, CM Police.

Date 22nd December 1944 "TDJ"

EX B "TDJ"

COPY

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B133439	PTE	Frank Russell DOLAN	HPER

1. The following is a fair and true summary of the entries in the [redacted] Field GEB conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 617, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishment being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For	AWL Sec 15 (1)	One times	one	times.
For		times		times.
For		times		times.
For		times		times.
For		times		times.

[redacted] GEB
xxx
[redacted] GEB

2. The accused has not been previously convicted xxGEB
[redacted]

3. The accused is not under sentence at the present time. [redacted] GEB
[redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and 10 days in military custody, making a total of 10 days, of which no days were spent in hospital.

5. The present age of the accused according to his record of service in [redacted] GEB is 25 yrs 6 dys

6. The date of his [redacted] attestation specified in his record of service [redacted] GEB is 26 Sep 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2yrs 3mths 4 dys

8. The accused is entitled to deferred pay or gratuity in respect of 2yrs 3 mths 4 dys service.

9. The accused is entitled to reckon 2 yrs 3 mths 4 dys service for the purpose of determining his pension, etc.

10. [redacted] GEB
[redacted] GEB

11. [redacted] GEB
[redacted] GEB

12. [redacted] GEB
[redacted] GEB

(71954) Wt.30048/8332 75,000 12/40 A.& E.W.Ltd. Gp.a/m

"TDJ"

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B133439 Rank PTE Name Dolan, F R of HPER Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispositions with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
		NIL GEB		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 5th day of Jan 45

G E Baldwin Capt
and Adjutant - Offr i/c Regt'l Records
HPER

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion.
In the rank of	years,
In the rank of	years
In the rank of	years,

(Instructions.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that on the issue of a draft by field general court-martial the information may be obtained from such sources as are available and the paragraphs retained amended accordingly.)

EX B "DJ"

COPY

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B133439	PTE	Frank Russell DOLAN	HPER

1. The following is a fair and true summary of the entries in the [redacted] Field GEB conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

‡The marked sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 617, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AWL Sec 15 (1)	One times	one times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

[redacted] GEB
XXX
[redacted] GEB

2. The accused has not been previously convicted XXGEB
[redacted]

3. The accused is not under sentence at the present time. [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and 10 days in military custody, making a total of 10 days, of which no days were spent in hospital.

5. The present age of the accused according to his record of service [redacted] GEB is 25 yrs 6 dys

6. The date of his [redacted] attestation specified in his record of service [redacted] is 26 Sep 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2yrs 3mths 4 dys

8. The accused is entitled to deferred pay or gratuity in respect of 2yrs 3 mths 4 dys service.

9. The accused is entitled to reckon 2 yrs 3 mths 4 dys service for the purpose of determining his pension, etc.

10. [redacted]

11. [redacted]

12. [redacted]

(*18540) Wt.30344/6032 75,000 12/40 A.S.R.(T.)Ltd. Gp.698

"DG"

4W. 37

Pte Dolan JJ

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A 21514 Pte James Joseph DOLAN. 1 Cdn Repat Dep

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15(1)	NOT Guilty	Guilty	of Abt from 2200hrs 25 Nov 44 and NOT as charged.
2nd				
3rd				
4th		Nil		
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and re loss of kit see RP 44 fn 6.)

At present under sentence for NOT beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which N/A days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for One Hundred and Fifty (150) days with Recommendation to Mercy.

23 Feb 45 (Sgd) John Meurant

(Sgd) Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and dispose of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set ~~aside~~ confirmed.

~~I direct that the accused be not committed to prison or detention barracks until the day of~~ (1. AA 57A. Delete if not used.)

I remit one hundred and forty nine (149) days detention

(Sgd) A.D.Blackader Brig

Date 1 March 45 Commanding Cdn Repl Units. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

A21514 Pte James Joseph Dolan, DOW 14 A 2/6 Mar 45 — 6 March 1945 — John H. Barlow Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AD 10

FIELD GENERAL COURT-MARTIAL

Order of K.G. Blackader DSO MC ED A/Comd CRU 4W-37 dated

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit
A 21514	Private	James Joseph	DOLAN	Cdn Para 1 Cdn Repl Depot

PROCEEDINGS REVIEWED Ready for Q 21 Mar 45

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) NW Europe England on (date(s)) 23 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1130 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (1)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~an~~ interpreter? Ans

~~The Interpreter is sworn.~~(1) Do you object to Sgt Gauthier Beaudoin as shorthand writer? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.M. Meurant ED	1 CRD
Member	Capt	A.M. Cowan	1 CRD
Member	Lieut	W.M. Ranaberry	1 CARU
~~Judge-Advocate~~			
Prosecutor	Lieut	R.P. Cockrell	1 CRD
Defending Offr	Lieut	G. de Bellefeuille	2 CITR

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 1 were not followed. See DJ p 33.)

A8. The accused before arraignment make(s) (no) (a) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

he accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing d or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; securing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea according as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)*

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans My case on oath Do you intend to call witnesses on your behalf ?
Ans YES Are they witnesses as to character only ? Ans YES
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 102(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ALL charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(2) (a), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans ON OATH Plus WITS
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex F and Ex G respectively.(3)
(1. *MFB 333 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans PLEASE LIEUT DAY OFFR (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(3), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 68, 118, 119(A), KR Con 308, 330, 363-366. Overseas RO 309, 1223, MML p 80, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564.* 2. *RP 30. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused A-21514 Pte. James Joseph DOLAN, Cdn. Para Corps, on transit strength of No. 1 Cdn. Repat. Depot (Lorne Scots) a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
AA sec 15(1)

WHILST ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that He

at No. 1 Cdn. Repat. Depot (Lorne Scots) did illegally absent himself without leave from 2200 hrs 23 Nov 44 to 0400 hrs 13 Feb 45. Total absence 81 days 6 hours.

Louis Keene Colonel,
(Louis Keene)
Officer Commanding,
No. 1 Cdn Repat. Depot
(Lorne Scots)

Tweedsmuir Camp,
Thursley, Surrey.
19 Feb. 1945

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
21 Feb 45

B Blackader
(E.G. Blackader) Brig
A/Comd
Cdn Rft Units

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appointment, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A21514	Pte		James Joseph	DOLAN	Cdn Para Corps 1 Cdn Repat Depot (L.S)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 21 Feb 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.N. Miller ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Capt	To be detailed by CO	1 Cdn. Repat Depot
A Lt	To be detailed by CO	1 CARU

~~WAITING MEMBER.~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

Date 21 Feb 45

K.G. Blackader
(Signed personally. RP 105 fn 2.)
(K.G. Blackader)

Brigadier
(Rank.)

A/ Commanding Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA66 (In lieu of AFA3) 40/P & S/1467 (6011)

(See overleaf for notes and notes for use on trial.)

Medical Officer's Certificate
KR (Can) Para 557

I certify that I have this morning examined No A21514... Rank PTE.
Name DOLAN...J.J..... of .1 CDN PARA BN.... (unit
and in my opinion he is ~~unfit~~ fit to undergo trial by Court Martial.

Station TWEEDSMUIR CAMP
Date 23 FEB 45

R B Adams capt
Medical Officer
No. 1 Can Repat Depot
(Lorne Scots)

CASE OF

D-3 A.81514 Private DOLAN, J.J. 1 CDN REPAT DEP (Lorne Scots)

FIRST WITNESS

CAPT W.E. COUCH, BCA, ADJT, No. 1 CDN REPAT DEP (Lorne Scots) sworn, states:-

I recognize the accused and I produce a certified true copy of Declaration of Court of Inquiry and Certificate of Surrender, both of which relate to the accused.
(FILED AND MARKED EX "A" & "B")

CROSS-EXAMINED

Q. Can you say if you recognize this telegram?
A. Yes, that is the telegram that was received at the Adjt's office of this unit.
IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP86(1).

DEF OFFR

I tender this (telegram) as exhibit.

PROS OFFR

I have no objection.

(FILED AND MARKED EX "C")

DEF OFFR [redacted] Q. Can you recognize this document?
A. I have the original here. It is a [redacted] I tender this as an exhibit.

Dft Pte

[The pros offr has no objection].
(FILED AND MARKED EX "D")

D6

The accused, sworn, states:-

I was sent to HMTU to go back to CANADA. I got a pass to visit my mother and sisters in SCOTLAND. On the fifth day of my pass I returned to London to visit some friends on the way back. I stayed with my friends for two days. I was going to come back on the 22nd. That was before my pass was up. I was walking down Grey-Portland St, accompanied by my friend. I don't exactly know; I felt a shock. My recollection after that shock was that I found myself in a taxi, being taken to a doctor. When I got to the doctor, I was feeling a little better. He examined me and he said that, although I had been struck, I had no serious injury; he said that it was only superficial and shock. Nevertheless, he told me I should not travel and he gave me this certificate., which I saw him write out

DEF OFFR TO THE COURT

I tender this certificate as an exhibit.

PROS OFFR

I have no objection.

(FILED AND MARKED EX "E")

The accused addsi-

Another telegram was sent saying that the doctor had advised me not to travel. I was going down the street to do some shopping when I felt kind of ill and shocking and I started for a coffee shop to get a cup of tea. Well, I don't remember if I got to the coffe shop or not. The next thing I know is that I was lying on a couch. There was an

Dft

elderly lady there and the next question she asked me was how I was feeling now. She said, "You young fellows are drinking too much!". I asked her what I was doing there and she said her husband had found me on the pavement the night before and that they had let me sleep there. She asked me if I would like to have some breakfast. I was very surprized because I thought it was evening. She asked me if I wanted the paper. The paper said Dec 2. I remembered that well enough. I don't know what happened in those ten days. I looked out of the window and I saw that I was in an entirely strange district. I did not know the people. I felt kind of ashamed and went out of the house and started to wander around. I was so excited, I didn't even find out the name or address of the people that had picked me up. I was so excited. I was worrying about the ten days. I didn't know what to do. I thought I'd find a place to sit down and think it over. I went to another friend that I had not seen for some time. When I got there I did not like to tell him that I was AWL, so I just said that I was on pass and that I had a few days off and he told me I was welcome to stay. I stayed there for a few days, Sir. All the time I was thinking about what I should do and every time I put to go back to camp. I felt that no one would believe me; I didn't believe it myself. The more I thought the worse I felt. I had been in Reading both before and the thought of going back there again was too much for me. The more I thought of coming back to camp, the worse I felt. I decided that if I did come back they would send me there. I could not come back. I decided to stay and take a chance. The people where I lived knew that I had been born in Scotland. I told them I had been discharged from the Army and was awaiting for my money to come through and asked them to rent me a room. They rented me a room alright; everything went fine. I don't know why they did not ask me anything but they did not. I decided every day that I would go back "to-morrow". I kept away and I kept away and eventually, I was at home one night. The lady in the house was very ill. She was suffering from haemorrhage and there were people looking after her. It must have been about two o'clock in the morning and they thought there was a burglar in the district as the police were around. They were making enquiries around. I don't know - but I made up my mind. I went and explained everything to the people and told them I was going to turn myself in and I did so, Sir. I turned myself in to the policeman there.

Q. Why were you at RUTOT?
A. I was going to Canada.

Q. Are you married?
A. Yes, Sir.

Q. There is no trouble with you and your wife?
A. No, Sir.

Q. How did you feel about going back home?
A. I felt fine, Sir; I was going home for my fifth anniversary.

CROSS-EXAMINATION BY THE COURT

Q. You tell the Court that on the afternoon of the second day after you had been hit by some vehicle that you were going down the street to make some purchases before going back to camp. Had you been drinking that day?
A. I had had nothing to drink for those two days, Sir.

QUESTIONED BY THE PRESIDENT

Q. You stated that you awoke in a house of an elderly couple that you don't know, and that that house was somewhere in the north end of London?
A. Yes, Sir.

Q. Where were you when you were going to have a cup of tea?
A. I was on Great Titchfield, Sir, in the West End.

Q. How did you feel yourself when you awoke in this house?
A. I felt confused with a slight headache.

Q. You went to stay with some friends and you told them that you had been discharged from the Army?
A. I did, Sir.

Q. Why?
A. Well, Sir, they know that I am Scotch and I have known them for some years and that I had been categorized B-6. You see my mother and sisters are over here and I am more or less responsible for their welfare. They thought that if I wouldn't be discharged in this country I could not get them back to Canada. I was trying to get them back to Canada as I could not do it while in Canada.

Q. Did you think at the time you told them that that they could find out it was not true?
A. I don't know, Sir.

Q. Did you intend to return to camp at the time you said you had been discharged from the Army?
A. I just told them that so that they wouldn't think I was absent.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO CAUTION ACCUSED (R).

SECOND WITNESS

Capt R.D. AUSTIN, Att 1 CDN REPAT DEP, sworn, states:-

Q. What is your position in 1 Cdn Repat Dep?
A. I'm attached here as PRO.

Q. With your experience and studies, could you tell the Court what the effects of an accident happening to a man would be?
A. Well, I don't know.

Accused

Q. Evidence has been given to this Court that the accused was injured in a traffic accident. He was taken unconscious in a cab and to a doctor. Before he arrived at the doctor's place, he recovered consciousness. The doctor examined him and found no fractures and that his injuries were only superficial and that he had only suffered from shock and advised him not to travel for forty-eight hours. Can you state, the effect of such a shock might have on the man?

A. As far as I can make out from the picture you just gave me, the patient had seen the doctor who diagnosed the shock, and brain concussion is not mentioned. Of course, I admit that they should keep such patients under observation for forty-eight hours before making a complete diagnosis. The only diagnosis in this case is the shock, but without keeping them for forty-eight hours under observation they cannot make a proper diagnosis. I don't want to commit myself with regard to this man. It is quite possible that a man meeting with a traffic accident could suffer with amnesia but no doctor will diagnose amnesia unless he keeps the man under observation so as to make sure that it is genuine. This case would not be diagnosed by an ordinary doctor unless there is brain concussion not only shock.

Q. Is brain concussion diagnosed at first?
A. No, the patient has to be put under observation. Being mental cases, they have to be checked and rechecked. It is mostly mental confusion.

Q. The doctor cannot diagnose a case in which the patient has been under observation just for an afternoon?
A. No, Sir.

Q. Can such a shock affect the mind of a man?
A. It is the result. It will even with normal people according to their stability. There are many factors involved.

Q. If the man who suffered from shock is an S-5, would it be more severe and continuous than it would be for a normal person, as far as amnesia is concerned?
A. Yes, if there is brain concussion. That is only my opinion.

CROSS-EXAMINED

Q. If a man had brain concussion due to an accident, would that have any effect on him later on, say a period of months afterwards. Would he have the signs?
A. Yes and no. With most cases of brain concussion, the patients will come out of it but the psychiatrists will diagnose that it might recur in the form of mental trouble. Further, as you know, this is the great "puzzle" of medicine - mental diseases and brain trouble - we have yet a lot to learn about it. With skull fractures, we reserve a prognostic; this means to say because we don't know.

Q. A man who is an S-5 and is not very stable, if he gets a brain concussion, resulting from an accident, can that affect his clear mind?
A. Yes, it might, if you assume that he has been suffering from brain concussion. I am not saying it does.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83 (3).

ADDRESS BY THE DEFENDING OFFICER ON THE FINDINGS

First of all, the twelve days. We have the evidence of Dolan which has in no way been contradicted by the prosecutor that he was in no condition to come back to camp. For his first forty-eight hours, he had a medical certificate to the effect that was not to travel during forty-eight hrs. He then comes this question of amnesia. He has stated under oath that he absolutely does not remember what happened during those ten days and that it was not due to drunkenness. The DC said that it is possible that such a thing could happen especially with brain concussion. In this case, we have no definite evidence of brain concussion but we have the circumstances which clearly indicate that there was brain concussion because it is the only way to explain that amnesia plus the traffic accident. I submit that this is a case of what we call "force majeure" for those twelve days. Now let us try to figure out those sixty-nine days. The question the Court will have to answer is "Can fear combined with an unstable mind plus a traffic accident have effected this man's mind to such an extent that he could be considered responsible?". I submit that there is possibility to that effect for which I still have the evidence of the DC who said that that is possible. There is also the fact that the accused was scheduled to go home shortly and that he was looking forward to meeting his wife and celebrating his fifth anniversary of wedding. I can't think a man who is in his own mind would have what he did. Although the Court should remember the fact that the accused had an S-5 and that, combined with that accident, could have produced almost anything and in the case of the accused, benefit must be given to the accused.

ADDRESS BY THE PROSECUTING OFFICER ON THE FINDINGS

The evidence is clear and I leave the matter to the Court.

CASE OF

D-1 A.[illegible] Private DOLAN, JJ 1 CMP REPAT DEPOT
(Horns Scots)

The accused, sworn, states:-

My counsel has advised me to tell you exactly how I came to be categorized B-6. I don't know how the doctor came to the conclusion. It dates back to the time when my father and mother got married. They had different religion, my mother was Protestant and my father was RC. My mother had a child before she was married to my father, an illegitimate one. My father took responsibility for the child. That child was not me. Things went on smoothly until I was six years old. My younger brother had been born and my father decided to go to America to make money and make his home there., where most of his relatives were. My Army age is at nearly 28 but I was born in 1921, so I am only 23. My mother, my younger brother and myself went to the north of Scotland where my grand-mother lived, and we stayed there 2½ years, while my father was making himself a home. My oldest sister, the illegitimate child was there. In the north of Scotland, where most people were Protestant, we were instilled in the Protestant religion. In 1928, or early 1929, we got word from my father that everything was already and that he had arranged for our passports to come out to the USA. With the exception of my oldest sister who chose to remain with my mother's people in Glasgow, Scotland, we all went to live in America. The first couple of years there were very happy and contented until 1932 when the youngest sister was born; trouble seemed to start about that. My mother was Protestant and, perhaps she was at fault trying to make a Protestant of me while we were in Scotland because while I was in the States, living with my father's people, they, being strong RC, I had to go to a Catholic school. I did so for over 4½ years. My father was in the last war for better than four years. He was wounded three times, one of the wounds was a wound on the forehead. I cannot explain what part of the skull that is. He had a tendency not to wear his but in the extreme heat of the summer. He could not stand his drinks very much. When my father drank, it was not for one day or two days, it was for three weeks or more. It was the only time in the year that he would drink for one session. But was enough to make it very miserable for my mother. Between disputes and whether to abstain drink, whether he should not drink, religious arguments between my father's people and mother, strange environment to my brother, sisters and myself, things just didn't seem to be going too well. Troubles always pile on top on troubles. In 1934, my young brother died of appendicatomic operation. My father was genuinely felt that he was to blame for this began to worry and brood until he could not stay away from drinks any longer. Well, he drank for a couple of weeks and he went to the hospital. He fought pneumonia and died. This was in 1934 and nearly 1935. My mother who had been advised to return to Scotland did so accompanied by my younger sisters and myself. I went to Highschool in Scotland; I believe it is called secondary school, sir, for two years. At any rate I came out of school with qualifications. I tried several jobs; marine engineering was what I wanted to do - the pay was 10 a week. It did not help my mother very much. Most of the money that she had had was gone in costly hops from America and setting up a home in Scotland. In despair, I joined the Merchant Navy. I worked in the Merchant Navy for over a year, finding myself very little ahead at the end of that time. The next thing I did was to come back to the States. I did so illegally by simply remaining on shore in New York when ship docked. I was 18 at this time, my idea was to bring my mother(the) and sisters out there. It was not very nice as I was kicked about from pillar to posts for three years. I had been in Canada several times and when the war broke out I was in Detroit. I joined the Can Army on 2 Sep 39. I was married in Jan 40. On Mar 7, 40, I landed in England with the Essex Scottish. I was a Cpl at this time and I had a pal named Pat Hurley in my section. Late in that year, one morning, at 8 o'clock, he committed suicide in the bg room. I was the only one

that saw anything at all of what happened although the room was reasonably crowded. As I happened to turn around, the shot was fired; I saw him fall with the rifle in his hand. I sat with Pat for fifteen minutes. The shot had penetrated right at the centre of his forehead. The doctor came and looked at him and shook his head. In fifteen minutes the man had died. I thought that I had forgotten it when in 1941, it was recalled to my mind by another suicide. A Sgt of my unit committed suicide. Approximately a month later, I was reduced to the rank of Tpte. Following my duties, I was on guard one night on an ammn dump. While I was standing there, I don't know what I was thinking, about but maybe if he was a brave man or a coward. It never entered my head to commit suicide when I suddenly found I had the rifle in my hand and it seemed as if some force from outside had put it there. I pushed the rifle into my hands; it was loaded and took off the magazine, and put it in my pocket. I walked up and down and did everything to take that off my mind. A few yards from there was another sentry. I called him. He came up to me. I had to speak to him. Somehow I had to tell him something else as I couldn't tell him that. So, I told him I had heard something. When I went for my tour, there was a Cpl in charge of the guard. I told him about this as he was much older than I was, 31. He was inclined to take a view that at a certain time in a man's life, some thought of suicide creeped in. He added that "to-morrow, you won't feel it". The only other person I could confide in was my best friend, now WO of the Essex Scottish, Dickson was the name. He is a very peculiar type of a person, Sir. He did not think much of it, Sir. Until 42, I never felt well and safe. I could do nothing about it. I was a bren-gunner. I fired 100 of rounds. Yet I couldn't sleep with a rifle. It upset me. When there was ammn near me I couldn't sleep. I had to get away. I told one person why I was going. He did not believe that I was going AWL. He came withme. Six days later we returned. I got an exceptionallyhard sentence. I never brought it up. Maybe I should not think that I am any different from anyone else. I didn't like to be ridiculed in front of women. I went away again and in time I was court-martialled and I got a heavy sentence. I kept my trouble to myself, Sir. They would never let me see a psychiatrist. In as I went to a battle school. I tried everything. I slept with grenades and rifles near me. Dickson and Donaldson were with me. Then I did get to sleep I was alright till morning. On to after I finished a weapon course, I went to a weapon boy. I was in charge of the coy. I gave up that job to be an instructor for battle drill again. I transferred to the patrooops. All this time, Sir, I was fighting this on my own. Finally this got the better of me. I went back to the Merchant Navy. I was AWL at the time in Mar 44 and when I returned to my bn, I asked to see the psychiatrist. My Det Offr, who had been with the same unit as myself and transferred with me, got in touch with a psychiatrist who examined me and gave out a report which, been filed. (has)

The result was that I got six months detn and I was sent here to [illegible]. The rest you already know. Now I am away from weapons, I don't seem to be troubled. When I was driving in the back of a truck I had to go in front of the trunk because I was afraid I would jump out if I were at the back.

Why did you understate your age?

When I was in America I jumped ships with another chap who was a year or so older than I was. I looked older than I was. I knew that a boy of 18 would make $10 a week whereas a man of 20 would make $20 a week. I took a chance and gave this false age. I got a National Security Card and I carried out that age on when I enlisted.

Why were you sent to NLTD?
When I was sent to NLTD I thought I was going back to Canada. I sent an air mail letter to my wife who is a nurse in Seattle, telling her to come back to Windsor and telling her to fix our home up for Christmas. She stopped writing because she expected me to be home by Christmas. She wanted my kid sister there three years ago. I don't know if the Army has notified her and myself I have been too ashame to write her.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 68 (B).

PLEA IN MITIGATION OR EXTENUATION

In my opinion, gentlemen, the accused has a good history on the stability point of view and I think his case is much more a medical case than I would say punishment or things like that. You have heard him and you have seen him. It seems out quite clearly what his condition really is. I think that a stay in cain would not help him at all and would make him worse and would do the Army no good in the meanwhile, if he is kept in detn. If it is possible, I would like the Court to recommend his immediate discharge. I think that would be the best solution.

EXHIBIT "A"

RECORD of the Declaration of a Court of Inquiry assembled at Tweedsmuir Camp, Thursley, Surrey on the 13 day of January 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A-81814 Pte. DOLAN, J.J.

DECLARATION

The Court declare that No. A-81814 Pte. Dolan, J.J.

illegally absented himself without leave from No.1 Cdn N.E.T.D.(Lorne Scots)

at 2200 hrs on the 23 day of November, 1944,

that he is still so absent, and that on the 14 December 1944 he was deficient, and

that he is still deficient of the following articles :—

Article	No.	Vocab. price	Vocab price less 25% depreciation
Anklets, web, prs	1	£ 4- 5	£ 3 - 3½
BD Blouse	2	2 7 0	1 15 6
Boots ankle pr	1	1 4 5	18 3½
Berets, khaki	1	5 5	4 1
Drawers, cellular shorts prs	2	3 10	2 11
Drawers, woollen	1	5 4½	4 0½
Gloves, knitted	1	2 1	1 7
Greatcoat drab	1	2 10 7	1 18 0
Jersey Pullover	1	8 0	6 0
Shirts angola drab	2	18 2	13 8
BD Trousers, prs	2	2 8 5	1 16 4
Badges, Cap	1	4½	3½
Brush, clothes	1	2 2	1 7½
Brush. shaving	1	1 8	1 5
Combs, hair	1	2	1½
Holdall	1	10	7½
Razor, safety w/blades	1	3	2½
Vests, cotton gym	1	1 7	1 2½
Towels, hand	1	1 5	1 0½
Braces, WE right	1	1 4	1 0
Haversack	1	8 0	6 0
Wallet, A/C	1	7	5½
Totals:-		£ 11-15-11	£ 8-17 - 6½

Certified true copy E. Adamson Sgt.

Signature of Officer having custody of original record

I Certify that the man whose personal description is given below surrendered himself to* P.O. 131 'B' Algel Hairo, at Highbury New Park, N.5 (Hour) 4A.M. on the 13th. day of February, 1945, (Army No) A.21514. (Rank and Name) Private James Joseph DOLAN, a deserter (or absentee without leave) from Canadian Forces, and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 27 Height 5 Feet 11 Inches
Complexion fresh Hair Brown
Eyes Blue,
Marks Nil.
In uniform or plain clothes Uniform.

Probable Date and Place of Attestation	10/9/39. Windsor, Ont.
Probable Date of Desertion or beginning of absence, and from what place	23/11/44. I.N.E.F. Depot, Millpoint, Nr Guildford, Surrey.

Signature of Officer or Police in charge of [illegible] Station.
13th. February, 1945, Date of Signature.

EXHIBIT "B"

IMMEDIATE.

Army Form O.1017
R.A.F. Form 1817

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depots are shown in the Monthly Army List.

† NOTE.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police, e.g., such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. 199, 1940).

(22743) W.t.32501/121 25,000 10/42 A.S.R.W.Ltd. Gp.598 Forms/O.1017/13
(22800) W.t.48426/1202 40,050 2/43 " "

I CERTIFY that the man whose personal description is given below surrendered himself to* P.C.121 'H' Nigel Maire, at Highbury New Park, N.5 (hour) 4A.M. on the 13th. day of February, 1945, as being No. A.215514. (Rank and Name) Private James Joseph DOLAN, a deserter (or absentee without leave) from Canadian Forces, and it appears to me from his confession that he is a deserter or absentee without leave.

*Strike the word "to" to be inserted the name and rank of the police officer concerned.

Age 27 Height 5 Feet 11 Inches
Complexion fresh Hair brown
Eyes Blue,
Marks Nil.
In uniform or plain clothes Uniform.

Probable Date and Place of Attestation	10/9/39. Windsor, Ont.
Probable Date of Desertion or beginning of absence, and from what place	23/11/44. I.N.E.F. Depot, Hillpoint, Nr Guildford, Surrey.

Signature of Officer or Police in charge of _____ Station.

13th. February, 1945. Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the _____ Police in the case of No. _____ who surrendered to the Police at _____ on _____

Payable to _____

CERTIFIED that this statement of expenses is correct.

_____ (Superintendent or Officer in charge of Police Station at _____)

_____ Date of Signature.

EXHIBIT "D"

Charges to pay
s. d.

RECEIVED at Central Telegraph Office, E.C.1
11. 35 m

POST OFFICE

TELEGRAM

No.

OFFICE STAMP
ACTON L.D.
24 NOV. 44 24 TH
W.3.

Prefix. Time handed in. Office of Origin and Service Instructions. Words.
9

To

From CPD 10.55 L LONDON T 18

DW

O/C NO 1 CANADIAN NETD CANADIAN ARMY CANRECORDS

W 3 =

SIR HAD UNFORTUNATE ACCIDENT RETURNING TODAY =

A. 215 14 PTE J J DOLAN

For free repetition of doubtful words telephone "TELEGRAMS ENQUIRY" or call, with this form at office of delivery. Other enquiries should be accompanied by this form and, if possible, the envelope

B or C
C

CONFIDENTIAL

E74,617 "C"

Psychiatric Report

A-21514 Pte. DOLAN, J.J. 1st Can. Para.Trng. Coy.

Problem:

Referred at his own request for psychiatric opinion. He is pending court-martial for desertion 73 days and escaping confinement, with a further 19 days A.W.L.

Dolan is a very glib, plausible individual with high intelligence but really does have a psychiatric problem which has caused him some concern.

He comes from an unsettled home - his Mother is Protestant and Father R.C. and his parents had many squabbles over religious policies. The father was a heavy drinker on occasion and was often away from home. I believe he has a great deal of father resentment.

His childhood was unhappy - no prounced neurotic traits except fear of heights which still persists, and which he has tried to overcome (hence paratroops) frequent disturbing dreams and bitting fingernails.

At school he was always fighting and couldn't stand being teased otherwise progress was satisfactory.

His work record was spotty - restless and unsettled -with considerable wandering, but he denies stealing or other forms of psychopathic personality.

His army record has been poor despite considerable ability - he has been a corporal on three different occasions but has always been reverted because of misdemeanours. He has an unfortunate type of personality that does not adjust to the army, very stubborn, egotistical, regards any slights as personal offences against himself. He it also very meticulous and has many obsessive compulsive ruminative tendencies, and I believe these tendencies are at the root of his troubles in the army.

His progress was satisfactory until he was on the scene of two suicides. This upset him tremendously and he began to have fears of doing himself personal injury with firearms - e.g. on guard duty at nights would be terrified he would do himself in, at nights in the hut he wouldn't be able to sleep if ammunition were lying around in the hut, yet he always had a compulsion to pick it up and put it in his own pocket. He has other compulsive tendencies which he has to fight i.e. for two years he has never walked over Waterloo Bridge alone for fear of jumping, always stands well back when tube trains come in for fear he will jump in front of them. He also has some persistent thoughts about his wife he can't stop thinking about.

A-21514, Pte DOLAN cont'd:

I don't believe that these obsessive - compulsive-ruminative features are sufficient to account for his anti-social behaviour but but do feel they, plus hid psychopathic behaviour, render him unfit for further service.

Advise:

(1) Recategorization M-1, S-5 as Psychopathic Personality (anti-social) with obsessive compulsive tendencies.

(2) Fit to stand cour-martial and punishment.

Signed:

(A. Johnsont) - Capt. RCAMC
Regional Neuropsychiatrist.
Canadian Army Overseas

28 June 44.

CERTIFIED TRUE COPY.

(H.E. Cough) - A/Capt.
Adjutant
1, Cdn. Repat. Depot
(Lorne Scots)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A-21514	Pte	DOLAN, J.J.	Cdn. Pars Corps

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	• Within last 12 months.	• Since Enlistment.
For A.A. 15 (1)	times 1	times.
For A.A. 40 (2)	times 1	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~

or

~~There are no entries in the conduct sheets of the accused~~

~~The accused has not been previously convicted~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time.~~ ~~The accused at the present time is under sentence~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 0 days in military custody, making a total of 0 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ attestation paper is 27 yrs, 230 days

6. The date of his ~~attestation~~ specified in his ~~attestation~~ attestation paper is 10 Sept. 1939

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. ~~The accused is entitled to reckon service for the purpose of determining his pension~~

10. The accused is in possession of, or entitled to (*state any military decoration or reward*) C.V.S.M. Bclasp Delaye. Parachute Badge

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N.A.

12. (*In the case of an officer.*) ~~The accused holds in the army the rank of dated~~ and in his regiment (or corps or department) the rank of dated

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

• The numbers herein stated should correspond with the number or entries in the conduct sheets, pronounce being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

W.14000/1750 30,000 10/43 A.M.P.W.149 Gp.698
W.14000/1400 15,000 5/44

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A-21514 Rank Pte Name DOLAN, J.J. of Cdn Pars Corps Regiment (or as the case may be).

(INSTRUCTION— A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	1 Aug 1942 Field	A.A. 15 (1) A.W.L.	120 days Detn.	40 days
F.G.C.M.	12 Mar 1944 Field	A.A. 15 (1) A.W.L.	6 months Detn.	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23 day of February 1945

Capt.
(W. DeFlois) - Offr. i/c Records

13. The accused has served as a non-commissioned officer continuously without reduction, to the present date.

		Date of Promotion
In the rank of	Cpl.	2-11-39
	2 years.	
In the rank of	Cpl.	24-12-42
	10 months	
In the rank of	Cpl	2-12-43
	15 days	

(Note:—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information must be inserted from such sources as are available and the paragraphs concerned amended accordingly.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17.10.42	A/Cpl		A.A. Sec. 40 (2) Offence relating to neglect of duty.	CSM Crease	Reduced to the permanent Rank of Pte.	18.10.43	Capt. H.L. Boyd	
Field	12 Mar 1944	Pte		Tried By FGCM. Two charges of AWL. A.A. Sec. 15 (1)		6 months Detn. Forfs 184 days pay under Art 149 (1) (b) FRI(Can). Forfs 93 days pay under Art 149(1)(c)(1) FR&I(CAN) Forfs 71 days pay under Art 149(2) FR&I Forfs 20 days pay Under Art 149(2)CAN	14 JUL 44	FGCM	

CERTIFIED TRUE COPY.....A/Capt.
(H.E. Couch) Adjutant
No. 1 Cdn Repat. Depot
(Lorne Scots)

CERTIFIED TRUE COPY

No. A-21514 Name DOLAN, J.J. Sqn, Battery, or Company 1 Cdn. Para. Trg. Coy Corps Date of enlistment 10-9-39 GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 40/FAS/150 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8.6.42	Pte		A.A. 15 (1) WOAS did absent himself without leave from 0500 hrs. 8.6.42 until 0500 hrs. 14.6.42 (total abs. 6 days)		14 days F.P. & Forf. 28 days Pay FR&I 149 (1) (a)	15.6.42		Total Forf. 35 days pay
Field	1.8.42	Pte		FGCM AA 15 (1) In that he WOAS did absent himself without leave from 2130 hrs. 16.6.42 until 1800 hrs. 7.7.42		120 days Detn. total Forf. 109 days pay. Forf 90 days pay FR & I 149 (1)(B) Forf 19 dys pay FR&I 149 (1)(c)(1) (W.E. Thorne) Captain Records Officer 3 Cdn. Inf Reinf Unit	1.8.42		Granted 30 dys remission of sentence. Finding and sentence confirmed by Bde. Comdr. 4 CIB on 4.8.42

(PTO)

MUSEUM
227 O.

30 Foley Street.
Cor. Portland St.
W. 1.

Jordan 28.1.14

I certify that
Private James Stanton
A. 21814. No. 1 M.A.T.P.
met with a traffic
accident, and
was advised
not to travel for
forty eight hours.

Yours truly
Arthur Saunders
Asst. M.O.H.

SUMMARY OF EVIDENCE

In the case of A-21514 Pte James Joseph DOLAN (Cdn Para Corps) on transit strength of No. 1 Cdn. Repat. Depot (Lorne Scots) a soldier of the Cdn. Army Overseas. By direction of the Commanding Officer, the summary of Evidence is taken on Oath.

First witness for the prosecution

Capt. H.E. Couch, R.C.A., Adjutant No. 1 Cdn. Repat. Depot (Lorne Scots) having been duly sworn states as follows: - I produce a certified true copy of Declaration of a Court of Inquiry d/13 Jan 45 relating to the accused (Copy of Declaration attached as appx "A")

I Also produce Army Form O.1617 signed by P.C. 121 "N" Nigel Maire, stating that the accused surrended himself at Thighbury, New Park, N. 5 at 0400 hrs on 13th Feb 1945. (Army Form O.1617 attached appx. "B")

H.E. Couch Capt.
(H.E. Couch) -Adjt.

The accused declines to cross examine this witness.

The accused was cautioned as follows. "Do you whish to make any statement or to give evidence on Oath?" Your are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you may give will be taken down in writing and given in evidence.

First witness for the Defence

A-21514 Pte DOLAN, J.J. (Cdn Para Corps) having been duly sworn states. I wish to have submitted as evidence for my defence, the following documents.

(A) Certificate of a Doctor certifying an accident on 23 Nov 44
(B) Statement made by me to S.I.S. in London
(C) Psychiatric Report
(d) Telegram dated 24 Nov 45

James J. Dolan.
(A-21514 Pte DOLAN, J.J.

I certify that the foregoing summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Proceedure 4 (c), (d), (e) (f) and (g) have been complied with.

G.F. Adamson Lieut.
(G.F. Adamson)
Officer detailed to take the Summary of Evidence.

Tweedsmuir Camp
Thursley, Surrey
19 Feb. 1945

LIST OF WITNESSES

For the Prosecution - A/Capt. H.E. Gouch, R.C.A.
Adjutant, No. 1 Cdn. Repat. Depot)Lorne Scots)

For the Defence - A-21514 Pte. Dolan, JJ
(Cdn. Para. Corps)

LIST OF EXHIBITS
For the Prosecution

EXHIBIT "A" Certified true copy of Declaration of a Court of Inquiry. d/13 Jan. 45.

EXHIBIT "B" Army Form C. 1617

LIST OF EXHIBITS
For the Defence

EXHIBIT "A" Certificate of a Doctor certifying an accident on 23 Nov 44
"B" Statement made by me to S.I.S. in London

"C" Phychiatric Report

"D" Telegram dated 24 Nov 45

STATEMENT BY ACCUSED

It is my wish that the convening Officer detail an Officer who has been a lawyer in Civil Life, to defend me at my trial.

James J Dolan.
(A-21514 Pte. Dolan, J.J.)

V-13
A21514 Pte Dolan JJ

O. H. M. S.

M. F. B. 270

N-13

Army Form A.3.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 20th day of July, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 4th Canadian Infantry Brigade., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~and that it is not practicable to convene a Court Martial without serious injury to the public service~~

* Omit where Convening Officer is a Commanding Officer or of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers ~~xxxxxxxxxxxx~~ appointed or detailed hereunder.

* Omit if not applicable

~~* a Court composed of Officers of whom not less than three shall be Field Officers and the President shall be a Field Officer or~~

~~* a Court composed of Officers of whom not less than two shall be~~

for the following reasons, namely —]

In my opinion military exigencies namely the dispersal of units and the difficulties of communication render it inexpedient to observe the provisions of the Rules of Procedure for the trials of persons named in the annexed schedule by Field General Court Martial. Inconsistent with the provisions of appendix 'A' to DRO 772.

PROCEEDINGS REVIEWED

President.

Rank.	Name.	Regiment.
Major	T.E. Mayhurst	Essex Scot

Members.

Rank.	Name.	Regiment.
a Lieutenant	to be named by O.C.	R.H.L.I.
a Captain	to be named by O.C.	R. Regt. C.
Waiting Member a Lieutenant	to be named by O.C.	R.H.L.I.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed Brigadier

Commanding 4 Cdn. Inf. Bde.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A.21514 Pte. James Joseph Dolan, 1st Bn. The Essex Scottish Regiment, a soldier of the Canadian Army (Active).	First Charge Army Act Section 15(1) Absenting himself without leave. (See charge sheet attached)	Guilty	Guilty 120 Days Detention 1st Aug 1942 Thos J Hayhurst maj.	I confirm the finding and sentence but of the Court but remit 30 days Ed Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) Edmond Ledd Brig. (Signed) Thos J Hayhurst maj

Commanding 4th Cdn. Inf. Bde. Convening Officer (e) — President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 1st day of August, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*3. ~~The interpreter~~
*4. ~~The officers under instruction~~
~~were duly sworn~~ were duly Sworn

* Omit if not applicable.

Signed this 1st day of August 1942.

Thos J Hayhurst
President of the Court Martial.

C. Certificate in case of death sentences

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

* See footnote (b) on page 262 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~I direct that the soldier named in the margin be not committed to prison until further orders.~~

Signed this 3rd day of Aug 1942

Edmond Ledd Brig
Confirming Officer
Comd. 4 Cdn. Inf. Bde.

Promulgated and extracts taken in the case of

(a) (Dated) 6 Aug 42 (Signed) Greenhill Capt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

1 Aug 42.

A 21514

I CERTIFY THAT I HAVE THIS DAY EXAMINED

Pte Nolan J J

and find him medically FIT to stand trial by Court Martial.

J. V. Fletcher Capt.
(medical officer)

(B)

CHARGE SHEET

The accused, No. A21514 Private James Joseph Dolan, 1st Battalion The Essex Scottish Regiment, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Section 15(1)

When on Active Service, absenting himself without leave,

in that he,

in the field, absented himself without leave from 2130 hours 16 June 1942 until he was apprehended at 1800 hrs on 7th day of July 1942, while undergoing a sentence of field punishment.

SECOND CHARGE
Army Act
Section 10(4)

~~Breaking out of billets,~~

~~in that he,~~

~~in the field, on the 16th day of June 1942, broke out of billets when he was undergoing a sentence of field punishment.~~

In the field,
17 July 1942.

F.K. Jasperson
(F.K. Jasperson) Lt.-Col.,
Officer Commanding,
The Essex Scottish Regiment,
Canadian Army Overseas

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the field,
20 July 1942.

(Sherwood Lett, ~~Lt.-Col.~~) Brig.,
Commanding,
4th Canadian Infantry Brigade.

I desire to be represented
by counsel at my proposed
G. C. M. I prefer
(1) Lieut J. R. Hunter
(2) Major A. Wilkins

James J. Dolan

APPENDIX "B"

RECORDS OF PROCEEDINGS OF A.F.C.C.M. (To be completed in duplicate)
(For use on pleas of Guilty)

1. Trial of No. 21514 Rank Pte Name Dolan, James Joseph
Unit E sex Scots
Held at In the field on 1 day of Aug. 1942

2. ACTUAL COURT

PRESIDENT: Major T.E. Hayhurst, Essex Scot.

MEMBERS : Capt F.T. Nicholls, H. Regt. C.
Lieut. D.M. McIlwain, R.H.L.I.

PROSECUTOR: Lieut H.W. Hockin E sex Scot
DEFENDING OFFICER: Lieut P.O Lee E sex Scot.

3. The accused is arraigned and pleads "guilty" to the following charges: 1st charge, ~~3rd charge etc~~.

4. Rule of Procedure 35(B) is complied with.

5. The abstract or summary of evidence is read.

6. The Prosecutor files AFB 296 and certified copy of N.P.M.6.

7. The ~~accused~~ Defending Officer makes the following statement in mitigation of sentence.
That this soldier was not a bad boy and that he had a good conduct sheet this should be taken into consideration.

Certified true Record of the
Trial, Aug 42
Hayhurst Lt Col
President

(c)

A4

ABSTRACT OF EVIDENCE

In the case of A21514 Pte. Dolan, J.J., 1st Battalion, The Essex Scottish Regiment, Canadian Army Overseas.

FIRST WITNESS A21624 Cpl. Donaldson, J., 1st Bn., The Essex Scottish Regiment, Canadian Army Overseas, states:

"I am commander of No. 8 Section, 12 Platoon, "B" Coy. On the 16th of June, I was Orderly Corporal of "B" Coy. At 2130 hrs on this date I called the roll and Pte. Dolan was absent. Pte. Dolan was not on parade with No. 12 Platoon at any time up to and including the 7th of July 1942."

SECOND WITNESS A21130 C.Q.M.S. Munroe, F., 1st Bn., The Essex Scottish Regiment, Canadian Army Overseas, states:

"On the 7th of July 1942 I was in charge of the Camp Administration Party. I was informed that Pte. Dolan, J., who was absent without leave, was at Yarmouth pier. I took an escort of four men and proceeded to Yarmouth pier. I placed Pte. Dolan in close arrest at 1800 hrs on 7the July 1942. He was in uniform at the time."

THIRD WITNESS Captain D.A. Deziel, 1st Battalion, The Essex Scottish Regiment, Canadian Army Overseas, states:

"I am Company Commander of "B" Coy of the Essex Scottish Regiment. Pte. Dolan, J.J. is a member of "B" Coy. On the 16th day of June 1942 he was undergoing a sentence of field punishment."

I certify that the above is a true and correct Abstract of Evidence as taken down by me in my own handwriting on the 10th day of July 1942.

(J.R. Turnbull) Capt.,
Adjutant,
Essex Scottish Regiment,
Officer taking the Abstract.

MFM. 6
(A.F.B. 122)

No. A21514 Name Dolan, J.J. Sqn., Battery or Company "B" Corps Essex Scottish Date of enlistment 10-9-39 G.C. Badges Service or Proficiency Pay "P.W." Character

Date of last entry in Company Conduct Sheet nil No. and date of last drunk nil Period not reckoning towards freedom from extra fine nil Sheet No. one Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Horam	4-5-42	Pte.		Neglect, etc. "failed to fall in for the P.T. parade at 0615 hrs"	Sgt. Arthur, A.	7 days C.B.	4 May 42	D.A. Dezi[illegible] Capt.	
Field	8-6-42	"		AWL 0500 hrs 8-6-42 to 0500 hrs 14-6-42. A.A. 15(1) placed in close arrest.	C.S.M. Selby Cpl. Coughlin	To forfeit 28 days pay 14 days F.P.	16-6-42	Lt.-Col. F.K. Jasperson	Total forf[illegible] 25 days pay.

CERTIFIED TRUE COPY:

(J.R. Turnbull) Capt;
Adjutant,
Essex Scottish Regiment.

(P.T.O.)

E 44

(Substitute for A.F.B. 296 or M.F.B. 355)

STATEMENT OF CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED

No. A21514 NAME Pte. James Joseph Dolan ESSEX SCOTTISH REGT. Cdn. Army Overseas.

AGE 25 MARRIED OR SINGLE Married No. OF DEPENDENTS 1 - wife.

DATE OF ATTESTATION 10-9-39

NO. OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL nil MILITARY 24 HOSPITAL nil TOTAL 24.

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY:

A CERTIFIED TRUE COPY OF M.F.M. 6 MUST ACCOMPANY THIS FORM.

(J.R. Turnbull) Capt.
Adjutant,
Essex Scottish Regiment.

Dated at (IN THE FIELD)
This 1 day of Aug 1942
(To be dated and signed as of date of trial)


ON HIS MAJESTY'S SERVICE
FASTEN Envelope by gumming this Label across Flap.
OPEN by cutting Label instead of tearing Envelope.
TTT-285
Pte Dolan JJ
1/14 CMSQ 40-1 40-7 & 8-53 (Strips of 4)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A-21514 Pte James Joseph DOLAN 1 CGRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. 15(1)	Guilty except that his apprehension was		
2nd A.A. 15(1)	Guilty	Guilty	at 0001 hrs not at 0100 hrs
3rd			23 May 1944 The Pros signified
4th			the concurrence of convening officer
5th			the Court accepted the plea with the
6th			exception Finding Guilty and
7th			the exception as pleaded

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for:~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 29 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of six (6) months and to be put under stoppages of pay until he has made good £2-0-4 the expenses of his return to his unit

(Sgd) 14 Jul/44 (Sgd) [illegible]

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(2) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 44. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, 57AA, 57BA, 54. The Confirming Offr must sign here personally: AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) [illegible]

Date 17 Jul 44 Commanding [illegible] Commander, [illegible]

Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date	Signature of Offr.
A-21514 Pte. DOLAN, J.J.	26 Jul 44.	(W.B. Howard) Lieut. A/Adj. 1st Cdn. Para. Trg. Coy.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 TTT-285

CPA86. On Beu of AFA 40/P & S/1666 (6000) 4/38B

FIELD GENERAL COURT-MARTIAL.

Convened by Order of Brig P.R. Shields Comd "B" Gp CRU dated 13 Jul 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A-21514	Pte	James Joseph	DOLAN	1 CGRU

PROCEEDINGS REVIEWED 25 Aug 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 14 JUL 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmn HQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~as interpreter~~ Ans

~~The Interpreter is sworn.~~(1) Do you object to as shorthand writer? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 31, RP 25, 71, 72, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	D.I. REDMAN, ED	HQ. CRU
Member	CAPT	L. SYKES	1 CSRU
Member	LT	H.H. NEILSON	1 CSRU
~~Judge Advocate~~			
Prosecutor	LT	C.B. BROWNE	1 PARA BDE 1 CGRU
Defending Offr	LT	J.E. PALMER	1 PARA BDE 1 CGRU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment makes(s) (not) ~~is~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB name and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. AP 12, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~and/or JA~~, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO - SIR (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 2, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(3) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras C1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(*1. RP 115. 2. RP 40(A), see 80(A). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(a).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (d), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO - SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. AFB 255 or AFB 256. 2. MAM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Beg Lenience NOTE ATI (2)
(*1. RP 37(C), 46(D). 2. Address, if oral, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and also JA, if any.~~(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 363-366, Overseas 87, AFR 2323, MML p 66, 737-738. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, A21514 Pte. James Joseph Dolan, 1 Cdn Para Trg Coy, a soldier of the Cdn Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1) Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field, at 2359 hrs on 12 Mar 44, absented himself without leave from 1 Cdn Para Trg Coy, until apprehended by the Civil Police at Barnet, Hertfordshire, England at 0100 hrs 23 May 44, dressed in civilian clothes; thereby incurring cost of apprehension and return to his unit, in the amount of £1.0.2

Total time absent, 71 days, 1 hr, 1 min.

Second CHARGE
Sec 15 (1) Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, at approx. 0600 hrs on 26 May 44, absented himself without leave from 1 Cdn Para Trg Coy, whilst in confinement in the unit guard room, until surrendering himself to the Civil Police at Tottenham Court Road Sta., London, England at 2200 hrs 14 Jun 44, dressed in civilian clothes, thereby incurring cost of apprehension, and return to his unit, in the amount of £1.0.2.

Total time absent 19 days and 16 hrs.

Field
13 Jul 44

(R.H. Frost) Colonel
Comd 1 Cdn Gen Rft Unit
Cdn Army Overseas

To be tried by F.G.C.M.

(P.R. Shields) Brigadier
Comd "M" Gp
Cdn Rft Units

Field
13 Jul 44

FIELD GENERAL COURT-MARTIAL

CFA 90 (In lieu of AFAB) 40(PAM/1697 (Dnd))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-21514	Pte		James Joseph	DOLAN	1 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 Jul 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt Col	D.L. Redman VD	HQ CRU

MEMBERS.

(Rank.)		(Unit.)
Captain	to be detailed by	1 CSRU
Lieutenant	to be detailed by (Named or detailed. RP 106.)	1 CSRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

(Signed personally. RP 105 fn 2.)

Date 13 Jul 44

Commanding ~~RCR~~ (P.R.Shields)Brig Convening Officer.
"B" Gp CRU

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

NO 1 CANADIAN GENERAL REINFORCEMENT UNIT
CANADIAN ARMY OVERSEAS

Medical Officer's Certificat
K.R.(Can) para 557.

I certify that I have this day examined,

No.A.21514 Rank Pte Name DOLAN, J.J.

and in my opinion is Fit to undergo trial by Court Martial.

Field
Date: 14 Jul 44

Capt.
Medical Officer No.1 C.G.R.U.

Plea in Mitigation

Sir,

I have no intention of trying to excuse the recent behaviour of the accused, but in all fairness to him I do wish to bring out one or two points which should, in my opinion, cause this Court to look less severely at the case of Pte. Dolan.

Firstly we have his record of service - nearly five years of this young man's life have been given voluntarily to His Majesty's Service. Four years of this time have been spent overseas. Such service merits recognition.

The Court have before them a psychiatric report on Pte. Dolan stating that he has ~~psycho~~ psychopathic features which render him unfit for service. From this it would appear that the accused will be discharged from the Army when this matter of his illegal absence has been dealt with. Surely the fact that this soldier is unstable to a degree that renders him unfit for the Army explains to a large extent his actions. An absence such as his is not

fairly comparable with that of a normal soldier.

In conclusion I would like the court to recall that Pte. Nolan is married and has a future to look forward to with his wife at home.

CONFIDENTIAL

Psychiatric Report.

A-21514 Pte. DOLAN, J.J. — 1st Can. Para. Trng. Coy.

Problem:

Referred at his own request for psychiatric opinion. He is pending court-martial for desertion 73 days and escaping confinement, with a further 19 days AWL.

Dolan is a very glib, plausible individual with high intelligence but really does have a psychiatric problem which has caused him some concern.

He comes from an unsettled home- his Mother is Protestant and Father R.C. and his parents had many squabbles over religious policies. The father was a heavy drinker on occasion and was often away from home. I believe he has a great deal of father resentment.

His childhood was unhappy- no prounced neurotic traits except fear of heights which still persists, and which he has tried to overcome (hence paratroops), frequent disturbing dreams and biting fingernails.

At school he was always fighting and couldn't stand being teased- otherwise progress was satisfactory.

His work record was spotty- restless and unsettled- with considerable wandering, but he denies stealing or other forms of psychopathic personality.

His army record has been poor despite considerable ability- he has been a corporal on three different occasions but has always been reverted because of misdemeanours. He has an unfortunate type of personality that does not adjust to the army, very stubborn, egotistical, regards any slights as personal offences against himself. He is also very meticulous and has many obsessive compulsive ruminative tendencies, and I believe these tendencies are at the root of his troubles in the army.

His progress was satisfactory until he was on the scene of two suicides. This upset him tremendously and he began to have fears of doing himself personal injury with firearms- e.g. on guard duty at nights would be terrified he would do himself in, at nights in the hut he wouldn't be able to sleep if ammunition were lying around in the hut, yet he always had a compulsion to pick it up and put it in his own pocket. He has other compulsive tendencies which he has to fight i.e. for two years he has never walked over Waterloo Bridge alone for fear of jumping, always stands well back when tube trains come in for fear he will jump in front of them. He also has some persistent thoughts about his wife he can't stop thinking about.

Exhibit "D" C.E. Thomas J.A.

A-21514, Pte. ~~JASON~~ DOLAN cont'd:

I don't believe that these obsessive-compulsive-ruminative features are sufficient to account for his anti-social behaviour but do feel they, plus his psychopathic behaviour, render him unfit for further service.

Advise:

(1) Recategorization M1, S5 as Psychopathic Personality (anti-social) with obsessive compulsive tendencies.

(2) Fit to stand court-martial and punishment.

Signed:

28 June 44.

(A. Johnston) Capt. RCAMC,
Regional Neuropsychiatrist,
Canadian Army Overseas.

CERTIFIED TRUE COPY.

R.W. Begg Capt.

(R.W. Begg) Capt. RCAMC,
Medical Officer,
1st Can. Para. Trng. Coy.

SUMMARY OF EVIDENCE

In the case of

A-21514 Pte James, Joseph, Dolan, 1 Cdn Para Trg Coy, of the Cdn Army Overseas.

The accused demands that the evidence be taken on oath.

FIRST WITNESS for the Prosecution

Lt W. Murray, RCASC, A/Adjt No 1 CGRU, Cdn Army Overseas, having been sworn, states:-

I hereby submit certified true copies of the following documents:

(a) AFB 115, Record of a Declaration of Court of Inquiry, assembled in the field on 4 Apr 44 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipment, Instruments, Regimental Necessaries, or clothing of A-21514 Pte James Joseph Dolan, 1 Cdn Para Trg Coy; purporting to be signed by Lt-Col G.F.P. Bradbrooke, Comd 1 Cdn Para Bn; and marked EXHIBIT "A."

(b) AFO 1618, Part II (Original) purporting to be signed by J.K. MacKay, Committing Magistrate, 78 Normandy Avenue, Barnet, Hertfordshire, certifying that A-21514 Pte J.J. Dolan was apprehended, in civilian clothes, by P.C. Reginald Betley of Metropoliton Police No 560 "S" Division of Barnet at 0100 hrs 23 May 44; and marked EXHIBIT "B" wr.L

(c) AFO 1617, Part II (Original) purporting to be signed by S. Finch, Inspector in charge of Tottenham Court Road Civil Police Station, London, certifying that A-21514 Pte J.J. Dolan surrendered himself, in civilian clothes, to P.S. 11 "C" Davies at Rothbone Place Station, London W.1 at 2200 hrs 14 Jun 44; and marked EXHIBIT "C"

(d) CMHQ 1000:55, Expense Voucher, purporting to be signed by R.E. Birch, Lt Adm Offr DPM Branch CMHQ and showing cost of apprehension and return to his unit of A-21514 Pte Dolan, J.J., on 25 May 44 in the amount of £1-0-2; and marked EXHIBIT "D."

(e) CMHQ 1000:55 Expense Voucher, purporting to be signed by R.E. Birch, Lt, Adm Offr DPM Branch CMHQ and showing cost of apprehension and return to his unit of A-21514 Pte Dolan, J.J., on 17 Jun 44 in the amount of £1-0-2; and marked as EXHIBIT "E."

(f) Psychiatric Report, referring to A-21514 Pte Dolan, J.J., and purporting to be signed by A. Johnston Capt, RCAMC, Regional Neuropsychiatrist, Cdn Army Overseas on 28 Jun 44; and marked EXHIBIT "F."

The above documents have been read to the accused.

FIRST WITNESS
for the Prosecution (Cont'd)

The accused declines to cross-examine the witness.

W. Murray Lt.
(W.E. Murray) Lieut
A/Adjt 1 C G R U
Cdn Army Overseas

SECOND WITNESS
for the Prosecution

A-3308 A/Cpl Higgins, M.J., 1 Cdn Para Trg Coy, Cdn Army Overseas, having been sworn states:-

On 25 and 26 May 44 I was on duty as provost Cpl at the Guard Room of Carter Barracks at Bulford, Wilts. During the evening of 25 May 44 I placed the accused A-21514 Pte Dolan, J.J., whom I now recognize, in the Guard House Detention Room and I was present when the door was locked. On the morning of 26 May 44, at approximately 0600 hrs, I inspected the prisoners and found that A-21514 Pte Dolan, J.J., was absent. I did not see Pte Dolan, J.J., until he was returned under escort on 19 Jun 44.

The accused declines to cross-examine the witness.

M.J. Higgins
(A-3308 M.J. Higgins) A/Cpl
1 Cdn Para Trg Coy,
Cdn Army Overseas

The accused was cautioned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but, whatever you say or any evidence you give will be taken down in writing and may be used in evidence."

The accused does not wish to call any witnesses for the defence, at this time.

I certify that the foregoing Summary of Evidence, consisting of 2 pages, was taken down by me at Whitly Camp, Milford Surrey, in the presence and hearing of the accused, on 11th day of July 1944 and that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

C.B. Browne Lt
(C.B. Browne) Lieut
1 Cdn Para Trg Coy
Cdn Army Overseas
Officer detailed to take Summary of Evidence

Field
11 Jul 44

Exhibit "A" C.R. Proceedings

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 4th day of April 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A 21514 Pte. James Joseph DOLAN, 1 Cdn Para Bn.

DECLARATION

The Court declare that No. A 21514 Private James Joseph DOLAN, 1 Cdn Para Bn., illegally absented himself without leave from 1 Cdn Para Bn., in the field at 2359 hours on the 12th day of March, 1944, that he is still so absent, and that on the 13th March 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VOCAB. VALUE	UNEXPIRED VALUE	ARTICLES	VOCAB. VALUE	UNEXPIRED VALUE
Battle Dress Blouse	1 5.25	3.94	Belts, Waist W.E.	37.1 .74	.50
Battle Dress Trousers	1 5.39	4.04	Towel, hand	1 .32	.24
Boots jump Para Pr.	1 6.50	4.80	Carrier water bottle	1 .37	.28
Berets, maroon	1 1.06	.80	Veils Face Cam.	1 .42	.32
Drawers, cotton Pr.	1 .36	.27	Respirators Haversack	1 1.42	1.07
Gloves, Knitted drab Pr.	1 .47	.35			
Socks woollen Prs	1 .37	.28	Vests, String	1 .66	.50
Badges, cap Plastic (CP)	1 .05	.04			
Braces Pr.	1 .28	.21		$26.85	$20.10
Brushes hair,	1 .34	.26			
" shaving	1 .37	.28			
" tooth	1 .11	.08			
Comb, hair	1 .08	.06			
Holdalls,	1 .19	.14			
Knives clasp	1 .86	.65			
Razor	1 .39	.29			
Shorts, gymn	1 .86	.65			

"J.F.Hanson" Capt 1 CPB — President

"F.S.Fyne" Lt. 1 CPB — Member

"Robert D. Grant" 1 CPB — Member

Signed at In the Field

this 8th day of April 1944

Signature of Commanding Officer "D.F.F.Bradbrooke" 1 Cdn Para Bn C A

Certified true copy

Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 135
(8876)—4-42 (4337)
H.Q. 1773-20-267

Exhibit 'B' C.B. Brouse Lt.

Deficiencies in Kit of A21514 Pte. Dolan, J.J., 1 Cdn. Para. Bn. as at ~~4 April 1944~~ 16 March:

Battle Dress Blouses	1	5.25	5.25
Battle Dress Trousers	1	5.39	5.39
Boots Jump Parachutist prs	1	6.50	6.50
Beret Maroon	1	1.06	1.06
Drawers Cotton prs	1	.36	.36
Gloves Knitted D_ab prs	1	.47	.47
Socks, woollen prs	1	.37	.37
Badges Cap Plastic (CPC)	1	.05	.05
Braces, prs	1	.28	.28
Brushes Hair	1	.34	.34
Shaving	1	.37	.37
Tooth	1	.11	.11
Comb Hair	1	.04	.04
Holdall	1	.19	.19
Knives Clasp	1	.86	.86
Razor	1	.39	.39
Shorts Gym P.T.	2	.43	.86
Belts Waist WE 37	1	.74	.74
Towel Hand	1	.32	.32
Carrier Waterbottle	1	.37	.37
Veils Face Cam.	1	.43	.43
Respirator Haversack	1	1.42	1.42
Vests String	2	.33	.66
Total at 100% Vocabulary Rate			26.83

Certified that the above deficiencies exist .....
A/COMR RHA Coy

Certified that the prices charged above are correct

.....
for P.A.M.S.

Certified that the addition as above is correct.

.....
Paymaster

"Exhibit B" on Board of

DESCRIPTIVE RETURN OF † JAMES JOSEPH DOLAN No. A 81514 who was apprehended Barnet (hour) 1 A.M. on the 23rd day of May 1944 and was committed to confinement at Barnet on the 23rd day of May, 1944 as a ~~Deserter or~~ Absentee without leave) from the Regt. or Corps 1st Canadian Parachute Regiment of the Canadian Army

Age	26 years	Height	5 feet 8½ inches
Complexion	Dark	Hair	Light brown Eyes Blue
Marks	—	In uniform or plain clothes	Plain Clothes

Probable date and place of attestation	Windsor (Ontario) 15/9/39
Probable date of desertion or beginning of absence and from what place	13th March 1944 Bulford Camp
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	Reginald Letley, P.C. of Metropolitan Police No. 560 "S" Division of Barnet
Particulars in the evidence on which this prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	* On 23/5/44 I arrested the accused at Wright Mear, Barnet for desertion & brought him to Barnet Police Station where he later admitted being an Absentee from the Canadian Army

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he† is an Absentee the before-mentioned Corps.

H. Lindsay — Signature
78 Normandy Avenue — Residence
Barnet. — Post Town
of Committing Magistrate.

23rd May, 1944 — Date of Signature

James J. McKie — Signature of Prisoner

Signature of Informant

Or where the Prisoner confesses, and evidence of the truth or falsehood of such confession is not then forthcoming

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the ____ day of ____ for the purpose of obtaining such evidence.

Signature
Residence
Post Town
of Magistrate.

Date of Signature

§ Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does ... to the Army" as the case may be.

Army Form O.1613.

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. A. 81514 James Joseph Dolan of Canadian Regiment Canadian Army

Regiment at Barnet on 23/5/44 by P.C. R. Letley

who was committed as a ~~Deserter or~~ Absentee without leave) on the 23/5/44

RECOMMENDATION FOR REWARD.

I RECOMMEND*

Address

for a reward of

Signature of Committing Magistrate.

Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will, not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the _____

Police in connection with the apprehension of _____ and are

payable to _____

_____ (Superintendent or Officer i/c Police Station) at _____

Date _____

AUTHORITY for the PAYMENT of a REWARD. (*For Army use only.*)

The Command Paymaster _____ is hereby authorised to pay to _____ being the person recommended by the Committing Magistrate, a reward of _____ for the apprehension of _____ (O.C. Unit)

Date _____ Officer Commanding.

Where no reward is authorised though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

Army Form O.1414.

IMMEDIATE. PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Districts of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*17926) Wt.11811/744. 50,000. 3/41. A.& E.W.Ltd. Gp.698. Forms/O.1414/12

Exhibit "C" CK Bruce 47

Army Form O.1617
R.A.F. Form 1617

I CERTIFY that the man whose personal description is given below surrendered himself to* P.S. 11"C" Davies.
at Rathbone Place.W.1. at (hour) 10.0.p.m on the 14th day of June as being No. A. 21514
(Rank and Name) Private James Joseph DOLAM
a deserter (or absentee without leave) from 1st Canadian Paratroop Batt.
and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 27 Height 5 Feet 11 Inches
Complexion Fair Hair brown
Eyes Blue
Marks Nil.
In uniform or plain clothes In Plain Clothes.

Probable Date and Place of Attestation	
Probable Date of Desertion or beginning of absence, and from what place	April 1944, approx. Bulford.

J. Finch Inspr.
Signature of Officer of Police in charge of Tottenham Court Road Station.
14th, June 44 Date of Signature.

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Police in the case of No.
who surrendered to the Police at on
Payable to

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at

Date of Signature.

IMMEDIATE.

Army Form O.
R.A.F. Form 1817

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depots are shown in the Monthly Army List.

† NOTE.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police; e.g., such persons will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. 439/1940).

(20743) Wt. 32503/181 25,000 10/42 A.S.R.W.Ltd. Gp.698
(23960) Wt.48026/1269 40,000 2/43 " " Forms/O.1817/19

Exhibit "D" C.B. Brown - 47.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. A21514 Rank Pte. Name Nolan, J.J. Unit Para. Bde.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount £	s	d
25 May 44	Escorts return fare from LONDON To Bulford		13	5
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Bulford.		6	9
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	1	0	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

W.E. Birch Capt. LIEUT.

Officer Issuing Railway Warrant and Expense monies R. E. BIRCH.
No. 6 Provost Company, Canadian Provost Corps. ADMIN. OFFICER—D.P.M's BR.
C.M.H.Q.

CMHQ 1000-55
40/P & S-482

Exhibit "E" C.S.I. Case No. 14

Expense Voucher No.

Ref: K.R. & O. (Can) 539

Reg. No. A21514 Rank Pte. Name Dolan, J.J. Unit 1 Para Btn.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
12 June 44	Escorts return fare from LONDON To Bulford		13	4
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Bulford		6	9
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	1	0	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

W.P. Birch LIEUT.

Officer Issuing Railway Warrant and Expenses W.P. BIRCH.
No. 6 Provost Company, Canadian Provost Corps OFFICER—D.P.M's BR.
C.M.H.Q.

C.M.H.Q. 1009/55
40/P & S/483

In Lieu of M.F.B. 355.

STATEMENT AS TO CHARACTER AND PARTICULARS
OF SERVICE OF ACCUSED.

Number	Rank	Name	Regiment (or unit)
[illegible]21614	Pte.	James Joseph Doland	1 Cdn. Para. Trg. Coy.

1. The following is a fair and true summary of entries in the Field [illegible]
Conduct sheets [illegible] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act. and of cases in which trial has been dispensed with

	WITHIN LAST 12 MONTHS		SINCE ENLISTMENT	
Conduct to the Prejudice, etc.	1	times	AWL [illegible]	2 times
For		times		times
For		times		times
For		times		times
For		times		times

[illegible]
or
[illegible]

Note.--If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. [illegible]
or
Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act. and dispensations with trial under A.A. 73 are set out [illegible] in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.
or
[illegible]

4. The accused has been in confinement awaiting trial on the present charges for [illegible] days in civil custody, and [illegible] days in military custody, making a total of [illegible] days in custody, of which [illegible] days were spent in hospital.

5. The present age of the accused according to his [illegible] Attestation paper is 25 years.

6. The date of his commission specified in his attestation [illegible] Attestation paper is 10 Sept., 1939

7. [illegible]

8. [illegible]

9. The accused is in possession of [illegible] C.V.S.M. And Clasp. [illegible] Military [illegible] Military reward (which [illegible] reward.

10. [illegible]

(G.F. Radie) Major,
C.O. 1 Cdn. Para. Trg. Coy.
Canadian Army Overseas

F+D

11. (in the case of an officer) The accused holds in the Royal Canadian Air Force
Permanent Force
the rank of.....dated..... Unit

.....dated....., and in his regiment(or corps

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:--

.....date of promotion

In the rank of.....years
In the rank of.....years
In the rank of.....years
In the rank of.....years
Note:--If any matter in any of the above paragraphs cannot be stated from the Regimental Books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~KIKKSXXX~~ Act, and of cases in which trial has been dispensed with of accused,
Army
Number, A-21814, Pte. James Joseph Dolan, of 1 Cdn. Para. Trg. Coy.....regimental.
Note:--A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried.	Date and Place of trial	charges upon which convicted	sentence of the court	Punishment remitted.
FGCM	Field, 1-8-42	ABSENCE WITHOUT LEAVE.	120 days Detl Total Forf. 109 days pay	30 days.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

signed.this 14th day of JULY, 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

Lt Brown
Cdn Para Trg Coy

CERTIFIED TRUE COPY FROM M.F.M. 4.6

No A-21514 Name DOLAN, J.J. | Sqn, Battery, or Company | Corps: Ess Scot Regt. | Date of enlistment: 10-9-39 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 8(Pers/158 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field.	8.6.42	Pte.		A.A. 15(1) WOAS did absent himself without leave from 0500 hrs. 8.6.42. until 0500 hrs. 14.6.42 (Total Abs 6 Dys.)		14 dys F.P. & Forf. 28 days Pay FR&I 149(1)(a)	15.6.42.		Total Forf. 35 days pay.
Field.	1.8.42.	Pte.		FGCM AA 15(1) In that he WOAS did absent himself without leave from 2130 hrs. 16.6.42 until 1800 hrs. 7.7.42.		120 dys detn. Total Forf. 109 days pay. Forf 90 dys pay FR&I 149(1)(B) Forf. 19 dys pay FR&I 149(1)(c)(i)	1.8.42.		Granted 30 dys remission of sentence. Finding and sentence confirmed by Bde Comdr 4 CIB on 4.8.42.

Sgd.(W.E. Thorne) Captain
Records Officer
3 Cdn. Inf Reinf Unit.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17.10.43	A/Cpl.		A.A. Sec 40(2) Offence relating to neglect of duty.	C.S.M. Crease	Reduced to the permanent grade of Private	18.10-43	Capt. H.L. Boyce.	
				CERTIFIED TRUE COPY..... G.Bleroux Lieut Officer in charge of Regimental Books 14 Jul 44.					
Field	14/7/44	Pte		A.A.Sec 15(1) tried on F.G.C.M. to undergo 6 monthes detention and pay cost of apprehension. total absence 71 days and 2 mins.	Finding and sentence conf'd by Comd (Brigadier) 4th Gp. C.R.U. 17/7/44			G.Bleroux, Lt.	
	second charge			A.A.Sec.15(1) total absence 19 Days 10 Hrs. total absence on both charges 90 days 10 Hrs 2 Mins.					

~~1. Copy~~

LIST OF WITNESSES

In the case of A-21614 Pte DOLON, J.J., 1 Cdn Para Trg Coy Cdn Army Overseas.

For the Prosecution

Lt W. Murray, RCASC, A/Adjt 1 C/RU, Cdn Army Overseas.

A-3308 A/Cpl Higgins, M.J. 1 Cdn Para Trg Coy, Cdn Army Overseas.

For the Defence

- Nil -

C.B. Browne Lt

(C.B. Browne) Lt
1 Cdn Para Trg Coy
Cdn Army Overseas
Officer detailed to take Summary of Evidence.

~~1 Copy~~

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence, taken at Field, preliminary to my field General Court Martial. I further acknowledge that I have been served with a true copy of the charges under which I am being brought to trial by F.G.C.M.

James J. Nolan.

Signed at. Field
11 July 44

(J.J. Nolan) Pte
A-91514.

~~2 COPY~~

LIST OF EXHIBITS

In the case of A-21514 Pte DOLAN, J.J. 1 Cdn Para Trg Coy

EXHIBIT "A" — AF B 115, Record of Declaration of Court of Inquiry on the illegal absence of A-21514 Pte Dolan, J.J., 1 Cdn Para Trg Coy.

EXHIBIT "B" — AF O 1618 (Part II), purporting to be signed by J.E. Mackay, Comitting Magistrate of Barnet Hertsfordshire, certifying that A-21514 Pte Dolan, J.J., was apprehended at 0100 hrs 23 May 44 at Barnet, Hertsfordshire, England.

EXHIBIT "C" — AF O 1617 (Part II) purporting to be signed by S. Pinch, Inspector in charge of Tottenham Court Road Civil Police Station certifying that A-21514 Pte Dolan, J.J., surrendered himself at 2200 hrs 14 Jun 44 at Rathbone Place Station, London W.1., England.

EXHIBIT "D" — CMHQ 1000:55, Expense Voucher, purporting to be signed by R.P. Birch, Lt, Adm Offr DPM Branch CMHQ and showing cost of apprehension and return to his unit, of A-21514 Pte Dolan, J.J. on 23 May 44, in the amount of £1-0-2.

EXHIBIT "E" — CMHQ 1000:55, Expense Voucher, purporting to be signed by R.P. Birch, Lt, Adm Offr DPM Branch CMHQ, and showing cost of apprehension and return to his unit, of A-21514 Pte Dolan, J.J. on 17 June 44.

EXHIBIT "F" — Psychiatric Report, referring to A-21514 Pte Dolan, J.J., 1 Cdn Para Trg Coy, Cdn Army Overseas purporting to be signed by A. Johnston, Capt, RCAMC, Regional Neuropsychiatrist, Cdn Army Overseas on 28 June 44.

C.B. Browne Lt

(C.B. Browne) Lt
1 Cdn Para Trg Coy
Cdn Army Overseas
Officer detailed to take summary of Evidence.

1.copy

I hereby request that the convening officer appoint an officer to represent me at my forthcoming trial by F.G.C.M.

I desire the service of Lt. J.E. Palmer, if he is available.

James J. Nolan

(J.J. Nolan) Pte
A-21514.

11 July 1944

OFFICERS UND P INSTRUCTION

F.S.C.H. 14 Jul 44

Lt	R.A.	BRIGHT	1 COPY
Lt	S.P.	RAYNEY	1 COPY
Lt	G.E.	MAPIAN	1 COPY

MM-142

L/CPL. DOLIMONT R.E.

MM-142
L/CPL. DOLIMONT R.E.

R.B. Cleaveland Major 3

CHARGE SHEET

The accused, F55075 L/Cpl. DOLIMONT, R.E., HQ Coy, Cape Breton Highlanders a soldier of the Canadian Army Overseas, is charged with:

First Charge:
A.A.Sec. 40

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

in the Field, at approximately 1530 hrs, 30 May 43, did take WD vehicle, 5 cwt Willys No.CK 4230372 on an unauthorized journey, causing damage to same in the amount of £13/8/9.

Field,
20 Aug 43

(J.B.Weir) Lt.Col.,
Officer Commanding,
Cape Breton Highlanders

To be tried by Field General Court-Martial

(H.Sharp) Brigadier
Comd 11 Cdn Inf Bde

In the Field
21 Aug 43

CAPE BRETON HIGHLANDERS

Field,
23 AUG 43

I hereby certify that I have examined to-day F.55075 L/C xxxxx Dolimont, R.E. and find him fit to undergo Trial by Court Martial.

Capt

Record of Proceedings of a Field General Court Martial

Held in the Field in England on 23rd August, 1943, to try

F55075 L/Cpl Richard Ernest DOLIMONT, C B Highrs, 5 Cdn Armd Div.

PRESIDENT
Major R.D. Clendenning — Irish Regt of Canada

MEMBERS
Captain A.J.P. LaPrairie — Irish Regt of Canada
Captain S.R. Granger — Perth Regt

OFFICERS UNDER INSTRUCTION
Lieut. L.F. Jones — Perth Regt
Lieut. V.C. High — Perth Regt
Lieut. L.A. Smith — C B Highrs
Lieut. H.W. Karn — C B Highrs
Lieut. W.D. Agnew — Irish Regt
Lieut. C.H. Spencer — Irish Regt

PROSECUTING OFFICER
Captain A.C. Dunn — C B Highrs

DEFENDING OFFICER
Lieut. G.McL. Logan — C B Highrs

JUDGE ADVOCATE
Captain G.M. Morrison — ADJA 5 Cdn Armd Div.

The President produces the Convening Order, Charge Sheet and Summary of Evidence.

The President, in closed court, reads the Convening Order and the Charge Sheet to the Members, and the Court satisfy themselves that it is properly convened and constituted, that the accused is amenable to Military Law, and that each charge discloses an offence.

The accused is brought before the Court and at 1115 hours, the trial commences.

The Prosecuting Officer produces a Medical certificate under K.R.(Can) 557 that the accused has this day been examined and is fit to undergo trial by Court Martial. The certificate is signed by the President and attached to the proceedings.

President to accused

Q. 1 Do you object to A87385 Sgt B.W. Henheffer, CWSC, HQ 5 Cdn Armd Div, acting as shorthand writer?

A. 1 No, sir.

The shorthand writer is duly sworn.

The Convening Order is read in the hearing of the accused.

The names of the President and Members of the Court are read to the accused and they severally answer to their names.

President to accused

Q. 2 Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

A. 2 No, sir.

The President, Members, Judge Advocate and Officers under Instruction are duly sworn.

The Charge Sheet is signed by the President.

The Prosecuting Officer informs the Court that the accused has not elected trial by Court Martial.

The Charge is read to the accused and he is asked as the charge is read whether he pleads guilty or not guilty. He pleads as follows:

First Charge - Guilty

The President complies with R.P. 35(B) by ascertaining that the accused understands the nature of the charge and his plea thereto, explaining the difference in procedure by the plea and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

The finding of the Court is recorded on page 2 of AFA 3.

President to accused

Q. 3 Do you desire to make any statement of the circumstances in reference to the charge?

A. 3 No, sir.

The Summary of Evidence is read aloud, in the presence of the accused, signed by the President and attached to the proceedings.

President to accused

Q. 4 Do you wish to make any statement in mitigation of punishment?

A. 4 No, sir.

Q. 5 Do you wish to give evidence yourself or to call any witnesses as to character?

A. 5 Yes, sir.

First Witness, Captain A.E. Jules, C B Highrs, having been duly sworn is examined by the Defending Officer:

Q. 6 Will you give a statement as to the character of the accused?

A. 6 I knew the accused ever since 1936. At that time he was in my employ. He was very trust worthy and hard working. I have followed his progress through the Army through various means and everyone I have spoken to about him has spoken highly of him. I found he has always been extremely reliable.

No cross examination.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. (83)(B).

The witness withdraws.

Second Witness, Captain C.M. Archibald, C B Highrs, having been duly sworn is examined by the Defending Officer:

Q. 7 Will you give the Court a statement as to the character of the accused?

A. 7 I have known the accused since 1941 when he was a waiter in the officers' mess. At a later time, he came to my platoon and was under my command. He is an exceptionally good worker and I recommended him for his stripe.

No cross examination.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

Statement of Character and Service and Field Conduct Sheet, signed in the manner required by A.A. 163(1)(h) and purporting to refer to the accused by his number, rank, name and Corps, are produced to the Court, read, signed by the President and attached to the proceedings.

President to accused

Q. S Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment?

A. S Yes, sir.

The Defending Officer makes the following plea in mitigation of punishment:

"The accused has been in the Army since the 11 day of April 1940. That is as you can see over three years. In that time as you have heard, he has had only two minor entries on his conduct sheet, neither of which amounted to anything at all. Is that not an indication of the soldierly abilities of the accused? From it you can see that he is not one who is wont to traverse from the standards of behaviour that are required in the Army.

The accused has pleaded guilty to taking a WD vehicle on an unauthorized journey. That is true in the letter of the law. However, he was at the time, in charge of the transport office. Sgt Kennedy was away as was Capt Bonnell, the acting transport officer. A vehicle had the brakes grabbing so the accused went to the RCOC fitter, Pte Clancy, and asked him if he were busy at the moment and told him the reason he wanted him. The fitter went out with the accused to attempt to find and adjut the trouble. In the course of this attempt an accident occurred, and it is this which brings the accused before you this morning.

Gentlemen, the accused guilty only of neglect in that he failed to have his journey properly authorized. He, himself, was actually in charge of the transport office at the time of the accused's accident. He was guilty of an error of omission and no more. He was merely attempting to put in good running a vehicle which at the moment was far from perfect. It is quite evident from the evidence that it was no joy ride--merely a trip with a purpose--the adjustment of the brakes!

You have heard two officers, both who have known the accused, give evidence as to his character. I too knew him in civil life and a man with a better character isn't common.

I ask the Court for leniency based on these facts connected with his character and your knowledge of the case--that it was merely an omission on the accused's part that the journey was unauthorized."

The President announces

"The Court is closed for consideration of the sentence. The sentence to be awarded by the Court, being subject to confirmation, will not be announced but will be promulgated later and the proceedings in Open Court are accordingly terminated."

The Court is closed to consider the sentence.

The sentence is recorded, dated and signed by the President on page 2 of AFM 3.

CERTIFIED A TRUE RECORD OF THIS TRIAL, this 23rd day of August, 1943.

Garrett Morrison Captain
Judge Advocate

15

Summary of Evidence

In the case of F58075 L/Cpl. Dolimont, R.E., Hq. Coy., Cape Breton Highlanders, Canadian Army Overseas, charged with one offence, under A.A. Sec. 40.

The Commanding Officer directs that the evidence be taken on Oath.

First Witness: F79564 Sgt. Kennedy, J.R., Headquarters Coy. Cape Breton Highlanders, having been duly sworn, states:

I am F79564 Sgt. Kennedy, J.R., acting transport Sgt. Hq. Coy., Cape Breton Highlanders, and was acting as such on 30 May 43. On the 30 May 43, (it was a Sunday), I was on duty at the transport office, at Argus Hill, when I had a call from #5 Provost Coy. asking me to come out and identify a motorcycle they had at their office, which they thought belonged to the C.B.Highlanders. I ordered Cpl. MacKeigan to get a truck and he and I would go to see the motorcycle, which we did. I personally detailed L/Cpl. Dolimont, to be in charge of the transport office, while I was away. When I came back, about 1½ hrs. later, about 1530 hrs., I was informed L/Cpl. Dolimont had been in an accident, with vehicle W.D. Willis 5 Cwt. C.M.4230372, between Mayfield and Hadlow Down. I immediately went to the scene of the accident. I procured a statement from the accused, and he was sent to hospital. The journey was an unauthorized one, as far as I know. I had detailed him to paint the 5Cwt. vehicle that was involved in the accident, that morning. The painting to be done that day. I had the 5cwt. vehicle, C.M. 4230372 taken to the C.B.Highlanders transport office, and from there, sent to the L.A.D. #73.

Signed J.R. Kennedy

The accused declines to cross-examine the witness.

Second Witness: B58444 Pte. Clancy, J.R., R.C.O.C., Driver Mechanic, attached to Cape Breton Highlanders, Hq. Coy., having been duly sworn, states:

I am B58444 Pte. Clancy, J.R. R.C.O.C., Driver Mechanic, attached to Cape Breton Highlanders, Hq. Coy. On Sunday afternoon, 30 May 43, about 1500 hrs. I went into the transport office at Argus Hill. L/Cpl. Dolimont came in and asked me if I were busy at the present moment. I said no. He said the brakes in the front right hand wheel were grabbing, and he asked me if I would come along while he tried them. We went from there to Hadlow Down, about three or four miles, and we started back home on our return journey. We came up to a curve, going about 35 M.P.H. and met a bus coming from Mayfield. Just then L/Cpl. Dolimont swerved out to allow plenty room to let the bus go by, and the Jeep appeared to go into a skid. It hit the kerb on the road and went over the kerb, and skidded on the grass, and finally hit the guy wire on the telephone pole, and turned over. There were just the two of us in the Jeep, L/Cpl. Dolimont was driving.

Signed J. Clancy

The accused declines to cross-examine the witness.

Third Witness: Capt R.T. Bonnell, 2 i/c "A" Coy. Cape Breton Highlanders, having been duly sworn, states:

On the 30 May 43, I was acting Transport Officer, of the Cape Breton Highlanders. It was reported to me that Willis 5 Cwt. C.M.4230372, had been in an accident, sometime in the afternoon of 30 May 43, with L/Cpl. Dolimont driving it. This vehicle was taken out of the vehicle park yard, on an unauthorized trip by the accused. The vehicle was on charge to the Cape Breton Highlaneers, at the time of the accident.

Signed R.T. Bonnell Capt

The accused declines to cross-examine the witness.

Attached hereto, certified copy, Part 11, of Road Accident Report, as appendix "A", purporting to be signed by Lieut. E.A.Weir, RMC, R.C.O.C. has been read to accused. Due to the exigencies of the service this witness has not given evidence in person.

Signed A.C. Gunn Capt
Offic er taking summary.

The accused was asked: "Do you wish to make any statement or to g ive evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing, and may be given in evidence."

The accused declined to make any statement.

Summary taken, in the Field, this 20th day of August, 1943.

R.P. 4, C.D.M.F, & C. have been complied with.

A.C. Gunn Capt
Officer taking Summary.
A.C.Gunn,Capt.
O.C. Sup. Coy. Cape Breton Highrs.

Appendix "A"

19

Certified True Copy of Road Accident Report O.C. 66 Base Coy RCOC

Damage and Injury Report Notes

Part II Damage to Canadian Army Vehicle

Vehicle No.: CM 4230572 Make: Willys Type: 5 cwt 4 x 4

Particulars of damage:

Complete windshield assembly destroyed. Tarpaulin torn. Hood catches broken. Hood twisted. Left fender and splash plate bent. Grill bent Right rear panel of body sprung. One rim and disc bent.

Estimated cost of repairs: Labour: £3-5-0 (No. of hours) 15 hrs @ 3 s. Materials: £11-3-9 Overhead: TOTAL: £13-8-9

Any special remarks:

Materials

Windshield assembly complete	A3210	$45.00
Rim and disc assy	A464	6.00
Total		$51.00 = £11-3-9

Labour

Fit windshield 1 hr.
Repair tarpaulin 2 hrs.
Repair hood catches 1 hr.
Straighten hood 2 hrs.
Straighten fender and splash plate grill, rear body panel, and fit wheel. 9 hrs.

Date 13 June 43

(Signature) E. A. Weir, Lieut MMR
(Workshop, Unit or Det.) 73 LAD RCOC.

List of witnesses in the case of F55075 L/Cpl. Dollmont, R.E.

For the Prosecution:

F79564 Sgt Kennedy, J.R.	C.B.Highrs
B38444 Pte Clancey, J.R.	R.C.C.C.att CBH
Capt. R.T.Bonnell,	C.B.Highrs

The above are with the unit in the Field.

For the Defence:

N I L

R3

List of Exhibits in the case of F55075 L/Cpl.Dolimont,R.E.

Exhibit "A" Certified copy ,Part II of RAR,purporting to be signed by Lieut.H.A.Weir, EME,RCOC.

Damage and Injury Report Notes

Part II Damage To Canadian Army Vehicle

Vehicle No. CW.427037[illegible] .....Make..Willys..... Type..5 cwt 4x4..

Particulars of damage

Complete wind shield assembly destroyed. Tarpaulin torn. Hood ~~exten~~ catches broken. Hood twisted. Left fender and splash plate bent. Grill bent Right rear panel of body spr ung. One rim and disc bent.

Estimated cost of repairs: Labour £2-8-0 (No. of hours) 16 hrs @ 3s Materials £11-3-9 Ove rhead Total £ 13-3-9

Any spe c ial remarks

Materials

Windshield assembly complete A32lo	$45.00	
Rim and d isc assy A4 64	6.00	
Total	$51.00 -	$11-3-9

Straighten fender a nd splash plate, grill rear body panel and fit wheel 9 hrs.

Labour

Fit windshield 1 hr.
Repair tarpaulin 2hrs
Repair hood catches 1hr
Straighten hood 2 hrs

Date...15..... June.....43..... Signed E.A.Weit Lieut. R.C.
(Workshop, Unit or Det.) 78 LAD RCOC.

Certified True Copy

[signature] CAPT.
NT.
The Cape Breton Highlanders, C.A. (A.F.)

I desire the convening officer to detail an officer to represent me at my forthcoming trial by court martial.

I desire the services of Lieut. G.MacL. Logan if he is available.

R.E.D. Adriant.....

No. F55075 Name L/Cpl Dolimont R.E. Sqn./Battery, or Company 2 Bn Hq Corps

Date of last entry in Company Conduct Sheet

No. and date of last drunk nil

Period not reckoning towards freedom from extra fine

Date of enlistment 11 Apr, 40 G.C. Badges nil Service or Proficiency Pay

Sheet No. 1

Signature O.C. Company, etc. A.J. MacSween Capt. Character Good

M F M & L (A F B 122) 3000m—8/39 (1703) H.Q. 1772-45-18

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2-11-41	Ftc	nil	Absent from F.T. parade at 0610hrs	C.S.M. Petrie	2days C.B.	2-4-42	Lt. Barry	
Field	20-5-42	Pte	nil	neglect to the prejudice of good order and military discipline, in that he neglected to have his mess tin clean for M.O. inspection.	L/Cpl Currie	4 days C.B.	21-5-42	Capt MacSween	

CERTIFIED TRUE COPY

Capt & Adjt
for O.C. 2 Fd Hq

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	16-1-43	L/Cpl.		A.W.L. from 2400 hrs. 16-1-43 to 1330 hrs. 17-1-43. (13 hrs. 30 mins). A.A. Sec. 15 (1).	DOCUMENTARY	REMOVED	19 Jan. 43	Lt. Col. F. BARKER, D.S.O., C.F.S.	FORF. 1 days Pay. F.R. No. 1. 149(1)(a).

Certified True Copy

CAPT.

ADJT.

The Cape Breton Highlanders, R.A. (A.F.)

R.R. Evidence re my No. B. 13

M.F.B. 355
22M—5-41 (372-8)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F55075	L/Cpl.	Dolimont, R.E.	C.B.Highlanders

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery / Company Conduct sheets of the accused, extract of convictions by a Court-Martial or a Civil Court, Air Force Act / Army Act, or summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. Sec 13(1)	1 times	A.A. Sec 40 (2) times
For	times	times
For	times	times
For	times	times

Number of citations of gallantry or distinguished conduct.

or,

There are no entries in the conduct sheets of the accused.

Note.—If the charge is for drunkenness, the entry for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act / Army Act, Section 47 of the Army Act, and dispensations with trial under A.A. Sec 70, are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for, ... dated ..... on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 7 days in military custody, making a total of 7 days in custody, of which none days were spent in hospital. (Accused sent to hospital after accident, and not charged until his return to unit)

5. The present age of the accused according to his record of service / attestation paper is 24 years 6 mos

6. The date of his attestation specified in his record of service / attestation paper 11 Apr 40

7. The service which the accused is allowed to reckon towards discharge is nil

8. The accused is entitled to reckon no service for the purpose of determining his pension, etc.

9. The accused is not entitled to no military decoration, or military reward (or has not been recommended for any military decoration or reward).

(If the accused is a warrant officer.) The accused before he was made a warrant officer had held the substantive rank of .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22nd day of Aug, 43 (CAPT.

The above statement (with the schedule of convictions and ~~cases in which trial has been~~ dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

MM-142

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this 21st day of AUGUST, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 11 Cdn Inf Bde. 5 Cdn Armd Div., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to superior qualified officer]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* [reasonable to appoint:

*1. Two officers to form the Court.

*2. A Field Officer as President.]

[and the following various qualifications]

JUDGE ADVOCATE - Captain G.M. Morrison ADJA 5 Cdn Armd Div.

Proceedings of a Court Martial held at 2 Wksh Dn 4 on 22 Sept 43

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R D Clendenning	Irish R C

Members.

Rank.	Name.	Regiment.
Capt	A J P LaPrairie	Irish R C
Capt	S R Grainger	Perth Regt
	WAITING MEMBER	
Lieut	R Cole	Perth Regt

*Must be signed personally by the Officer actually to command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (L Sharp) Brigadier
Commanding 11 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
F55075 L/Cpl Richard Ernest DOLIMONT C B Highrs. 5 Cdn Armd Div	First Charge When on active service, conduct to the prejudice of good order and military discipline in that he (see charge sheet att) Sec. 40 A.A.	Guilty	Guilty To undergo Twenty Eight days field punishment and to forfeit all ordinary pay for twenty eight days and to be placed under the Stoppages of Pay until the amount of $ 13/8/9 damages to C.B. Pch Sault Hollyg No Can W53037.	Confirmed Sd. I vary the sentence so that it shall be as follows: To be placed under stoppages of pay on the sum of $ 13/8/9 to cover damages occasioned to C.M. vehicle No 4230372 and I confirm the finding and the sentence as so varied H Sharp Brig

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) —

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*) —

(Signed) H Sharp (H Sharp) Brigadier
Commanding 11 Cdn Inf Bde

(Signed) H.W. Kellock Maj. J.A.
Convening Officer (*c*) President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 23rd day of August 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court ~~a Judge Advocate~~ & Short Canadian Constable
2. The witnesses
*~~3. The Interpreter~~ REC
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 23rd day of August 1943.

Gwynne Jackson Capt. Judge Advocate

R.W. Kellock Maj. J.A.
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 702 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 26th day of August 1943.

H Sharp
Confirming COMD 11 CDN INF BDE

Promulgated and extracts taken in the case of F55075 L/Cpl Richard Ernest Dolimont

(*a*) (Dated) 27 Aug 43 (Signed) J.B. Weir Lt-Col OC C B Highrs

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

HQ 130

Pte Dolinski W.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H46490 Pte. Dolinski, J., Williams, apatient in No 23 Edn. Con. Hosp.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	not guilty	guilty	
2nd alternative	not guilty	guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... Beginning on (date) .....~~ (1) Nil

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 2 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 90 days.

(Sgd) J. Miguelland, Capt. 19 Jan 45 (Sgd) F.D. Shorbridge, Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 780.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 562-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the findings and sentence. Pursuant to A.H.Q. Order that the watch and chain found in the possession of the accused be restored to F6012 Cpl. Lalland J.F.

I direct that the accused be not committed to prison or detention barracks until further ordered. (1. AA 57A. Delete if not used.)

(Sgd) Edward F. Unwin, Lt.-Gen.
(E.G. Withers, Major-General
Date ..... Commanding [illegible] Confirming Officer.
28 January 1945

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
H46490 Pte Dolinski, W.	3 Feb 45.	[signature] Capt & T Can Inf Bde

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No/Illegalities or irregularities such as would warrant disturbing the finding or sentence.

RECEIVED 12 FEB 1945 CMHQ

RECORDED AT CMHQ IN AB 160 — 40-130

CFA86 (To Rep of AFA83) 40-P-R-B/1608 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lieut Col. R.J. Williams Comd 6 Cdn Mil Pl Q dated 13 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H46490	Pte	William	Dolinski	4 C.D.T.R. a patient at #23 Edn Gen. Hosp.

PROCEEDINGS APPROVED — RETURNED TO OFFICER I/C BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd of (country) England on (date(s)) 19 January 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for alterations and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted,(2) accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0940 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~the Interpreter is sworn.~~(1) Do you object to ~~The shorthand writer is sworn.~~(1) as interpreter? Ans. ..... as shorthand writer? Ans. .....

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans. No sir.(2)

(1. RP 116. 2. If no objection, waiting member retires. RP 69(B). If objection, see procedure AA 51, RP 25, 71, 118, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F.D. Shorbridge	RCOC. 1 COMERY
Member	Capt.	J.A.R. Rice,	23 Can Gen Hosp. RCA M.G.
Member	Capt.	J.A. Ritchie	23 Can Gen Hosp. R.C.D. M.G.
Judge-Advocate	Capt.	J.R. Miguelland,	J.A.G. B.C.M.H.Q.
Prosecutor	Lieut.	D.H.W. Allan	B2 Edmn R Bty R.C.A. att'd 23 Cdn Gen Hosp
Defending Offr	Major	W.S. Dinnick	Transfd to Scots att'd 23 Cdn Gen Hosp

Questions by President: Is the Prosecutor a lawyer? Ans. No. Is the Defending Offr a lawyer? Ans. No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment makes(s) (no) (or) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(F), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (on each charge) (on all charges in the charge sheet).(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 26, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form. D & E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of J A see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of J A or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. ~~The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and~~ meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3. *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement. The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.~~

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. ~~As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8~~ inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.~~

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No sir .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 93(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ~~first~~ charge(s). The Court is re-opened, and the President announces that the submission is disallowed on the ~~first~~ charge(s), ~~and directs that the accused is (are) found Not Guilty on that charge, and that, accordingly, the trial will proceed on the former, the only accused is (are) found Not Guilty on the latter charge(s).~~(2)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114*, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Myself as a witness. Do you intend to call witnesses on your behalf ? Ans No Are they witnesses as to character only ? Ans N/A.
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* 895. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court (as) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*B*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s), of the Court on the ~~first~~ second charge(s), being subject to confirmation, will be promulgated later.(1) Or, ~~The President announces that the accused is found Not Guilty on the first charge and is to be released forthwith.~~ and states that the proceedings are accordingly terminated. ~~Part I of the Schedule is stated and signed.~~(2)
(1. *AA* 54(2) (6), *RP* 45, 120(*A*). 2. *AA* 54(2), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No sir.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements of Service as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s) ~~, purporting~~ to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 162(1) (*g*) (*h*), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ~~J~~ and Ex ~~K~~ respectively.(2)
(1. *AFB* 255 *or AFB* 256. 2. *MEM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans As you, through Defending Officer (See marked Q)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove an oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *Where several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 49-50, 89, 118, 119(*A*), *KR Con* 308, 330, 563-566. *Overseas AO* 309, 2123, *MML p* 80, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(2), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Convening Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

B-2.

C H A R G E S H E E T

The accused, H.46490 Private DOLINSKI, William, No. 4 C.I.T.R. a patient at No. 23 Canadian General Hospital, RCAMC, a soldier of the Canadian Army Overseas, is charged with:-

1ST. CHARGE
SEC. 18(4)
ARMY ACT

WHEN ON ACTIVE SERVICE STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he

at No. 23 Canadian General Hospital, RCAMC, on or about 21 December 1944 stole a watch and chain, the property of P.60293 Corporal Gallant, J a patient at No. 23 Canadian General Hospital, RCAMC a person subject to military law.

2ND. CHARGE
SEC. 40
ARMY ACT.
(Alternative)

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at No. 23 Canadian General Hospital, RCAMC., on 22 December 1944 was improperly in possession of a watch and chain, the property of P.60293 Corporal Gallant, J. a patient at No. 23 Canadian General Hospital, RCAMC.

Remanded for F.G. Court Martial

(A.A. James) Colonel,
Officer Commanding,
No. 23 Canadian General Hospital, RCAMC.

In the Field:

27 Dec 44

Approved on behalf of the Judge-Advocate-General, Canadian Army Overseas, pursuant to provisions of KR(Can) 540 and Overseas HQ 4756.

12 Jan 45.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

London
12 Jan 45

(R.J. Williams) Lt-Col
Camp Commandant
CANADIAN MILITARY HQ
Convening Officer

A. 24

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-46490	Pte		William	DOLINSKI	4 CITR a patient at #23 Cdn Gen Hosp RCAMC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above [illegible], being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) this date endorsed by me, (or brought before me). "To be tried by Field General Court-Martial". RJW

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [illegible]
(Delete part in brackets when not required for compliance with RP 105(C).) RJW

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. RJW

[illegible] RJW
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	FT Shoebridge	RCOC	1 CONEHU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	THL Rice		23 Cdn Gen Hosp RCAMC
Capt	JA Ritchie		23 Cdn Gen Hosp RCAMC

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	BC Hughes		23 Cdn Gen Hosp RCAMC

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	JR Miquelon		JAG Br CMHQ

On Active Service in the Fd

in England
(Country.)

Date 13 Jan 45

R. J. Williams
(Signed personally. RP 105 fn 2.)
(RJ Williams) Lt-col
Camp Commandant
Commander Canadian Military Headquarters
Convening Officer. (Rank.)

CONVENING OFFR. WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (See overleaf for oaths and notes for use on trial.)

[illegible] 13-1-45

R. J. Williams Capt AGSH.

MEDICAL OFFICERS CERTIFICATE

I certify that H.46490 Pte. Dolinski, Wm. is # fit
to undergo trial by Court Martial

Insert fit or unfit

Date. 19 Jan 45

Medical Officer's Signature

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

*THE SALVATION ARMY CANADIAN WAR SERVICES

19 Jan 45

H 46490 Pte Dolinski Wm.

The Man soldier will be in the fact all days the it is desirable for medical reasons that he does not wear any boots

R. K. Osmond Capt RCHMS
M.O. HQ 2 Engr Bde

4/71 CFA 170 PLEASE WRITE ON BOTH SIDES

J Ref.

Opening Address of Prosecution.

Mr President and Members of the Court, the prosecution will attempt to prove that the accused H46490 Private Dolinski, William, of No 4 C.I.T.R. a patient at No 23 Canadian General Hospital stole a watch and chain, the property of F6029 Corporal Gallant J. a patient at No 23 Canadian General Hospital; by the ~~introduction~~ introduction of evidence in the following manner:

First, I will call A/C/M5 Groves to show the circumstances surrounding the finding of the watch and chain mentioned in the kit of the accused at a kit inspection.

Second I will call Capt. McLaren to further elaborate the circumstances of the kit inspection and corroborate the evidence of A/C/M5 Groves.

Third I will call Cpl. Gallant to show the circumstances surrounding the alleged theft and the fact that both the accused and Cpl Gallant were being discharged the morning following the alleged theft to different destinations. Also Cpl Gallant will prove that the watch and chain are his personal property.

Fourth I will call Private Keen who will testify as to the actions of the accused in the ward the night before the discovery of the alleged theft.

With these four witnesses I will

2
Appdx

attempt to produce sufficient evidence to
establish the charge of stealing as laid
down in A. A. Sec 18 (4) Note 6 and M. M. L.
Ch. III Para 37. I would in conclusion draw
the courts attention especially to lines
6, 7 and 8 of Para 37.

Douglas Hill Allen
Lieut
2nd Canadian Field Company R.C.E.

Jud. 3

A 46490 Pte Dolinski, William.

Prosecution.

First witness: Y 44450 C.M.S. Groves, A.R.M. 28 Can Gen. Hosp. being duly sworn states:
I know the accused since the investigation. He is there. The theft alleged was reported to me in the morning of 22nd Dec at 0800 hrs by Sgt Thomas I informed R.S.M. He said he knew about it and had C.B.'d the ward I was instructed by R.S.M. that I was to proceed to ward J (ward of accused) at 1030 hrs with Capt McLaren for to investigate the matter. We get to the ward and called Cpl Gallant who had reported that he had some of his effects stolen and Capt McLaren asked him if he suspected any thing. He said that someone had seen the accused around his tunic the evening before. Capt MacLaren then ordered me to have all the patients lay out their kit. We proceeded in one half of the ward where the accused was. I went through the accused's kit and got to his respirator and came across a chain (Chain is produced - Exhibit A) in the compartment for eye shields. We were concerned more about the articles stolen and did not pay attention to the chain then. The accused was present throughout and made no remarks. We then went on with the others' kits and about 15 to 20 mins

4 Sept.

after Capt McLaren reminded me of the watch. this struck me and I went back to the accused's kit. I took the respirator and pulled out the chain in the presence of the accused. Cpl. Gallant then identified his chain and I showed it to Capt McLaren. I was then instructed to strip accused & ~~to~~ search the ~~respirator~~ and take it over to Capt McLaren's office and also the accused. When Capt McLaren came back to office the accused was ordered to be stripped and a thorough inspection. I was present with Capt McLaren and Sgt Thomas when Capt McLaren found the watch in his respirator (Watch produced as exhibit B)" The accused was then put under close arrest.

The witness shows the Court in which part of resp. the watch & chain were found.

Cross examination

We went down at about 10.30 hrs and started inspection 1035 hrs.

Court. The accused did not leave his bed during kit inspection. He was told discharged that morning and was supposed to report to A. & D. at about 0700 hrs. The ward was C.B. at about 0730 or 0745 hrs. They were not allowed outside of ward.

R.P. 83 (B) complied with.

Second witness: Capt. A.G. McLaren, 23 Can Gen Hosp being duly sworn states.

I recognize the accused who is a

#4 28

J. Kelly

Third witness: F 60292 Cpl Gallant, J.P. N.N.S. Hughes
att'd 23 Cdn Gen Hosp. being
duly sworn states:

I've known accused since I came out to hospital about two months ago. I recognize chain "Exh A" as my chain and watch (Exh. B)" as my own watch. I have ring of my watch on me and it fits in the watch. I was out on pass in Watford with accused on evening of 21st Dec had a few drinks in pubs together and came back also together to hospital around midnight. I had my watch in the evening and remember looking at the time at 1030 p.m. We first got in the ward, took my tunic off which I laid on my chair by my bed and went to the kitchen with accused. I was keeping watch, chain in tunic pocket. Staid in kitchen about 10 mins. Accused left the kitchen when I was there about 5 mins. He came back, we finished lunch and went to bed. The next morning at about 0645 I noticed watch was missing amongst other articles I reported to ward-master. I was to be transferred to N.E.T.D. that very same morning we were to report to A & D. room at 0700 hrs with kit. The accused was due to leave on that same morning for Cans. Depot and was to report also at 0700 hrs to A & D. room.

patient. At approximately 2nd Dec. I was informed by R.S.M. that ward 7 had been C.B. on account of articles having been up stolen. With C.M.S. Grimes & Sgt Thomas I proceeded to ward 7 and told ward what we were there for and had them lay kits, that is East half of ward where accused was asked by Cpl Gallant he suspected anyone. He said he did not. I searched the accused's kit in presence of the accused and of C.M.S. Grimes and did not find anything abnormal. We then went on to search rest of ward. It is only when I had done half of ward when I learned that watch & chain had also been stolen from Cpl Gallant. I informed my assistants I must look with C.M.S. Grimes to accused's kit and the chain (Exh A.) was removed from accused's respirator. I then ordered accused to be brought with his kit to my office. Accused was asked to strip and then I removed watch from respirator. Ring at top of watch was missing. I asked accused if he knew whose watch it was. He said it's Cpl Gallant's and I do not know how it got there. I placed under close arrest.

No cross-examination.
No questions by the Court
R.P. 83(B) Complied with.

J Ful. 1

Cross-examination.

Cpl Gallant The accused was with me when I discovered watch was missing. There were others from that ward going on draft that morning. I discovered loss around 0645.

By Court.

I never placed my watch in respirator. By my tunic, I mean my battle-dress blouse.

By J.A. That evening ring was on the watch and chain fastened to the watch. I found ring in bottom of pocket. I had watch on my table all the time. Accused's bed across the room. Accused had no watch as far as I know. I was a good friend of accused in ward and used to be together in the ward. I paid all the drinks that evening, I was treating him. We were both feeling good when we got in.

R.P. 23 (B) complied with.

Fourth witness: B139058 Rfmn Kerr, J.F. 20.R. of Can. att'd 23 Can Gen Hosp being duly sworn states:

I know accused. We were in same ward. Cpl Gallant's bed was next to mine on my right side. The accused's bed was across the ward, about two beds to the right

of my bed. On 21st Dec. I went to bed at app. ~~1630~~ 2230 hrs. At app. 2330 hrs I was awake by Cpl Gallant and accused coming in. Cpl G. placed his tunic on his chair between his bed and mine. The ~~mat~~ chair was shoved under the bed at foot. They both went ~~to kitchen~~ I saw Cpl Gallant go in to kitchen. I then saw accused coming out of kitchen and he proceeded to Cpl Gallant's bed. For app. two mins he was handling Cpl Gallant's tunic. He returned afterward to kitchen. He was more or less facing me.

Cross-examination.

No light in ward just in kitchen. I did not see take watch or chain.

By Court. He could have taken it anything from his pocket which I could not have identified. I figured it was cigarettes. As soon as he got up he appeared to be fastening up his patch pocket.

They appeared to be good friends It struck me that he was around his bed at that time. It struck me funny - There were no body else in the kitchen as far as I recall.

There were about 7 or 8 feet from where I was and the accused ~~when~~ while they were talking the ~~it is~~ As much as this an account of angle R.P. 83(B) complied with.

J. Ref. 9

Fifth witness: K15804 Sgt. Thomas, R. RC.A.M.C. 23 Can. Gen. Hosp. being duly sworn states:

I know accused (pointing) as Pte Dolinski. On morning 22nd Cpl Gallant reported to me that he had different articles stolen, of which a watch and chain. This was at about 0700 hrs. I phoned R.S.M. and req'd. asst. to C.B. ward and cancel discharges of that ward. I carried out these inst. - it was about 0720. They could have gone out as I had to perform other duties and could not remain there.

Cross-examination.

I did not put guards on the door. Was there were no offrs or N.C.O. put in charge.

By Court. I gave no particulars. To my knowledge I do not believe that there was a N/S. at that particular time. I just went orderly.

R.P. 83 (B) complied with.

Prosecution closed.

Def.

The Defending Officer makes a motion of no prima facie case on the ground that the prosecution has not adduced evidence whatsoever with regards to the first

10

charge. i.e. stealing. There is not a bit of evidence that accused took watch and even if circumstances proved against him by recent possession, there is no evidence at all of intent, essential element.

The prosecution answered motion (Doc. marked "A")

The J.A. advises:

He refers Court to the doctrine of recent possession as outlined para 66 p. 124 M.M. Fs. Strong presumption of theft raised by recent possession ... etc.

Motion disallowed.

Court adjourns at 1230 hrs until 1350 hrs same day.

The Court reassembles at 1350 hrs 14 Jan 45.

The same members are present.

See para 25 p. 3 of C of A. 96

"M" J. Rent.

J. Rent."

Rebuttal of Plea for No Case.

While the defence has intred this plea of no case under A.A. 18(a) I contend that recent possession has been proved and that the possibility of the accused leaving the hospital before the loss was noticed was available in the draft leaving that day. Besides this on a bit inspection the position of the water in the hammock was a logical ~~looking~~ hiding place when one would put for the anti-dim. Recent possession has been proved as under FFMR. Ch. III Para 32. That is all the prosecution has to say.

Lieut
PCE

D. 1 J. Exh. 12

Defence.

The accused, H.46490 Pte Dolinski, W. 4 C.I.D.R. att'd 23 Cdn Gen Hosp. being duly sworn states:

On Dec 21st at app. midnight, Cpl Gallant & myself returned to ward by side door, there were no lights in the ward at all. Pte Fisher was awake and flashed his light to shew us our beds. When I got to my bed I left my battle dress blouse on my bed & then went to kitchen. Cpl Gallant walked behind us in the kitchen. Cpl Gallant had a can of lobster and he opened it. I asked Cpl Gallant if I could get his pencil to write his address down. He gave me his pencil which he got from somewhere outside the end of the kitchen. He handed it to me upon his returning to kitchen. We started eating and talking forgetting about this address and all left the kitchen to go to bed. I went straight through to the lavatory. Pte Barrett was still in lavatory being sick. I came out and went straight to bed. At 0600 hrs the next morning, had breakfast left for A/D at 0630 - got there. Sat beside Cpl Gallant felt for his watch then in his pocket and could only find the ring. After that he felt in other pocket and found other articles missing some money, also missing. Cpl Gallant went out and we went then

13 Sept.

called back from A & D to the ward. We left our packs incl. respirator bearers at A & D and came back to ward. We were then told we were all C.B. - It was then about 0720. Rumours came about that there was going be a kit inspection. We got permission for Pte & myself to go down & get our kits. This we did and came back. It was then about 0910 hrs. We stayed in ward until Capt McLaren's arrival. At about 1020 hrs we laid all our kits and emptied all our pockets. A.M.S. Graves came and inspected my kit. The last article he looked at was my respirator. He found a chain therein in pocket. I was surprised to see it and did not say anything. He put it back. I offered to put respirator back myself. He did not let me. He came back later on for a further check. He took chain out & showed it to Sgt Holland & Cpl Kerr both present identified it. Pte was all stripped and ordered to proceed to Capt McLaren's office. I was stripped right down and a complete search was made. They searched respirator and found Cpl Holland's watch in the pocket for the anti-dim. I identified it as such. I did not know how it got there. I did not leave kit then by myself to go into the ward. There was about 4 hrs lapse between the discovery of missing watch and kit inspected.

J.K.M. 14

D-3

I have seen many kit inspections in my army career. I could hardly say how many I have seen. I left that ward ~~after I came back~~ C/S. I was too surprised when I saw Chain, I did not know what to say.

Cross. Examination.

— Kitchen is app. 10 to 15 yds from Cpl Gallant's bed. Light was on in kitchen. Nobody else came into kitchen. Found our kits in A & D where we had left them.

By Court.

There was no blue light.

Cpl Gallant was in sweater. I do not know where he had left tunic. He did not have coloured in town; he had it when he came into to kitchen. My bed upp. across the ward from Cpl Gallant's. I found our kits in same ward for about 1½ month. He slept ~~right~~ hand side of Cpl Gallant's. I was not in that Cpl Gallant's bed that evening. I did not leave kitchen. I swear I did not leave kitchen. He was looking mainly for money. I know it was not mess waiter C.M.S. Graves found Chain. I had seen chain & watch in his possession. I did not at first identify it. About 15 mins. elapsed between both inspections. I was sitting

around my bed. Every one was busy on his kit. Holiday had access to my kit from time I came back until kit inspection. I was surprised when they came back for a second inspection. I did not suspect they were looking for anything else than mine. My inspiration was used to me all night as the ~~floor~~ Cpl. kitchen door tightly closed.

Pte Barnett slept on right hand side of me Pte Burke slept next to me on the left. He spent a lot of money down town that evening.

I was wearing overcoat when I took off my tunic.

R. P. §3 (B.) complied with.

Court recalls Cpl Gallant in rebuttal.

Under same oath.

By Court.

Cpl. The accused left kitchen for some time and came back. He had tobacco, cigarettes, toothbrush and shaving outfit. There was light in both rooms. I do not remember if blue light was at Dean kitchen door was closed but there was light coming through. I bought drinks in town and spent a few pounds. I do not remember whether he had tunic on. I do not remember lending any kind of pencil. He never asked me for pencil

that night.

Cross-examined.

Went to mess around 1800 or 1900 hrs stayed till closing (2200 hrs) I do not remember what he had on.

R. P. 83 (B) complied with.

2nd witness recalled by Court.

B 139033 Rfmn Kerr, J. F. (name called)

I am not positive if the blue light was on - but there was light from bath-room and from kitchen. I did not see Cpl Gallant go in his locker. I noticed him putting his tunic on chair. I saw the accused coming out of kitchen. I was gonna speak to the Cpl when he came to his bed and then I recognized accused. He had his tunic on as far as I can remember. I more or less was getting impression I was sleeping. It was rather quiet in ward. I saw Pte Barrett ~~get up, go to the~~ coming from the bath-room and he got to his bed ~~before the~~ other two ~~got~~ ~~did~~ in kitchen. I was asleep when Cpl Gallant came to bed from the kitchen. Pte Barrett might have got ten up again.

R. P. 83 (B) complied with.

Case is closed.

Prosecution makes closing address - see Doc. marked "P"

Defending Officer makes closing address - see Doc. marked "D"

J. A. sums up -
see Doc. marked "J"

Case is continued at para No 7.

"X"
J. Reid.

J. Reid. 8

Closing Remarks of Prosecution

The evidence produced has proved the doctrine of recent possession as laid down in M.M.L. Ch. VII Para. 66 (read to the court in abstract) The accussed has knowledge that the hut inspection was to find a watch and chain, which were found in his possession. 1

The case of identification of the accussed in the ward while the accussed & the corporal are in the kitchen has been shown by the evidence of the two witnesses. 2

The case is based on the doctrine of recent possession and the identity of the person in the ward the night of 21 Dec.

D. Murray
Lieut
R.E.

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

"O" ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

19

Defense Plea

My defense is based on the accused statement under OATH and Chap IV sec 37 & Chap III sec 37. (both acts read to court). Is there is certainty or reasonable doubt as to the accused guilt. Both the technicians Ch Sallant & — are so disputed and contradictory as to be worthless. Also the fact that the accused was left alone for four hours with his kit where it is known the watch was in his possession he would have got rid of them

4/71 CFA 170 PLEASE WRITE ON BOTH SIDES

"P."
J. Rud.

J. Rud. 21

J. A.'s summing up.

The only purpose in my being here as Judge Advocate is to advise the members of the Court on any point of law and at the same time ensure that no injustice is done the accused throughout his trial. I have no saying whatsoever in the decision of the Court and should I venture to express any opinion during my summing up, it is your duty to disregard it. You alone, gentlemen on the Court, are the judges on all the facts in the case before you and the decision you will arrive at as to the guilt or innocence of the accused ought to be the result of a personal opinion each of you will have formed from the facts and from these only facts you have heard exposed before you.

You will note that the accused has been arraigned upon two charges, the second of which is alternative to the first one. The latter part means that the accused can only be found guilty on one of the two charges. If you are satisfied from the evidence that the accused has committed theft, i.e., the subject of the first charge, and therefore find him guilty on that charge, the accused must automatically be found not guilty of the 2nd charge. If, on the other hand, you are

23
Feby.

but convinced of that the accused has committed theft, you will find him not guilty of the first charge but may consider his guilt or innocence as to the 2nd charge, i.e. of improper possession.

Before going over the evidence, I would like to call your attention to para 33 on page 22 of M.M.L. which gives the elements necessary to constitute an offence of stealing. These elements are the following: there must first of all be taking or carrying away without the consent of the owner, the taking must be fraudulent and without a claim of right in good faith and finally there must be an intent, at the time of taking, of depriving permanently the owner of the stolen article. The latter element, intent, is in most cases very difficult to prove, as one cannot read the delinquent's mind, and therefore intent can often be inferred from circumstantial evidence. However it is especially in case of theft, the recent possession of a stolen article is a very strong presumption that the article was stolen. In this regard, I refer you to para 66 on page 124 M.M.L. which deals with the doctrine of recent possession. also cive. evidence p. 81 para 42

Needless to say that the accused, in accordance with the basic principles of British Common Law, appeared before

J Ref. 23

you to-day as an honest citizen or soldier and presumed innocent of either of the offences alleged against him. The onus of proving his guilt remained entirely upon prosecution. The latter's task in the present case has been rendered less complicated in view of the theory of doctrine of recent possession which creates a strong presumption of theft. If in your opinion, the Defence has failed to rebut that presumption, you are bound in your verdict by the provisions of para 66 page 124 M. M. L. The facts themselves are simple - You have heard the several witnesses - there have been a few points of contradiction and it is entirely up to you to decide who is saying the truth.

With respect to the 2nd. charge, I believe it is my duty to tell you that the essential elements that have to be proven to support that second charge would be practically the same as those required for the 1st charge. The improper possession alleged in 2nd charge - would be constituted by the recent possession and that is the reason why in my opinion

Def. 34

it would amount more or less to theft. However the second charge has been laid and approved by higher authority and the only difference in my mind between the two charges is that the 2nd charge is considered a less serious offence under M. M. L. and is punishable by a lesser punishment.

In closing - Dr. A. commented upon theory of reasonable doubt - to the benefit of which accused is entitled.

J. Rul. 25

Ex

The exhibits "A" and "B" consisting respectively of One watch chain and a watch, being the property of Cpl. Gallant have been handed over for safe custody to the Registrar, No. 23 Cdn. General Hospital, for which receipt has hereunder been signed.

J. W. Shier Maj

(J.W.SHIER) Major... Registrar
No. 23 Canadian General Hospital.

19th January 1945.

J. Rutigliano Capt
Judge. Advocate

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H.46490	Pte.	DOLINSKI, W.	Patient No. 23 Cdn. Gen. Hospital.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be removed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts or gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. [redacted] :—

For .... times.

For .... times.

For .... times.

For .... times.

[redacted]

[redacted]

2. [redacted]

*3. The accused at the present time is under sentence for N.A.

beginning on the N.A. day of N.A.

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for no days in civil custody; and for 2 days in military custody, *i.e.*, Nil days in open arrest, 27 days in close arrest; of which no. days were spent in hospital.

5. The present age of the accused is 21 years.

6. The date of his attestation ~~enlistment for military service~~ is 19 Feb 41

7. The service which the accused is allowed to reckon is 3 yrs 10 mos 17 days

Details the military decorations (if any) held by accused.

8. The accused is in possession of: N.A.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	N.A.	N.A.
In the war substantive rank of	N.A.	N.A.
In the acting rank of	N.A.	N.A.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21111) (22449) A. & E. W. Ltd. Gp. 698 Forms/B.296 (War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

It is hereby certified that except as herein stated particulars of character and service of the accused cannot be obtained from documents in my possession.

(J.W. Shier) Major, Registrar.
No. 23 Canadian General Hospital.
Signature of Officer having custody of Regimental Books.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 26th day of December 1944

Officer having custody of original

M.F.M. 6.
(A.F.B. 122)
500M—11-41 (2469)
H.Q. 1772-39-1652

No.	Name	Sqn., Battery, or Company	Corps	Date of enlistment	C.C. Badges	Tradesmen's Rates of Pay	Character
H.46490	DOLINSKI, William	No. and date of last drunk	C.I.C.	19 Feb 41			
		Period not reckoning towards freedom from extra fine		Sheet No. 1	Signature O.C. Company, etc.		

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

It is hereby certified that except as herein stated particulars of character and service of the accused cannot be obtained from documents in my possession.

(J.W. Shier) Major, Registrar,
No. 23 Canadian General Hospital.
Signature of Officer having custody of Regimental Books.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified true copy.

26th day of December 1944

(J.W. Shiar) Major Registrar,
Officer having custody of original.

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN YMCA OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

Ref.

Ref. Litigation

age 22 Feb 41' almost 4 years many
July you went to France Belgium
Holland and was with Lake superior
Regt, in all the fighting till Oct
and was wounded in Holland, in both
legs & feet and was on his way back
to his unit. Clean sheet
Lt Burke Lake superior Regt

4/71 CAN 170

PLEASE WRITE ON BOTH SIDES

Summary of Evidence in the case of H.46490 Pte. DOLINSKI, WILLIAM, #4. C.I.T.R., a patient at 23 Cdn. Gen. Hospital, a soldier of the Cdn. Army Overseas charged with offences under A.A. 18(4) and 40 taken this 23rd day of December 1944 in the presence of the accused.

The accused demanded that the evidence be taken on oath.

First Witness: F.60292 Cpl. GALLANT, J.P. (Patient) having been duly sworn states:-

"On the evening of the 21st December 1944 at approximately 2400 hours, on returning to hospital I had approximately £80:0:0 in my tunic. I Placed the tunic on the foot of my bed, ate a lunch and then to bed. Next A.M. (22 Dec 44) at approximately 0645 hours when I reached into my jacket my watch was missing. I then looked in my purse and there was only £28:0:0 left. I reported the loss to Sgt. Thomas, Ward Sergeant for Ward 7."

(F.60292 Cpl. Gallant, J.P.)

The accused declines to cross examine the witness:

Second Witness: B.139053 Pte. KERN, J.P. (Patient) having been duly sworn states:-

"On the evening of 21st December 1944 some time after 2330 hours I was awakened by men returning from pass. I saw Pte. Dolinski and Cpl. Gallant go into the kitchen. Shortly after I saw Pte. Dolinski return and sit on Cpl. Gallant's bed. Cpl. Gallant's tunic was neatly hung over the back of the chair which was at the side of the bed. I then saw Pte. Dolinski handling Cpl. Gallant's tunic but whether he put his hands in the pockets or not I could not see as the tunic was facing the other way. I sleep in the bed on the left side of Cpl. Gallant and the chair is on the left side of Cpl. Gallant's bed so that the back of the chair and the back of the tunic were towards me. Pte. Dolinski was facing me. After approximately two minutes Pte. Dolinski got up and returned to the kitchen. I smoked a cigarette and went back to sleep. I did not see anyone else [illegible] around the tunic from the time Cpl. Gallant took off his tunic until I went to sleep."

(B.139053 Pte. Kern, J.P.)

The accused declines to cross examine the witness:

J. Reid.

Third Witness: G.44950 A/QMS. GROVES, A.R.M. No. 23 Cdn Gen Hospital, RCAMC., having been duly sworn states:

"At approximately 0900 hours 22nd December 1944 it was reported to me that there had been a theft in Ward 7. I informed R.S.M. Mutch of the theft and also that Sgt. Thomas who C.B'd the ward. Capt. McLaren and myself at 1030 hours went to Ward 7 and interviewed Cpl. Gallant outside the ward. He gave us the facts about the amount of money that had been stoled and a list of 26 serial numbers that had been written in his note book. Two of the pound notes left had serial numbers corresponding to numbers on the list. I instructed the men to lay out all their kits on their beds. Three of us, Capt. McLaren, Sgt. Thomas and myself, checked all the kits. I checked Pte. Dolinski's kit, he was there while I checked his kit. In the pocket of the respirator I picked up a watch chain, Dolinski made no remark. When I went to replace the face piece Pte. Dolinski offered to do it but I did it myself. After I had completed, Capt. McLaren reminded me of the watch and chain and I went back to Dolinski's respirator and removed the chain from the pocket. Cpl. Gallant and Pte. Kern both recognized the chain as the one belonging to Cpl. Gallant. All Pte. Dolinski's belongings were transferred to Capt. McLarens office.

A.R.M. Groves
(G.44950 A/QMS. Groves, A.R.M.)

The accused declines to cross examine the witness:

Fourth Witness: R.18804 A/Sgt. THOMAS, R., No. 23 Cdn. Gen. Hospital, RCAMC., having been duly sworn states:-

"On 22nd December 1944 shortly after 0700 hours Cpl. Gallant reported to me, in the vicinity of the R.S.M's office, that he had lost approximately £50:0:0 and his watch. I notified the R.S.M. who told me to cancel the discharges for that ward and C.B. the ward, done at approximately 0720 hours, after which I proceeded on my regular duties, returning to Ward 7 with Capt. McLaren and Q.M.S. Groves at approximately 1030 hours."

R. Thomas
(R.18804 A/Sgt. Thomas, R.)

The accused declines to cross examine the witness:

Fifth Witness: Capt. A.G. MCLAREN, No. 23 Cdn. Gen. Hospital, RCAMC. having been duly sworn states:-

"On 22nd December 1944 at approximately 0930 hours the R.S.M. informed me that Ward 7 had been C.B'd because one of the patients had lost approximately £50:0:0. With QMS. Groves and Sgt. Thomas I proceeded to Ward 7 at approximately 1000 hours and interviewed Cpl. Gallant re loss, who stated he had noticed the loss in the morning prior to going on draft.

J. Rell.

Fifth Witness: Capt. A.G. MCLAREN, No. 23 Cdn. Gen. Hospital cont'd.

Cpl. Gallant stated he did not suspect anyone. Cpl. Gallant gave me a list of twenty three (23) serial numbers from the pound notes he had and said that the list was made for something to do. He had approximately twenty pound notes in his wallet, and one of these notes corresponded with serial numbers given. A kit inspection was ordered. While this was going on Cpl. Gallant stated he had also lost a watch and chain. I told Sgt. Thomas and Q.M.S. Groves this. All of the kits in the east half of the ward were checked. All the purses of the ward were checked and and serial numbers of all the bills checked against the list. one bill found on Pte. Miller corresponded with list but Cpl.. Gallant said that he had paid Miller a one pound note. Pte. Dolinski and his kit were taken to the Administrative office and a thorough search made. I found a watch in the bottom of the respirator buttoned in where the anti/dim is usually kept. When the watch was removed Pte. Dolinski recognized the watch and said that it belonged to Cpl. Gallant and that he didn't know how the watch and the chain got into the respirator. Nothing was found of the missing money. Here is the watch." (Exhibit B) "I notified the Officer Commanding and Pte. Dolinski was put under close arrest. I took the watch to the ward and Cpl. Gallant said it was his watch and produced the ring that fitted into the top of the watch. I questioned various patients in the ward about the general condition of the patients the night before."

(Capt. A.G. McLaren)

The accused declines to cross examine the witness:.

The accused is cautioned as follows:-

"Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you do or say or any evidence you give will be taken down in writing and may be used in evidence."

The Accused: "I have nothing to say at this time."

Pte Dolinski M.

I certify that the foregoing Summary of Evidence consisting of three pages was taken down in the presence of the accused and that RP. 4 (C)(D)(E)(F) and (G) have been complied with.

The Field:

23 Dec 44

(F.S.C. MACMILLAN) Major.
Officer detailed to take the Summary of Evidence.

J. Kirk.

LIST OF WITNESSES FOR PROSECUTION.

P.60292 Cpl. Gallant, J.P.	No. 23 Cdn. Gen. Hospital.
B.139053 Pte. Kern, J.P.	No. 23 Cdn. Gen. Hospital.
G.44950 A/QMS. Groves, A.R.	No. 23 Cdn. Gen. Hospital.
K.15804 A/Sgt. Thomas, R.	No. 23 Cdn. Gen. Hospital.
Captain A.G. McLaren.	No. 23 Cdn. Gen. Hospital.

J. Bell.

LIST OF EXHIBITS

EXHIBIT	A	-	One watch chain.
EXHIBIT	B	-	One watch.

##########

#23 Con. General Hospital.

11 Jan 45.

RECEIPT:

"I H.46490 Pte. Dolinski, W. acknowledge having duly received a copy of the charge sheet and a copy of the Summary of Evidence at 1200 hrs on 11 Jan 45.

Signed
This 11 day of January 1945

Pte Dolinski W
(H.46490 Pte. Dolinski, W.

Witness:

J. Ruf.

#23 Cdn. General Hospital.

11 Jan 45.

STATEMENT BY ACCUSED:

"I desire to have an officer represent me at my trial. I am willing to accept a defending officer appointed by the convening officer."

Pte Dolinski W.

(H.46490 Pte. Dolinski, W.

TT-57

PTE DOLL P.L.

CHARGE SHEET

The accused, No H-20072 Pte. Paul Lindbergh Doll South Saskatchewan Regiment, being a member of the Canadian Army Overseas, is charged with W.O.A.S., :-

First Charge
Sec 15(1)
Army Act

Absenting himself without leave -

in that he

in the Field, absented himself without leave from 1200 hrs 18 Aug 43 until apprehended by the Civil Police at about 2230 hrs 13 Oct 43, incurring costs of return to the amount of £ 1-19-6 (Absent 56 days 10 ½ hrs).

In the Field
18 Aug 43

F. A. Clift
(F.A. Clift) Lt-Col.,
O.C. S.Sask.R. C.A.(O).

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
19 Oct 43

(C.C.M. Costling) Brigadier,
Commander 6 Can Inf Bde.

Bz

MEDICAL OFFICERS CERTIFICATE

19 Oct 43

I certify that No H-20072 Pte. Doll, P.L. South Saskatchewan Regiment is fit to undergo trial by Court Martial.

W.L. Osborne

F.K. Hayter - Capt

Signature of Medical Officer

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a F. G. Court-Martial held at 2n Leffield
on the 19 day of Oct 19 43 by order of Brig G S N
Gostling Commanding 6 Cdn Inf Bde
dated the 19 day of Oct 19 43

President.

Major W E Osler, Coms of C

Members.

Capt C J R Rawlins, Fus M R
Lt G E Colgate, S S R.

Judge Advocate.

Trial of* H 20072 Pte Paul Lindbergh Doll, S Sask R.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~
to ~~serve owing to~~
~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Capt J W Paul, Reg Rifles
~~Lieut J E Gale~~
~~Witness~~ ~~, sworn~~ defending officer‡ ~~Capt W B Elmes~~, S S R.

At 1120 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No, Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

---

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Forms B. 271
10M—3-41 (9670)
H.Q. 1772-39-224

B

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [~~first~~] charge against you, which you have heard read? *Question to the accused.*

guilty *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been recorded.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~ A

The accused H20072 Pte Paul Lindbergh Doll, SSR is found guilty of the charge

*The summary (~~or abstract~~) of evidence is read, marked 'D', signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, Sir

~~The accused in mitigation of punishment says:—~~

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No, Sir

Answer.

Evidence as to character.

E

Finding*

*To be struck out except in cases where trial has taken place on plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

Proceedings on Conviction *before Sentence*.

*When the Court is already open this sentence will be struck out.

~~The Court being re-opened, the accused is again brought before~~ it.

Prosecutor presents MFB 355 + MFM 6 (marked E + F)

~~is duly sworn.~~

Evidence of character, &c.

Question by the President.

~~Have you any evidence to produce as to the character and particulars~~ of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

~~Cross-examined by the accused.~~

(Observation.—If by reason of the nature of the service of the accused in a department, corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Question to the accused.

Do you wish to address the Court? Answer. yes the day after (see "G")

The Court is closed for the consideration of the sentence.

(5)

W M W Shaw capt
Judge advocate

D Bain major
President

F

~~Sentence~~

~~The Court sentence the accused~~

Sentence.

Summary of Evidence in the Case of H-20072 Pte. Paul Lindbergh Doll S.Sask.R., a soldier of the Canadian Army Overseas.
The accused is informed of his rights.
The CO directs that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION Capt. J.W. Paul, 3 Bn Regina Rifles, R.C., Attached S.Sask.R., having been duly sworn, states :-

I present :-

Certified true copy of Record of Declaration of a Court of Inquiry assembled in the Field on 29 Sep 43 for the purpose of investigating and recording the absence without leave of H-20072 Pte.Paul Lindbergh Doll (Attached as Exhibit "A").

Certificate of apprehension purporting to be signed by D.A.P.M., C.M.H.Q., (Attached as Exhibit "B".

Certificates of costs of return, purporting to be signed by OC No 6 Provost Coy Canadian Provost Corps (Attached as Exhibits "C" and "D".)

All of which relate to the accused, whom I recognize.

The accused declines to cross - examine

J.W. Paul

(J.W. Paul) Capt.

The accused, having been duly cautioned in accordance with R.P. 4(2) says : -

"No, I don't, Sir".

The accused does not wish to call witnesses in his defence at this point.

Certified that R.P. 4 complied with.
In the Field
16 Oct 43

J.W. Paul

(J.W. Paul) Capt.

D

H. C. Blair Major

RECORD of the Declaration of a Court of Inquiry assembled at Field on the 29 th day of Sep 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H-20072 Pte. Doll, Paul Lindbergh

DECLARATION

The Court declare that No. H-20072 Pte. Doll, Paul Lindbergh

illegally absented himself without leave In The Field

at 0600 hrs on the 18 th day of Aug 1943;

and that on the 29 Sep 43 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE
1 Battle Dress, Blouse Serge	4	63		
1 battle dress trousers, Serge	4	63		
1 Shirt Angora, Drab	1	52		
1 Knife, Clasp		86		
1 Pr Boots, Ankle	3	60		
2 Vests Cotton		51		
1 Pr Shorts Gym		32		
1 Vest Gym		32		
2 Drawers Cellular		74		
1 Razor		32		
1 Holdall		12		
1 Toothbrush		06		
1 Brush Shaving		24		
1 Brush Hair		16		
1 Brush Clothes		16		
1 Brasses Cleaning		03		
	18.	22		

Capt. W.G. Duncan MM 1 st Bn Edm Fus — President

Lieut. J.K. Kemp S.Sask.R. — Member

Member

Signed at Field

this 29 th day of Sep 19 43

Signature of Commanding Officer F.A. Clift) Lt-Col., O.C. S.Sask.R.

Certified true copy

Signature of Officer having custody of original record

Exhibit "A"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42.

I CERTIFY that No[illegible] Rank [illegible] Name [illegible]

Unit [illegible] was arrested at [illegible] (Place)

at [illegible] (hour) on [illegible] (date) and that at the time of his arrest he was wearing (Military Uniform) [illegible] (Civilian Clothes).

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest (Strike out part inapplicable).

Exhibit "B"
J.W. Paul Capt.

L. L. Grayson Capt.
(W. Rank) D. A. P. M.,
London Area

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 42 0072 Rank Pte. Name Doll, P. L. Unit 1 Sask Regt

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars (Upton)	Amount		
15 Oct. 43	Escorts return fare from LONDON To Manchester		14	1
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares (Upton		2	0
	Total £		1 10	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

CMHQ 100035
40(P&S)455(3287)

Exhibit "C"
J.W. Ford Capt.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 42002 Rank Pte. Name Holt, R. L. Unit 1 Sask. Regt

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From Ranston

Date	Particulars	Amount		
15 Oct 43	Escorts return fare from LONDON To Worthing		4	8
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Worthing		4	8
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		9	4

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R. L. Simpson. Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40(P & E)(A&C)(267)

Exhibit "D"
Capt.

Plus [illegible]
[illegible]
[illegible]
[

involved in something he had nothing to do with. The case was brought to F.P.C.M. and he was awarded 120 days along with the soldiers who had fought with the Royal Policeman and one other soldier who was also charged as being an accomplice. This incident brought about a very hostile outlook towards the Army. And so when he was released from detention he came back to soldiering with a chip on his shoulder against the Army. And if he had had a decent break at this time, I don't think he would be standing before this F.P.C.M. today.

[illegible] he has been
in considerable trouble
since and every time
he has come up he has
been rapped over severely
He Still thinks
Army is good faith and
worthy to do his bit for
his country stood with
the [illegible] in Siffre
last year and made
a good account of
himself. And I'm
certain when the time
comes again he will do
the same thing ~~again~~ more.
And so at this time
I ask you to give it his
case considerable
thought and give this
soldier a chance to
redeem himself.

-G-

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated , and in his regiment (or corps), the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of N/A years.

In the rank of N/A years.

In the rank of N/A years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

~~Airplace~~

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number R-90072 Rank Pte. Unit

Name Doll, Paul Lindbergh of South Saskatchewan Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
FGCM	9 Dec 41 Field	AA Sec 41(1)	180 dys Detn	40 days
FGCM	18 Dec 42 Field	2X Offences AA 40	9 Moths Detn	83 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody. A/Flight Lieut. Adjutant

Signed this 9th day of Oct 43

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "E" signed by the president, and annexed to the proceedings.

A. C. Desmarais

M.F.B. 355
(2M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-80072	Pte.	Doll, Paul Lindbergh	South Saskatchewan Regiment

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL	1 times	9 times
For A.A. Sec 40	times	1 times
For Absent from parade	times	1 times
For Breaking out of barracks	times	1 times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

~~(or)~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under ~~A.F.A. 75~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~(or)~~

~~The accused at the present time is under sentence for [illegible] to begin on [illegible] day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in ~~air force~~ civil custody, and 6 days in military custody, making a total of 6 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 30 years as at ~~date on attestation paper~~.

6. The date of his commission specified in his record of service is N/A attestation / attestation paper

7. The service which the accused is allowed to reckon towards discharge is 3 years 6 months

8. The accused is entitled to reckon 3 YE service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of N/A

M.F.M. 6
(A.F. B.127)
40/P & /8136 (2965)

No. H20072 Name Doll, P.L. | Sqn., Battery, or Company | Corps Infantry | Date of enlistment 5 Apr 4[illegible] | O.C. Bridges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Winnipeg	21May40	Pte.		AWL 0600 21 May-2359 31 May 40		11 dys pay-13 dys det.			
"	2Jul40	Pte.		AWL 0540 2 Jul-0530 4 Jul 40		2 dys pay.			
"	6Aug40	Pte.		AWL 0530 6 Aug-2045 9 Aug 40.		4 dys forf pay			
"	19Aug40	Pte.		AWL 0530 19 Aug-1615 21 Aug 40		3 dys forf pay			
"	12Oct40	Pte.		AWL 0600 30 Sep-1800 11 Oct 40		28 dys det,5 dys forf.			
Quebec	8Nov40	Pte.		Absent from Parade 0830 to 1600		1 dys forf pay			
"	6Dec40	Pte.		AWL 0630 6 Dec-1445 6 Dec 40		1 dys forf pay			
U.K.	15May41	Pte.		AA 10(4)(2). A.A. 15(1)		120 hrs det 6 days forf.			
"	6Jun41	Pte.		A.A. 40		3 dys det.			
"	9Dec41	Pte.		A.A. 41(1) (A.A.40 Not Guilty)		120 dys det		FGCM	Forf 158 dys Pay
"	26Feb42	Pte.		40 days remission					
"	2Jul42	Pte.		AWL. A.A. 15(1)		168 hrs det.1 days forf.			
"	30Sep42	Pte.		AWL A.A. 15(1)		21 dys forf,2 days automatic			
"	13Dec42	Pte.		AWL 36 days 22 hrs 10 mins.		9 mos det		FGCM	Forf 320 dys (P.T.O.)

CERTIFIED THU COPY
A.A. Black Lieut.
A/Adjt., S.Sask.R.

M.F.B. 355
2234—5-41 (372-B)
H.Q. 1772-39-620
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-20072	Pte.	Doll, Paul Lindbergh	South Saskatchewan Regiment

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL	1 times	9 times
For A.A. Sec 40	times	1 times
For Absent from parade	times	1 times
For Breaking out of barracks	times	1 times

~~Number of instances of gallantry or distinguished conduct~~

or

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

~~Nil~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ ~~A.A. 73~~ Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~Nil~~

~~The accused at the present time is under sentence for xxxx xx xx to begin on xxxx the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in ~~civil~~ custody, and 6 days in military custody, making a total of 6 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 30 years ~~attestation paper~~.

6. The date of his commission specified in his record of service is N/A attestation attestation paper

7. The service which the accused is allowed to reckon towards discharge is 3 years 0 months

8. The accused is entitled to reckon 3 12 service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any air force military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated , and in his regiment (or corps), the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of N/A years.

In the rank of N/A years.

In the rank of N/A years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

~~Airforce~~

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number R-20078 Rank Pte. Unit

Name Doll, Paul Lindbergh of South Saskatchewan Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
~~FGCM~~	9 Dec 41 Field	AA Sec 41(1)	180 dys Detn	40 days
FGCM	10 Dec 42 Field	~~X~~ Offences AA 40	9 Moths detn	83 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody. A.A. Black Lieut. ~~Capt~~ Adjutant

Signed this 9th day of Dec. 42

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "E" signed by the president, and annexed to the proceedings.

A. Beaumont

No. H20072 Name Doll, P.L. | Sqn., Battery, or Company | Corps Infantry | Date of enlistment 5 Apr 40 | C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/3/ & /8106 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Winnipeg	21May40	Pte.		AWL 0600 21 May-2359 31 May 40		11 dys pay-13 dys det.			
"	2Jul40	Pte.		AWL 0540 2 Jul-0530 4 Jul 40		2 dys pay.			
"	6Aug40	Pte.		AWL 0530 6 Aug-2045 9 Aug 40.		4 dys forf pay			
"	19Aug40	Pte.		AWL 0530 19 Aug-1615 21 Aug 40		3 dys forf pay			
"	12Oct40	Pte.		AWL 0600 30 Sep-1800 11 Oct 40		28 dys det, 5 dys forf.			
Quebec	8Nov40	Pte.		Absent from Parade 0830 to 1600		1 dys forf pay			
"	6Dec40	Pte.		AWL 0630 6 Dec-1445 6 Dec 40		1 dys forf pay			
U.K.	15May41	Pte.		AA 10(4)(2), A.A. 15(1)		120 hrs det 6 days forf.			
"	6Jun41	Pte.		A.A. 40		3 dys det.			
"	9Dec41	Pte.		A.A. 41(1) (A.A.40 Not Guilty)		120 dys det		FGCM	Forf 158 dys Pay
"	26Feb42	Pte.		40 days remission					
"	2Jul42	Pte.		AWL. A.A. 15(1)		168 hrs det. 1 days forf.			
"	30Sep42	Pte.		AWL A.A. 15(1)		21 dys forf, 2 days automatic			
"	13Dec42	Pte.		AWL 36 days 22 hrs 10 mins.		9 mos det		FGCM	Forf 320 dys

(P.T.O.)

CERTIFIED TRU COPY
(A.A.Black) Lieut.
A/Adjt., S.Sask.R.

TT-57

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this NINETEENTH day of October, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 6 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~and that it is not practicable to delay the trial for the reason that [illegible] a superior officer~~ Ca

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*I am unable to appoint~~ Ca

~~*Three Officers to form the Court~~ Ca

~~*A Field Officer as President~~ Ca

~~*Three Officers having qualifications~~ Ca

~~service~~ Ca

~~*Officers available~~ Ca

W.M.W. Shaw Capt

B.E. Osler major

Capt W.M.W. Shaw RCA Hq 2 Can Div is appointed Judge Advocate

President.

Rank.	Name.	Regiment.
Major	W.E. Osler	Cameron of C

Members.

Rank.	Name.	Regiment.
Capt	C.J.R. Langlois	Fus M R
Lieut	G.E. Colgate	S Sask R
Waiting Member Lieut	J.A. Cardin	Fus M R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (G.S.N. Gostling) Brigadier,
Commanding 6 Can Inf Bde.
Convening Officer.*

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H-20072 Pte PAUL LINDBERGH DOLL S Sask R	First Charge Sec. 15(1) See charge sheet attached.	guilty guilty	To undergo 1HL for 18 months and to be put under stoppages of pay in the sum of £1-19-6 to make good costs of return 19 Oct 43. K.L. Osler major	I confirm but commute the sentence to detention. (G.S.N. Gostling) Brig Comd 6 Cdn Inf Bde

1HL 2W/HL

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) (G.S.N. Gostling) Brigadier, Commanding 6 Can Inf Bde — Confirming Officer (e)

(Signed) K.L. Osler major — President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 19th day of October 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. ~~The witnesses~~
3. ~~The interpreter~~)
4. ~~The officers under instruction~~)

* Omit if not applicable

were duly sworn.

Signed this 19 day of Oct 1943.

W.M. Shaw capt — K.L. Osler major, President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (b) on page 762 M.M.L. 1940.

~~I certify that the terms of *A.C.I. 370 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 19th day of October 1943.

Confirming Officer.

Promulgated and extracts taken in the case of L20072 Pte Paul Lindbergh Doll ~~Gabbard~~ Sask R.

(a) (Dated) 20 Oct 43 (Signed) ~~Lieut~~ Adjutant 6 Sask R. C.A. (O)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

4N-96

Rfn. Doll P.L.

CHARGE SHEET

The accused, H.20078 Rfn Paul Lindbergh DOLL, 1st Bn The Regina Rifle Regiment, a soldier of the Canadian Army Overseas, while on Active Service, is charged with:

First Charge
Sec 18 (3)
Army Act

WILFULLY INJURING A PERSON SUBJECT TO MILITARY LAW WITH INTENT THEREBY TO RENDER THAT PERSON UNFIT FOR SERVICE

in that he

in the field on 22 Oct 44 did deliberately discharge his weapon, thereby wounding H.87396 Rfn McIntyre, R.Y. a person subject to military law, with intent thereby to render that person unfit for service.

Second Charge
Alternate to
First Charge
Sec 40
Army Act

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on 22 Oct 44 did negligently discharge his weapon, thereby wounding H.87396 Rfn McIntyre, R.Y. a person subject to military law.

Third Charge
Sec 8 (2)
Army Act

USING THREATENING LANGUAGE TO HIS SUPERIOR OFFICER

in that he

on 22 Oct 44, when ordered by K.57089 Sjt Butt, R.M. to hand over his weapon, did say "No son-of-a-bitch will take this weapon away from me, I don't care if he is a colonel or a brigadier, I'll shoot the bastards first", or words to that effect.

Remanded for FGCM 1215 hrs 23 Oct 44

In the Field
23 Oct 44

(A B Gregory) Lt Col
Officer Commanding
1 Regina Rif

To be tried by Field General Court Martial
date 31 Nov 44

J.C. Sprague, Brig.

Convening Officer

TO WHOM IT MAY CONCERN:

I certify that H 20078 Rfn DCLI P.I. is medically fit to stand trial for Court/Martial.

C.S. Griffith (Capt)
(Medical Officer)

Date Nov 22 1944

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H. 20072	Rfn.	Paul Lindbergh	DOLL	Regina Rif

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 19 Nov 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. ~~And whereas I am of opinion that it is not practicable that each of such person should be tried by ordinary Field General Court-Martial, and that it is not practicable to delay the trial for reasons of a purely military nature;~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three offrs to form the Court, (b) a Jd Offr as President, for the reasons I have stated herein.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	G.A.H. EDWARDS (Must be named. RP 106.)	H.L.I of C. (Unit.)

MEMBERS.

Capt (Rank.)	A COMPTON-HINDE (Named or detailed. RP 106.)	1 C.Scot R (Unit.)
An offr to be detailed by Comd 8 Cdn Inf Bde (Rank.)	Capt. F.H. Hayward (Named or detailed. RP 106.)	N Shore Regt (Unit.)

WAITING MEMBER.

An offr to be detailed by the CRA 3 Cdn Inf Div (Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	A.C. Hall (Must be named, if any. RP 106.)	No 3 Cdn Inf Div (Unit.)

On Active Service in the Fd

in HOLLAND (Country.)

(Signed personally. RP 105 fn 2.)
(J C. Spragge)
Brigadier (Rank.)

Date 19 Nov 44

Commanding 7 Canadian Infantry Brigade
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (Form 1b Secs of AFAI) (See overleaf for oaths and notes for use on trial.)

FIRST WITNESS: L.27709 L/Sgt Blades, R.E., Regina Rifles being duly sworn states:

On the afternoon of Oct 22 at approx 1700 hrs Sgt. Butt and I were called for our "O" Grp. There reporting in a carrier, we passed Rfn. DOLL on the road. After passing him by about 50 yds, I heard a shot and saw Rfn. McIntyre R.Y. slump down in the carrier, and turning around saw Rfn. DOLL with a Schmeiser in his hand pointing in the direction of the carrier. Sgt. Butt stopped the carrier, and I went to the "B" Coy for a stretcher-bearer. After the wound was dressed, Sgt Butt took McIntyre to the R.A.P. and I proceded to the "O" Grp.

CROSS EXAMINATION:

I did not see Rfn DOLL fire the Schmeiser.
There was other firing going on in the area.
There were other soldiers and civilians in the area.
Rfn. DOLL was standing on the left side of the road.
Rfn. DOLL was not aiming the weapon.

RE-EXAMINATION:

We were in a rear area at the time and the other firing that was taking place was being done behind a building.

Witness demonstrates position of weapon as the hip firing position.

Questioned by the Court witness states:

Rfn. McIntyre was standing in the front of the carrier. He was shot in the back of the shoulder. He was facing forward. When I looked around Rfn. DOLL was looking down the road toward the carrier. There was no visible sign of the weapon having just been fired. I did not speak to Rfn DOLL immediately after the occurrence. R.P. SS (3) complied with

SECOND WITNESS: K57054 Sgt Butt, H.M. 1 Regina Rifles being duly sworn states:

On the 22 Oct 44 at approx 1700 hrs I got into the drivers seat of a carrier with Rfn McIntyre in the front beside me and L/Sgt Blades in the back behind Rfn McIntyre. We three drove down the road and passed Rfn DOLL and Cunliffe. After we had passed there Rfn McIntyre who was standing in the front slumped down in the seat. I asked him what was the matter and he said he was hit. I did not hear any shot fired over the noise of the motor. By the time I had stopped the carrier we were in "B" Coy area. A First Aid man dressed the wound. I turned the carrier around and went back down the road toward the R.A.P. and stopped in the vicinity of where I had seen the accused. I found him in a building with Rfn Rusnak. I asked the accused for his weapon, and he refused to give it to me saying words to the effect "That no bastard would take the weapon off him even if he was the Brigadier. I'll shoot them first". I there left the accused with Rfn Rusnak and took Rfn McIntyre to the R.A.P. After he was treated I returned to where I had left the accused and Rfn Rusnak. When I got there the accused could not be found. I did not take the weapon from the accused where I returned to him in view of his attitude and what had already taken place. I intended to return with an escort later and place him under arrest. At the time of the incident I was in a rear area.

CROSS EXAMINATION:

The accused said nothing to us when we passed in the carrier that I could hear. There was no written order re the carrying of arms. Weapons were only carried depending on where the man was going. It was understood that civilians were to be treated with suspicion. To my knowledge Rfn DOLL and McIntyre were on friendly terms and had not quarrelled. Rfn McIntyre was not evacuated because of the wound. When I asked Rfn DOLL for his weapon I said "Give me your weapon for your own benefit." I did not state why I wanted the weapon. I saw the wound on Rfn McIntyre. The impression of the shot was straight forward in the right shoulder. I did not see the accused fire the weapon.

(cont'd)

QUESTIONED BY THE COURT:

As I had not heard the shot I did not look around to see where it had come from. I had no conversation with the accused other than to ask him for his weapon. R.P. 83 (B) Complied with.

THIRD WITNESS: H 1599 Rfn Rusnak J. 1 Regina Rifles being duly sworn states:

On the afternoon of 22 Oct 44 at approx 1700 hrs I was in the store near our billets. Rfn DOLL was passing, and seeing me in the store came in to talk to me. We had talked for a short time when Sgt Butt came into the store and asked Rfn DOLL to hand over his weapon to him. Rfn DOLL replied, " No son-of-a-bitch will take this weapon from me. I don't care if he's a Col or a Brigadier, I'll shoot the bastard first. Sgt Butt then left to go back to our billets. After Sgt. Butt had gone we talked for a few more minutes. Then Rfn DOLL got up and walked down the road. Rfn DOLL seemed angry about something while he came into the store but was not under the influence of liquor. Upon the evidence being read over the witness objected to the word angry, and said that he merely got the impression that Rfn DOLL was not pleased about something.

CROSS EXAMINATION

I did not hear any firing during the time I was in the store. There was firing going on before I went into the store. The town had been shelled and the walls of the buildings were pretty well damaged.

QUESTIONED BY THE COURT:

I do not remember any other part of my conversation with the accused. The shooting going on was the usual zeroing and trying out of weapons. The village was on the dike. There was a straight road with buildings only on one side to a fort where the buildings were on both sides of the two forks. Rfn DOLL's attitude to Sgt. Butt was not his normal way of speaking to a N.C.O. I have known Rfn DOLL for some time. There was nothing in Sgt. Butts words to warrant an answer such as he received . Rfn DOLL was not intoxicated. R.P. 83 (B) Complied with.

FOURTH WITNESS: Capt C.S. GRIFFITH R.C.A.M.C. being duly sworn states:

Rfn McIntyre had a wound on his right shoulder about two inches in length and barely skin deep. The wound was groove shaped and could have been caused by a bullet from a rifle, Sten or revolver. The wound was directly across the shoulder and came on a horizontal plane to the vertical plane of the wounded man.

QUESTIONED BY THE COURT:

The wound was only superficial and required only a dressing. The wound occurred on 22 Oct 44 but I did not see him until 24 Oct. He was treated by the R.A.P. Staff. R.P. 83 (B) Complied with.

FIRST WITNESS FOR THE DEFENCE: Capt L.R. EDWARDS being duly sworn states:

The accused Rfn DOLL is a member of my platoon. He has served with me through some rather bitter experiences and on several occasions I have called on him to perform extra-ordinary duties under fire. The man's temperament is such that he seems happier under these conditions than when things are quiet. For some reason or other he gets a kick out of such jobs as digging out snipers. His nature is quiet as a rule but very now and again he has what you might term, an out burst of words. He is very dependable in action and I would go so far as to say that he is the outstanding member of the platoon in action. where dangerous work is involved.

SUMMARY UP/// DEFENCE:

ON CHARGE: 1. There could not be any question of wilfull intent to injure as the evidence shows that the accused and the injured party were the best of friends. Rfn McIntyre continued to remain on duty and was not evacuated, hence was never made unfit for service. There is not one scrap of evidence to show this was the accused intention.

CHARGE: 2. There is no evidence to indicate that the accused fired his weapon at all. The only indication is sound of a shot and there were other shots being fired. The accused was standing on the left side of the road. The man was hit on the right. The bullet would have penetrated on an angle. It did not. Evidence shows that it penetrated on a horizontal plane from any small arm. The accused would have to take an aimed shot from the shoulder to do t is as the injured person was standing on a carrier on a higher level.

CHARGE: 3 The accused was not informed of the shooting hence had no knowledge of the reason for giving up the weapon. He had obtained same under trying circumstances hence took great pride in its possession. He thought an effort was being made to take it away for someone else's use, hence blew up.

CLOSING ADDRESS PROSECUTING OFFICER:

GENTLEMEN:

No person can read a mans mind but by his actions you can judge his intent and the fact that when Sgt Blades heard the shot from behind he immediately turned around in the carrier and saw Rfn DOLL with his Schmeiser in a hip firing position pointing directly at the carrier.

Rfn DOLL then proceded into the store and Rfn Ruamak noted immediately when DOLL began to talk to him that Rfn DOLL was apparently quite peeved at someone and when Sgt Butts came in and asked him in a reasonable manner for his weapon received the reply as written in the Charge.

Therefore DOLL'S actions and the evidence given show that his intent was to fire this weapon in direction of the persons in the carrier with the result that when a weapon is fired towards a person or persons someone is going to get hurt.

It is proven in the evidence given that Rfn DOLL did use threatening language to his superior officer and was in the frame of mind to carry out his threat if the Sgt had attempted to take his weapon away.

It is an understood fact that no person can threaten a superior officer or use abusive language.

The evidence given by the Doctor shows that the wound was caused by a bullet which came from the rear and fired on a horizontal plane to strike McIntyre who was in a vertical position in the front of the carrier, and that the bullet could not have come from a low angle or the lower side of the bike.

Gentlemen it seems quite evident that this man did fire directly at the persons in the carrier with intent to injure and that he be found guilty on charge one.

It is again proven that he did use threatening language to his Superior Officer and I ask the Court to find Rfn. DOLL guilty on this charge.

THE JUDGE ADVOCATE ADDRESSES THE COURT:

The accused is charged with "wilfully injuring a person subject to military law with intent thereby to render that person unfit for service". In that connection I will read from MAL page 109:

> "In some cases the intention--that is to say the immediate intention as distinguished from the motive--with which an act is committed becomes essential and must be proved. Intention is not, however, capable of positive proof. It can only be inferred from overt acts and where this is the case the intention may either be proved by independent evidence, as for instance by words proved to have been used by the offender, or by a previous course of conduct; or may be presumed from the act itself according to the maxim that a man intends the natural consequences of his own act. In other words the mode of discovering a man's intention is to consider what were at the time of his act the natural consequences of that act."

The third charge alleges that the accused use threatening language to his superior officer. To constitute this charge you must be satisfied that either the words themselves were threatening or the circumstances in which they were used lead the person to whom the words were addressed to believe that he was being threatened.

With ref to the first two charges you may acquit upon both but you can only find the accused guilty of one.

The onus of proving the complete charge is upon the prosecution and if upon any point you entertain a reasonable doubt, then the accused must be given the benefit of the doubt. "Reasonable doubt" does not mean the vague capricious doubt that a man who is anxious to avoid an unpleasant responsibility can conjure up in his mind. It is rather that substantial doubt which, if encountered in ordinary life, deters you from taking positive action.

SUMMARY OF EVIDENCE

In the case of H-80078 Rfn Doll, P.L., 1st Bn The REGINA RIFLE REGIMENT, a soldier of the Canadian Army Overseas

The Commanding Officer directed that all evidence be taken on oath.

FIRST WITNESS
Prosecution

L-27709 L/Sgt BLADES,R.E. of Support Coy.-1st Bn. THE REGINA RIFLE REGIMENT, an N.C.O. of the Canadian Army Overseas, having been duly sworn, states:

"At approximately 1700 hrs., 22 Oct 44 I passed Rfn. DOLL, P.L. on the road but did not hear what he said. I then proceeded down the road and heard a shot. Turning around I saw Rfn. DOLL, P.L. with a Schmeisser in his hand, pointing in the direction of the carrier. I saw a man wounded in the carrier. I stopped at "B" Coy, and got a first-aid man to come and bandage the wounded man. I then proceeded to an "O" Op. to which I was called and K-87089 Sjt. BUTT, H.M. took H-87396 Rfn. McINTYRE, R.Y., who was wounded to the R.A.P. At 2230 hrs.-22 Oct 44 - while in my billets Rfn. DOLL, P.L. returned to his quarters.

(R.E. BLADES) L/Sjt.

The evidence is read back to the accused.
The accused cross-examines this witness

Question:
"Was I the only soldier on the road?"

Answer:
" No. B-40316 Rfn. CUNLIFFE, W.G. was standing on the road and other troops further up the road."

SECOND WITNESS
Prosecution

K-87089 Sjt. BUTT, H.M. of Support Coy. - 1st Bn. THE REGINA RIFLE REGIMENT, an N.C.O. of the Canadain Army Overseas, having been duly sworn, states:

"On the 22nd day Oct 44 at approximately 1700 hrs. I got in the carrier and proceeded down the road to our platoon H.Q. I was driving the carrier and Rfn. McINTYRE,R.Y. was in the front. In route, we passed Rfn. DOLL, P.L. also Rfn. CUNLIFFE, W.G. Rfn McINTYRE, R.Y. slumped down in the seat and told me he was hit. I stopped the carrier and L/Sjt BLADES, R.E. said the accused had fired his weapon. I turned the carrier around and headed for the R.A.P. - stopped outside the house where H-1899 Rfn. RUSNAK, J. and Rfn DOLL, P.L. were in the house. I asked Rfn. DOLL, P.L. for his weapon, to which he replied. "No son-of-a-bitch will take this weapon away from me, I don't care if he is a colonel or brigadier, I'll shoot the bastards, first.;-or words to that effect.

I then left the accused with Rfn. RUSNAK, J. On returning from the R.A.P. I asked where Rfn. DOLL, P.L. was, and was told the following morning that he returned, approximately 2230 hrs 22 Oct 44.

(H.M.BUTT) Sjt

The evidence is read back to the accused.
The accused cross-examines the witness.

Question :
" At what time do you state the shooting occurred?"

Answer:
" At approximately 1700 hrs. 22 Oct 44

Question:
" Did you see Rfn fire the Schmeisser?"

Answer:
"No."

Question:
"You were only told that I fired the weapon."

Answer:
"Yes."

Question:
"Where did I go at the time that I was shown AWL?"

Answer:
"I don't know."

THIRD WITNESS
Prosecution

B-40816 Rfn CUNLIFFE, M.G. of Support Coy.- 1st Bn. THE REGINA RIFLE REGIMENT, a soldier of the Canadian Army Overseas, having been duly sworn, states:

"At about approximately 2230 hrs. 22 Oct 44 I saw Rfn. DOLL, P.L. return to his quarters.

At about approximately 1700 hrs 22 Oct 44 I was standing on the road-way in front of our quarters and a carrier went by with Sjt. BUTT, R.M., L/Sjt BLADEN,R.Y. and Rfn McINTYRE, R.Y. in the carrier.

I saw Rfn. DOLL, P.L. Standing outside a door-way, the second house down from where I was standing. As the carrier went by I was Rfn. DOLL, L.P. fire a shot from the weapon he had. When I heard the shot fired I saw Rfn. McINTYRE, R.Y. go down in front of the carrier and I was under the impression he had ducked. I came around to the back of the house and when I entered, they had brought Rfn. McINTYRE, R.Y. into the house and were finishing bandaging his wound. They then took him to the R.A.P.

(M.G. CUNLIFFE) Rfn.

The evidence is read back to the accused.
The accused cross-examines this witness.

Question:
"Did you see me fire my weapon with intentions of firing or shooting at the carrier?"

Answer:
"I do not know whether that was your intention but you fired at the carrier as it went by."

Question:
"How did you know B-87396 Rfn. McINTYRE, R.Y. was shot?"

Answer:
"Rfn McINTYRE, R.Y. told me he had been shot, when I came into the house."

Question:
" Did Rfn. McINTYRE, R.Y. tell you who shot him?"

Answer:
" Rfn McINTYRE, R.Y. said he did not know what hit him."

Question:
"Did B-87089 Sjt. BUTT, R.M. say anything about who shot Rfn. McINTYRE, R.Y.?"

Answer:
" No. Not to mem."

FOURTH WITNESS
Prosecution

H-1599 Rfn. HUSNAK, J. of support Coy. - 1st Bn. THE REGINA RIFLE REGIMENT, a soldier of the Canadian Army Overseas, having been duly sworn, states:

" At approximately 1700 hrs.- 22 Oct 44 - I was in a store next to our billets. Rfn. DOLL, P.L. was out on the road and noticed me in the store and came in to see me.

In the meantime I did not know Rfn. McINTYRE, R.Y. had been wounded, until Sjt. BUTT, H.M. came into the store where we were and asked Rfn. DOLL,P.L. for his weapon and Rfn. DOLL, P.L. replied " No son-of-a-bitch will take this weapon away from me. I don't care if he is a colonel or a brigadier. I'll shoot the bastards first." or words to that effect. Sjt. BUTT, H.M. then left to return to his billets and Rfn. DOLL, P.L. remained and talked with me.

We talked for about ten minutes and then Rfn. DOLL, P.L. left and walked down the road. I do not know where he went and did not see him again until 2230 hrs. that same night - 22 Oct 44.

(J. HUSNAK) Rfn

The evidence is read back to the accused.
The accused cross-examines this witness.

Question:
"Is there a large number of troops walking up and down the road all the time?"

Answer:
"I don't notice very many. I see them going by in two's and three's at a time."

Question:
" At the time of the shooting did you see any troops going down the road, the same time as me?"

Answer:
" No I don't know."

FIFTH WITNESS
Prosecution

H-87396 Rfn McINTYRE, R.Y. of Support Coy. 1st Bn. THE REGINA RIFLE REGIMENT, a soldier of the Canadian Army Overseas, having been duly sworn, states:

"Sunday 22 Oct 44 approximately 1700 hrs. I was taking the sergeants to an "O" Gp. and let the sergeant drive the carrier so I stood in the spare driver's side. I started out down the road - about 10 yards from the starting point Rfn. DOLL, P.L. was standing in a door-way with a civilian. As we went by Rfn DOLL, P.L. hollered - I turned my head and then turned away again. We went down the road about another twenty-five yards and that was the point where I was wounded. I met down in the front of the carriar and the sergeant asked me if I was hit and I answered him "Yes".

We went down to where the picture show was and the stretcher- bearer dressed the wound - which was on the flesh of the right shoulder.

We turned around and drove back to the house which we started from and went into the house and got some of my belongings. The sergeant then drove me to the R.A.P.

After the medical officer checked and dressed the wound we returned to the house from which we started.

(R. Y. McINTYRE) Rfn.

The evidence is read back to the accused.
The accused declines to cross-examine this witness.

SIXTH WITNESS
Prosecution

Capt. C.S. GRIFFITH, (RCAMC), Medical Officer, 1st Bn THE REGINA RIFLES REGIMENT, having been duly sworn, states:

"I am Capt C.S. Griffith, Medical Officer, attached to Regina Rifles. On Oct 26th H 87396 Rfn McINTYRE, N.Y. was brought to the RAP suffering from a flesh wound of the right shoulder. The wound was of a minor nature, it was a groove shaped wound, barely skin deep across the top of the right shoulder. In all probability this man will suffer no future disability from this wound. The wound was dressed and has subsequently healed. From the appearance of the wound I would say it could have been caused by a bullet from a rifle, sten or pistol.

The evidence is read back to the accused.
The accused declines to cross-examine the witness.

The accused was cautioned as follows:-

" Do you wish to make any statement or to give evidence on oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

After the above caution, the accused does not elect to make any statement.

" I certify that the foregoing Summary of Evidence was taken down by me in the presence of the accused, and that Rules of Procedure 4 (c)(d)(e)(f)(g) and (h) have been complied with.

(M.R. DOUGLAS) Capt.,
Regina Rif

Officer detailed to take
Summary of Evidence

Dated
In the Field
26 October 44

M.F.B. 355
JIM—5-41 (573-3)
H.Q. 1772-39-620
A.F.B. 266

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F-80078	Rifleman	COLL, P.L.	1 Regina Rif

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act / Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For Absent without leave	seven times	..... times
For Absent from parade	one time	..... times
For Breaking out of Barracks	one time	..... times
For Prejudice of good order and military discipline	one time	..... times

Number of instances of gallantry or distinguished conduct .....

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act / Air Force Act and dispensations with trial under A.A. 73 / A.F.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for ~~none~~ days in civil custody, and five days in ~~military~~ custody, making a total of five days in custody, of which none days were spent in hospital.

5. The present age of the accused according to his record of service is / attestation paper is 31 yrs.

6. The date of his ~~attestation~~ specified in his record of service is / attestation paper 5 Apr 40

7. The service which the accused is allowed to reckon towards discharge is 4 yrs 6 mos

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in / military / military possession of or entitled to). State any air force decoration or reward. / military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held / Air Force the regimental rank of .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

dated , and in his regiment (or corps), the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused. Number Rank

Name of Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
FCCM	Field 9 Dec 41	RCAS (1) Committing a civil offence, contrary to Sec 20 of the "Offences against the person Act" (11) Conduct to the prejudice of good order and Military discipline	120 Days Detention	40 Days remission of sentence 26 Feb 44
FCCM	Field 18 Dec 42	Two charges under AA Sec 15. One charge under AA Sec 24 Two charges under AA Sec 40 Cost of Apprehension 18-12-42	9 Months Detention 220 Days Pay	83 days remission of sentence 25 Jun 43
FCCM	Field 19 Oct 43	AA Sec 15(1) RCAS absent without leave from 1200 hrs 18 Aug 43 until 15 Oct 43. Total absence 58 Days, 10 hrs, 30 mins	18 Months Detention	Remitted wef 8 Aug 44

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this twenty eight day of October 1944 C.E. Kehill Capt
ADJT Regina Rif

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

No. H20072 Name DOLL P.L. | Sqn, Battery, or Company | Corps CIC | Date of enlistment 5/4/40 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/126 (5413)

Date of last entry in Company Conduct Sheet 13/9/40 | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Cove Fd Bks	8 Nov 40	Pte.		WOAS Absent from parade at 0830 hrs and 1330 hrs 8/11/40 Absent 7 hrs 30 min	PSM Good G.E. Sjt GORDON E.	7 dys CB	9 Nov 44	Capt B.T. McFarlan	Forf 1 days pay
Cove Fd. Bks	6 Dec 40	Pte.		WOAS absent without leave from 0630 hrs 6 Nov 40 to 1445 hrs 5 Nov 40 Absent 8 hrs 15 min	L-C Cameron Pte Unger H	7 Dys CB 5 dys detn Fo	7 Dec 40	Lieut NR Calder	Forf 1 days pay Forf 6 Days pay
Cove Fd Bks	15 May 41	Pte		WOAS AWL 10 hrs 15 min AA15 (1)					
Jasper Camp	3 Jun 41	Pte.		Conduct to the predj of good order etc; failing to have his rifle clean	Sjt WATT P L-C Langstaff K.W.	3 dys Detn	4 Jun 41	Lt-Col Redman	
Brixham	12 Apr	Pte.		(Sec 15)1) (WOAS being absent without leave from 2215 hrs 12 Apr 41 to 0012 hrs 13 Apr 41 Absent 1 hr 57 min	Sjt Pelletre	4 dys CB	15 Apr 41	Lt-Col A.P. Plante	

(P750)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Brixham	7 May 41	Pte.		WOAS (1) Breaking out of barracks AA10(4) (2) AWL from 2359 hrs 7 May 41 to 0900 hrs 8 May 41 AWL 9 hrs 1 minute	Pte. Stephenson RP	120 hrs detn	8 May 41	Lt RST Sealy	Forf 1 days pay
Jasper Camp	4 Jun 41	Pte.		WOAS Conduct to the predj etc;	Documentary	72 hrs detn	6 Jun 41	CO Pt 2 132	
Brixham	13 May 41	Pte.		AA Sec (15)1 AWL 10 hrs 45 mins	Sjt GHESS J	120 hrs detn	14 May 41	Lt/Col AP Plsnt	Forf 1 days pay
In the Field	11/41	Pte.		WOAS (1) Commiting a civilian offence, that is to say malicious wounding contrary to Sec 20 of the "Offences against person Act" (2) Conduct to predj etc)	Pte Ritchie	120 dys detn	9 Dec 41	FGCM	
Field	30 Jun 42	Pte		AA 15(1) WOAS absent in that he went absent from a workd party from Hanley Camp dump from 0900 hrs 30-6-42 till he reported in camp at approx 2000 hrs 30-6-42 abs 11 hrs	L/S Sutherland D Sjt Moss WF I/C Richardson DB	168 hrs detn	2 Jul 42	Lt RS Snider	Forf 1 dys pay

No H 20072 Name DOLL P.L. Sqn, Battery, or Company — Corps CIC — Date of enlistment 5/4/40 — GC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 122) 40/PAS/136 (5413)

Date of last entry in Company Conduct Sheet 13/9/40 — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine — Sheet No 2 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	28 Sep 42	Pte.		AA Sec 15(1) WOAS Absent without leave from 1200 28/9/42 to 1900 hrs 29/9/42 Absent 1 day 7 hrs	L/C Dunlop S.T.	Fined 21 days pay	30-9-42	Lt-Col DG Cunningham DSO	Forf 1 days pay
Field	6 Nov 42	Pte.		(1) Sec 15 AA (2) Sec 15 AA (3) Sec 24(2) (4) Sec 15 AA (5) Sec 40 AA	Documentary	9 months	19 Dec 42	FGCM	

Released from detention barracks Field on Jun 25 -1943 sentence having expired. Remission earned under "Rules for Detention Barracks and Military Prisons" 83 days

Certified true copy

F.H. McDougall (Major)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with Trial	By whom awarded	Remarks
Field	25 Apr 44	Pte.		Sec 15 (1) AWL from 2230 hrs 25 Apr 44 till 0600 hrs 26 Apr 44 Absent 7 hours 30 minutes	Cpl. Knox W.A.	Forf 1 days pay (149 (1) (a)) 7 Days CB	26 Apr 44	Lt-Col JH Mothersill E.D.	Auto forf 1 days pay FR&I 149 (1) (a)
				Certified true Copy (C.M. Rehill) Capt. Adjt., Regina Rif					

MITIGATION OF PUNISHMENT: Exhibit C ---DOLL

I admit: Pfn DOLL admits that his record while in England has not been all that might be desired. Since his being in Action his sheet has been clear. This is just one more of the many instances where the so-called bad boys turn out the best after all. His actions in England, I attribute to the lack of activity which brings about a state of being known as "Browned Off". He is in the Army solely for adventure and put in special application to get to Italy. When he was left off, he committed his worst offence. He is the quiet type who keeps to himself and rather than steam off to his pals, he goes away by himself. In action, in quiet spells, this evidenced by a wordy outburst, as he now feels a sense of responsibility and does not leave.

He has paid and paid dearly for his past record and I ask "Gentlemen" that you judge the man as a fighting soldier not as a parade square--barrack room one.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H-80078 Rfn Paul Lindbergh DOLL

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 16 (b)	Not Guilty	Not Guilty	
2nd	AA60	Not Guilty	Not Guilty	
3rd	AA 8 (2)	Not Guilty	Guilty	
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for [illegible] (1)

Time in confinement awaiting present trial—a total of 80 days, of which No days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned for two years

(Sgd) C.C. Hull, Judge Advocate, if any. Capt. 22 Nov 44 Date awarded. (Sgd) George A.D. Edwards, President. (RP 45, 50.) Lt Col

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 5, 7, 577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 13, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the sentence of the Court, and finding, but remit six months.

I direct that the accused be not promoted, be given no further advancement [illegible] (1. AA 57A. Delete if not used.)

(Sgd) J.G. Spurgeon Brig.
Commanding 7 th Cdn Inf Bde
Confirming Officer.

Date 9 Dec 44

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
80078 Rfn DOLL, P.L.	8 Dec 44	E.A. Fowle Lt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4N-96

FIELD GENERAL COURT-MARTIAL

CF A36 (To [illegible] of AFA 31) 60-P & B/1688 (6058) 4/38B

Convened by Order of Brig. J.G. Spurgeon Comdg 7th Cdn Inf Bde dated 19 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H. 80078	Rfn	Paul Lindbergh	DOLL	Regina Rif

Certified true copy
[illegible] Major

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 22 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which users are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 69-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1145 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO(2).

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to [illegible]

The Interpreter is sworn.(1) Do you object to [illegible] as interpreter? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member returns. RP 66(B). If objection, see procedure AA 51, RP 25, 70, 16, MML p 742.)

A7. The President, Members, JA, if any, and any other persons duly authorized, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	George A.D. Edwards	R.I.I of C.
Member	Capt.	A. Compton Lundie	1 C Scot R.
Member	Capt.	E.H. Hayward	R Chaud R.
Judge Advocate	Capt.	A.C. Hull	H.Q. 2 Cdn Inf Bde
Prosecutor	Capt.	R.B. Douglas	1 Regina Rifles
Defending Offr	Capt.	R.B. Edwards	1 Regina Rifles

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)

(1. RP 24, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Di p 2.)

A8. The accused H 80078 Rfn Paul Lindbergh DOLL 1 Regina Rifles before arraignment makes(s) (no) (1) plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(C), 108), or as to the jurisdiction of the Court (RP 54, 15(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in all cases the unit name of the accused making the plea.)

A9. The accused is (are) arraigned separately on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. *RP 37(B).* 2. *RP 37(D), fn 6.* 3. *RP 25(B) fn 3 para 3, MML p. 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statements. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No.....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish, *prima facie* case against the accused on the charge(s).(2) The Court is closed, and considers the submission. The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the [illegible].(3)

(1. *Delete remainder of this para. If submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. Neither. Do you intend to call witnesses on your behalf ?

Ans. Yes. Are they witnesses as to character only ? Ans. Yes.....

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the third charge(s), being subject to confirmation, will be promulgated later (1)

Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 34(3) (b), RP 45, 120(A).* 2. *AA 34(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. No

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy(ies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 14(2)(i) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)

(1. *MFB 253 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes.....(2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 34(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)

(1. *When several accused tried cooperately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Con 508, 530, 563-566, Overseas RO 309, 2323, MML p 80, 737-738. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 56(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see insert on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H.20072 Rfn Paul Lindbergh DOLL, 1st Bn The Regina Rifle Regiment, a soldier of the Canadian Army Overseas, while on Active Service, is charged with:

First Charge
Sec 18 (3)
Army Act

WILFULLY INJURING A PERSON SUBJECT TO MILITARY LAW WITH INTENT THEREBY TO RENDER THAT PERSON UNFIT FOR SERVICE

in that he

in the field on 22 Oct 44 did deliberately discharge his weapon, thereby wounding H.87396 Rfn McIntyre, R.Y. a person subject to military law, with intent thereby to render that person unfit for service.

Second Charge
Alternate to
First Charge
Sec 40
Army Act

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on 22 Oct 44 did negligently discharge his weapon, thereby wounding H.87396 Rfn McIntyre, R.Y. a person subject to military law.

Third Charge
Sec 8 (2)
Army Act

USING THREATENING LANGUAGE TO HIS SUPERIOR OFFICER

in that he

on 22 Oct 44, when ordered by K.57059 Sjt Butt, R.M. to hand over his weapon, did say "No son-of-a-bitch will take this weapon away from me, I don't care if he is a colonel or a brigadier, I'll shoot the bastards first", or words to that effect.

Remanded for FGCM 1215 hrs 23 Oct 44

In the Field
23 Oct 44

(A S Gregory) Lt Col
Officer Commanding
1 Regina Rif

To be tried by Field General Court Martial
date 21 Nov 44

J.C. Spreagre, Brig.

Convening Officer

TO WHOM IT MAY CONCERN:

I certify that H 20078 Rfn DCLI P.I. is medically fit to stand trial for Court/Martial.

C.S. Griffith (Capt)
(Medical Officer)

Date Nov 22 1944

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
H. 20072	Rfn.		Paul Lindbergh	DOLL	Regina Rif

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 19 Nov 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. ~~And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; and that it is not practicable to delay the trial for reference to a superior qualified offr.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	C.A.L. EDWARDS	R.L.I of C.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	A COMPTON-LUNDIE	1 C.Scot R
An offr to be detailed by	Comd 8 Cdn Inf Bde	

Capt. W.H. Hayward — N Shore Regt

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
An offr to be detailed by the	CRA 3 Cdn Inf Div	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	A.C. Hell	H. 3 Cdn Inf Div

On Active Service in the Fd

in NORTH WEST EUROPE (Country.)

Date 19 Nov 44

(Signed personally. RP 105 fn 2.)

(J C. Spragge)

Brigadier (Rank.)

Commanding 7 Canadian Infantry Brigade
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

FIRST WITNESS: 1.27709 L/Sgt Blades, R.R., Regina Rifles being duly sworn states:

On the afternoon of Oct 28 at approx 1700 hrs Sgt. Butt and I were called for our "O" Grp. There reporting in a carrier, we passed Rfn. DOLL on the road. After passing him by about 50 yds, I heard a shot and saw Rfn. McIntyre R.Y. slump down in the carrier, and turning around saw Rfn. DOLL with a Schmeiser in his hand pointing in the direction of the carrier. Sgt. Butt stopped the carrier, and I went to the "B" Coy for a stretcher-bearer. After the wound was dressed, Sgt Butt took McIntyre to the R.A.P. and I proceeded to the "O" Grp.

CROSS EXAMINATION:

I did not see Rfn DOLL fire the Schmeiser.
There was other firing going on in the area.
There were other soldiers and civilians in the area.
Rfn. DOLL was standing on the left side of the road.
Rfn. DOLL was not aiming the weapon.

RE-EXAMINATION:

We were in a rear area at the time and the other firing that was taking place was being done behind a building.

Witness demonstrates position of weapon as the hip firing position.

Questioned by the Court witness states:

Rfn. McIntyre was standing in the front of the carrier. He was shot in the back of the shoulder. He was facing forward. When I looked around Rfn. DOLL was looking down the road toward the carrier. There was no visible sign of the weapon having just been fired. I did not speak to Rfn DOLL immediately after the occurance.

R.P. 83 (B) complied with

SECOND WITNESS: K57059 Sgt Butt, M.M. 1 Regina Rifles being duly sworn states:

On the 28 Oct 44 at approx 1700 hrs I got into the drivers seat of a carrier with Rfn McIntyre in the front beside me and L/Sgt Blades in the back behind Rfn McIntyre. We three drove down the road and passed Rfn DOLL and Cunliffe. After we had passed there Rfn McIntyre who was standing in the front slumped down in the seat. I asked him what was the matter and he said he was hit. I did not hear any shot fired over the noise of the motor. By the time I had stopped the carrier we were in "B" Coy area. A First Aid man dressed the wound. I turned the carrier around and went back down the road toward the R.A.P. and stopped in the vicinity of where I had seen the accused. I found him in a building with Rfn Busnak. I asked the accused for his weapon, and he refused to give it to me saying words to the effect "That no bastard would take the weapon off him even if he was the Brigadier. I'll shoot them first". I there left the accused with Rfn Busnak and took Rfn McIntyre to the R.A.P. After he was treated I returned to where I had left the accused and Rfn Busnak. When I got there the accused could not be found. I did not take the weapon from the accused where I returned to him in view of his attitude and what had already taken place. I intended to return with an escort later and place him under arrest. At the time of the incident I was in a rear area.

CROSS EXAMINATION:

The accused said nothing to us when we passed in the carrier that I could hear. There was no written order re the carrying of arms. Weapons were only carried depending on where the man was going. It was understood that civilians were to be treated with suspicion. To my knowledge Rfn DOLL and McIntyre were on friendly terms and had not quarrelled. Rfn McIntyre was not evacuated because of the wound. When I asked Rfn DOLL for his weapon I said "Give me your weapon for your own benefit." I did not state why I wanted the weapon. I saw the wound on Rfn McIntyre. The impression of the shot was straight forward in the right shoulder. I did not see the accused fire the weapon.

(cont'd)

QUESTIONED BY THE COURT:

As I had not heard the shot I did not look around to see where it had come from. I had no conversation with the accused other than to ask him for his weapon.
R.P. 83 (B) Complied with.

THIRD WITNESS: H 1599 Rfn Rusnak J. 1 Regina Rifles being duly sworn states:

On the afternoon of 22 Oct 44 at approx 1700 hrs I was in the store near our billets. Rfn DOLL was passing, and seeing me in the store came in to talk to me. We had talked for a short time when Sgt Butt came into the store and asked Rfn DOLL to hand over his weapon to him. Rfn DOLL replied, " No son-of-a-bitch will take this weapon from me. I don't care if he's a Col or a Brigadier, I'll shoot the bastard first. Sgt Butt then left to go back to our billets. After Sgt. Butt had gone we talked for a few more minutes. Then Rfn DOLL got up and walked down the road. Rfn DOLL seemed angry about something while he came into the store but was not under the influence of liquor. Upon the evidence being read over the witness objected to the word angry, and said that he merely got the impression that Rfn DOLL was not pleased about something.

CROSS EXAMINATION

I did not hear any firing during the time I was in the store. There was firing going on before I went into the store. The town had been shelled and the walls of the buildings were pretty well damaged.

QUESTIONED BY THE COURT:

I do not remember any other part of my conversation with the accused. The shooting going on was the usual zeroing and trying out of weapons. The village was on the dike. There was a straight road with buildings only on one side to a fort where the buildings were on both sides of the two forks. Rfn DOLL's attitude to Sgt. Butt was not his normal way of speaking to a N.C.O. I have known Rfn DOLL for some time. There was nothing in Sgt Butts words to warrant an answer such as he received . Rfn DOLL was not intoxicated.
R.P. 83 (B) Complied with.

FOURTH WITNESS: Capt G.S. GRIFFITH R.C.A.M.C. being duly sworn states:

Rfn McIntyre had a wound on his right shoulder about two inches in length and barely skin deep. The wound was groove shaped and could have been caused by a bullet from a rifle, Sten or revolver. The wound was directly across the shoulder and came on a horizontal plane to the vertical plane of the wounded man.

QUESTIONED BY THE COURT:

The wound was only superficial and required only a dressing. The wound occurred on 22 Oct 44 but I did not see him until 24 Oct. He was treated by the R.A.P. Staff.
R.P. 83 (B) Complied with.

FIRST WITNESS FOR THE DEFENCE: Capt I.R. EDWARDS being duly sworn states:

The accused Rfn DOLL is a member of my platoon. He has served with me through some rather bitter experiences and on several occasions I have called on him to perform extra-ordinary duties under fire. The man's temperament is such that he seems happier under these conditions than when things are quiet. For some reason or other he gets a kick out of such jobs as digging out snipers. His nature is quiet as a rule but very now and again he has what you might term, an out burst of words. He is very dependable in action and I would go so far as to say that he is the outstanding member of the platoon in action, where dangerous work is involved.

SUMMARY UP/// DEFENCE:

ON CHARGE: 1. There could not be any question of wilfull intent to injure as the evidence shows that the accused and the injured party were the best of friends. Rfn McIntyre continued to remain on duty and was not evacuated, hence was never made unfit for service. There is not one scrap of evidence to show this was the accused intention.

CHARGE: 2. There is no evidence to indicate that the accused fired his weapon at all. The only indication is sound of a shot and there were other shots being fired. The accused was standing on the left side of the road. The man was hit on the right. The bullet would have penetrated on an angle. It did not. Evidence shows that it penetrated on a horizontal plane from any small arm. The accused would have to take an aimed shot from the shoulder to do this as the injured person was standing on a carrier on a higher level.

CHARGE: 3 The accused was not informed of the shooting hence had no knowledge of the reason for giving up the weapon. He had obtained same under trying circumstances hence took great pride in its possession. He thought an effort was being made to take it away for someone else's use, hence blew up.

CLOSING ADDRESS PROSECUTING OFFICER:

GENTLEMEN:

No person can read a mans mind but by his actions you can judge his intent and the fact that when Sgt Blades heard the shot from behind he immediately turned around in the carrier and saw Rfn DOIL with his Schmeiser in a hip firing position pointing directly at the carrier.

Rfn DOIL then proceded into the store and Rfn Busnak noted immediately when DOIL began to talk to him that Rfn DOIL was apperently quite peeved at someone and when Sgt Butts came in and asked him in a reasonable manner for his weapon received the reply as written in the Charge.

Therefore DOIL'S actions and the evidence given show that his intent was to fire this weapon in direction of the persons in the carrier with the result that when a weapon is fired towards a person or persons someone is going to get hurt.

It is proven in the evidence given that Rfn DOIL did use threatening language to his superior officer and was in the frame of mind to carry out his threat if the Sgt had attempted to take his weapon away.

It is an understood fact that no person can threaten a superior officer or use abusive language.

The evidence given by the Doctor shows that the wound was caused by a bullet which came from the rear and fired on a horizontal plane to strike McIntyre who was in a vertical position in the front of the carrier, and that the bullet could not have come from a low angle or the lower side of the Lyke.

Gentlemen it seems quite evident that this man did fire directly at the persons in the carrier with intent to injure and that he be found guilty on charge one.

It is again proven that he did use threatening language to his Superior Officer and I ask the Court to find Rfn. DOIL guilty on this charge.

THE JUDGE ADVOCATE ADDRESSES THE COURT:

The accused is charged with "wilfully injuring a person subject to military law with intent thereby to render that person unfit for service". In that connection I will read from MML page 109:

> "In some cases the intention--that is to say the immediate intention as distinguished from the motive--with which an act is committed becomes essential and must be proved. Intention is not, however, capable of positive proff. It can only be inferred from overt acts and where this is the case the intention may either be proved by independent evidence, as for instance by words proved to have been used by the offender, or by a previous course of conduct; or may be presumed from the act itself according to the maxim that a man intends the natural consequences of his own act. In other words the mode of discovering a man's intention is to consider what were at the time of his act the natural consequences of that act."

The third charge alleges that the accused use threatening language to his superior officer. To constitute this charge you must be satisfied that either the words themselves were threatening or the circumstances in which they were used lead the person to whom the words were addressed to believe that he was being threatened.

With ref to the first two charges you may acquit upon both but you can only find the accused guilty of one.

The onus of proving the complete charge is upon the prosecution and if upon any point you entertain a reasonable doubt, then the accused must be given the benefit of the doubt. "Reasonable doubt" does not mean the vague capricious doubt that a man who is anxious to avoid an unpleasant responsibility can conjure up in his mind. It is rather that substantial doubt which, if encountered in ordinary life, deters you from taking positive action.

SUMMARY OF EVIDENCE

In the case of H-20072 Rfn Doll, P.L., 1st Bn The REGINA RIFLE REGIMENT, a soldier of the Canadian Army Overseas

The Commanding Officer directed that all evidence be taken on oath.

FIRST WITNESS
Prosecution

L-27709 L/Sgt BLADES,R.E. of Support Coy.-1st Bn. THE REGINA RIFLE REGIMENT, an N.C.O. of the Canadian Army Overseas, having been duly sworn, states:

"At approximately 1700 hrs., 22 Oct 44 I passed Rfn. DOLL, P.L. on the road but did not hear what he said. I then proceeded down the road and heard a shot. Turning around I saw Rfn. DOLL, L.P. with a Schmeisser in his hand, pointing in the direction of the carrier. I saw a man wounded in the carrier. I stopped at "B" Coy, and got a first-aid man to come and bandage the wounded man. I then proceeded to an "O" Gp. to which I was called and H-87089 Sjt. BUTT, M.M. took H-87396 Rfn. McINTYRE, R.Y., who was wounded to the R.A.P. At 2230 hrs.-22 Oct 44 - while in my billets Rfn. DOLL, P.L. returned to his quarters.

(R.E. BLADES) L/Sjt.

The evidence is read back to the accused.
The accused cross-examines this witness

Question:
"Was I the only soldier on the road?"

Answer:
" No. B-40316 Rfn. CUNLIFFE, E.G. was standing on the road and other troops further up the road."

SECOND WITNESS
Prosecution

H-87089 Sjt. BUTT, M.M. of Support Coy. - 1st Bn. THE REGINA RIFLE REGIMENT, an N.C.O. of the Canadian Army Overseas, having been duly sworn, states:

"On the 22nd day Oct 44 at approximately 1700 hrs. I got in the carrier and proceeded down the road to our platoon H.Q. I was driving the carrier and Rfn. McINTYRE,R.Y. was in the front. In route, we passed Rfn. DOLL, P.L. also Rfn. CUNLIFFE, E.G. Rfn McINTYRE, R.Y. slumped down in the seat and told me he was hit. I stopped the carrier and L/Sjt BLADES, R.E. said the accused had fired his weapon. I turned the carrier around and headed for the R.A.P. - stopped outside the house where H-1999 Rfn. HUSNAR, J. and Rfn DOLL, P.L. were in the house. I asked Rfn. DOLL, P.L. for his weapon, to which he replied. "No son-of-a-bitch will take this weapon away from me, I don't care if he is a colonel or brigadier, I'll shoot the bastards, first.;-or words to that effect.

I then left the accused with Rfn. HUSNAR, J. On returning from the R.A.P. I asked where Rfn. DOLL, P.L. was, and was told the following morning that he returned, approximately 2230 hrs 22 Oct 44.

(H.M.BUTT) Sjt

The evidence is read back to the accused.
The accused cross-examines the witness.

Question :
" At what time do you state the shooting occurred?"

Answer:
" At approximately 1700 hrs. 22 Oct 44

Question:
" Did you see man fire the Schmeisser?"

Answer:
"No."

Question:
"You were only told that I fired the weapon."

Answer:
"Yes."

Question:
"Where did I go at the time that I was shown AWL?"

Answer:
"I don't know."

THIRD WITNESS
Prosecution

B-40316 Rfn CUNLIFFE, W.G. of Support Coy.- 1st Bn. THE REGINA RIFLE REGIMENT, a soldier of the Canadian Army Overseas, having been duly sworn, states:

"At about approximately 2230 hrs. 22 Oct 44 I saw Rfn. DOLL. P.L. return to his quarters.

At about approximately 1700 hrs 22 Oct 44 I was standing on the road-way in front of our quarters and a carrier went by with Sjt. BUTT, H.M., L/Sjt BLADES,H.B. and Rfn McINTYRE, R.Y. in the carrier.

I saw Rfn. DOLL, P.L. standing outside a door-way, the second house down from where I was standing. As the carrier went by I was Rfn. DOLL, L.P. fire a shot from the weapon he had. When I heard the shot fired I saw Rfn. McINTYRE, R.Y. go down in front of the carrier and I was under the impression he had ducked. I came around to the back of the house and when I entered, they had brought Rfn. McINTYRE, R.Y. into the house and were finishing bandaging his wound. They then took him to the R.A.P.

(W.G. CUNLIFFE) Rfn.

The evidence is read back to the accused.
The accused cross-examines this witness.

Question:
"Did you see me fire my weapon with intentions of firing or shooting at the carrier?"

Answer:
"I do not know whether that was your intention but you fired at the carrier as it went by."

Question:
"How did you know B-87296 Rfn. McINTYRE, R.Y. was shot?"

Answer:
"Rfn McINTYRE, R.Y. told me he had been shot, when I came into the house."

Question:
" Did Rfn. McINTYRE, R.Y. tell you who shot him?"

Answer:
" Rfn McINTYRE, R.Y. said he did not know what hit him."

Question:
"Did B-87069 Sjt. BUTT, H.M. say anything about who shot Rfn. McINTYRE, R.Y.?"

Answer:
" No. Not to me."

FOURTH WITNESS
Prosecution

H-1599 Rfn. RUSNAK, J. of Support Coy. - 1st Bn. THE REGINA RIFLE REGIMENT, a soldier of the Canadian Army Overseas, having been duly sworn, states:

" At approximately 1700 hrs.- 22 Oct 44 - I was in a store next to our billets. Rfn. DOLL, P.L. was out on the road and noticed me in the store and came in to see me.

In the meantime I did not know Rfn. McINTYRE, R.Y. had been wounded, until Sjt. BUTT, H.M. came into the store where we were and asked Rfn. DOLL,P.L. for his weapon and Rfn. DOLL, P.L. replied " No son-of-a-bitch will take this weapon away from me. I don't care if he is a colonel or a brigadier. I'll shoot the bastards first." or words to that effect. Sjt. BUTT, H.M. then left to return to his billets and Rfn. DOLL, P.L. remained and talked with me.

We talked for about ten minutes and then Rfn. DOLL, P.L. left and walked down the road. I do not know where he went and did not see him again until 2230 hrs. that same night - 22 Oct 44.

(J. RUSNAK) Rfn

The evidence is read back to the accused.
The accused cross-examines this witness.

Question:
"Is there a large number of troops walking up and down the road all the time?"

Answer:
"I don't notice very many. I see them going by in two's and three's at a time."

Question:
" At the time of the shooting did you see any troops going down the road, the same time as me?"

Answer:
" No I don't know."

FIFTH WITNESS
Prosecution

H-87396 Rfn McINTYRE, R.Y. of Support Coy. 1st Bn. THE REGINA RIFLE REGIMENT, a soldier of the Canadian Army Overseas, having been duly sworn,states:

"Sunday 22 Oct 44 approximately 1700 hrs. I was taking the sergeants to an "O" Gp. and let the sergeant drive the carrier so I stood in the spare driver's side. I started out down the road - about 10 yards from the starting point Rfn. DOLL, P.L. was standing in a door-way with a civilian. As we went by Rfn DOLL, P.L. hollered - I turned my head and then turned away again. We went down the road about another twenty-five yards and that was the point where I was wounded. I sat down in the front of the carrier and the sergeant asked me if I was hit and I answered him "Yes".

We went down to where the picture show was and the stretcher- bearer dressed the wound - which was on the flesh of the right shoulder.

We turned around and drove back to the house which we started from and went into the house and got some of my belongings. The sergeant then drove me to the R.A.P.

After the medical officer checked and dressed the wound we returned to the house from which we started.

(R. Y. McINTYRE) Rfn.

The evidence is read back to the accused.
The accused declines to cross-examine this witness.

SIXTH WITNESS
Prosecution

Capt. G.S. GRIFFITH, (RCAMC), Medical Officer, 1st Bn THE REGINA RIFLES REGIMENT, having been duly sworn, states:

"I am Capt G.S. Griffith, Medical Officer, attached to Regina Rifles. On Oct 26th H 87396 Rfn McINTYRE, R.Y. was brought to the RAP suffering from a flesh wound of the right shoulder. The wound was of a minor nature, it was a groove shaped wound, barely skin deep across the top of the right shoulder. In all probability this man will suffer no future disability from this wound. The wound was dressed and has subsequently healed. From the appearance of the wound I would say it could have been caused by a bullet from a rifle, sten or pistol.

The evidence is read back to the accused.
The accused declines to cross-examine the witness.

The accused was cautioned as follows:-

" Do you wish to make any statement or to give evidence on oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

After the above caution, the accused does not elect to make any statement.

" I Certify that the foregoing Summary of Evidence was taken down by me in the presence of the accused, and that Rules of Procedure 4 (c)(d)(e)(f)(g) and (h) have been complied with.

(B.R. DOUGLAS) Capt.,
Regina Rif

Officer detailed to take
Summary of Evidence

Dated
In the Field
26 October 44

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1773-39-520
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-20072	Rifleman	DOLL, P.L.	1 Regina Rif

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act / Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For Absent without leave	seven times	..... times
For Absent from parade	one time	..... times
For Breaking out of Barracks	one time	..... times
For Prejudice of good order and military discipline	one time	..... times

Number of instances of gallantry or distinguished conduct .....

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act / Air Force Act and dispensations with trial under A.A. 73 / A.F.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for ~~none~~ days in civil custody, and five days in ~~civil~~ military custody, making a total of five days in custody, of which none days were spent in hospital.

5. The present age of the accused according to his record of service is / attestation paper is 31 yrs.

6. The date of his ~~attestation~~ specified in his record of service is / attestation paper 5 Apr 40

7. The service which the accused is allowed to reckon towards discharge is 4 yrs 6 mos

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of / entitled to no air force / military decoration, or air force / military reward (or is in possession of or entitled to). State any air force / military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of ..... Air Force

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated, and in his regiment (or corps), the rank of dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank Unit Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
FGCM	Field 9 Dec 41	WOAS (1) Committing a civil offence, contrary to Sec 20 of the "Offences against the person Act" (11) Conduct to the prejudice of good order and military discipline	180 Days Detention	40 Days remission of sentence 26 Feb 44
FGCM	Field 18 Dec 42	Two charges under AA Sec 15. One charge under AA Sec 24 Two charges under AA Sec 40 Cost of Apprehension 22-12-04	9 Months Detention 300 Days Pay	82 days remission of sentence 25 Jun 43
FGCM	Field 19 Oct 43	AA Sec 15(1) WOAS absent without leave from 1900 hrs 16 Aug 42 until 13 Oct 43. Total absence 56 Days, 10 hrs. 30 mins	18 Months Detention	Remitted wef 8 Aug 44

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this twenty eight day of October 1944 C.N. Rehill Capt ADJT Regina Rif

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

No. H 20072 Name DOLL P.L. Sqn, Battery, or Company — Corps CIC — Date of enlistment 5/4/40 — GC Badges — Service or Proficiency Pay 3/17 MFM 6 (AFD 122) 40/PAR/156 (5418)

Date of last entry in Company Conduct Sheet 13/9/42 — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine — Sheet No 2 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28 Sep 42	Pte.		AA Sec 15(1) WOAS Absent without leave from 1200 28/9/42 to 1900 hrs 29/9/42 Absent 1 day 7 hrs	L/C Dunlop S.T.	Fined 21 days pay	30-9-42	Lt-Col DG Cunningham DSO	Forf 1 days pay
Field	6 Nov 42	Pte.		(1) Sec 15 AA (2) Sec 15 AA (3) Sec 24(2) (4) Sec 15 AA (5) Sec 40 AA	Documentary	6 months	19 Dec 42	FGCM	

Released from detention barracks Field on Jun 25 -1943 sentence having expired. Remission earned under "Rules for Detention Barracks and Military Prisons" 83 days

Certified true copy

F.H. McDougall (Major)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25 Apr 44	Pte.		Sec 15 (1) AWL from 2230 hrs 25 Apr 44 till 0600 hrs 26 Apr 44 Absent 7 hours 30 minutes	Cpl. Knox W.A.	Forf 1 days pay (149 (1) (a)) 7 Days CB	26 Apr 44	Lt-Col JH Mothersill E.D.	Auto forf 1 days pay FR&I 149 (1) (a)

Certified true Copy
(C.M. Rehill) Capt.
Adjt., Regina Rif

No. H20072 Name DOLL P.L. | Sqn, Battery, or Company | Corps CIC | Date of enlistment 5/4/40 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 60/FAS/136 (5418)

Date of last entry in Company Conduct Sheet 13/9/41 | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Cove Fd Bks	8 Nov 40	Pte.		WOAS Absent from parade at 0830 hrs and 1330 hrs 8/11/40 Absent 7 hrs 30 min	PSM Good G.E. Sjt GORDON E.	7 dys CB	9 Nov 40	Capt B.T. McFarlen	Forf 1 days pay
Cove Fd. Bks	6 Dec 40	Pte.		WOAS absent Without leave from 0630 hrs 6 Nov 40 to 1445 hrs 5 Nov 40 Absent 8 hrs 15 min	L-C Cameron Pte Unger H	7 Dys CB 5 dys detn Fo	7 Dec 40	Lieut NR Calder	Forf 1 days pay Forf 6 Days pay
Cove Fd Bks	15 May 41	Pte		WOAS AWL 1C hrs 15 min AA15·(1)					
Jasper Camp	3 Jun 41	Pte.		Conduct to the predj of good order etc; failing to have his rifle clean	Sjt WATT P L-C Langstaff K.W.	3 dys Detn	4 Jun 41	Lt-Col Redman	
Brixham	12 Apr	Pte.		(Sec 15)1) (WOAS being absent without leave from 2215 hrs 12 Apr 41 to 0012 hrs 13 Apr 41 Absent 1 hr 57 min	Sjt Pelletre	4 dys CB	15 Apr 41	Lt-Col A.P. Plante	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Brixham	7 May 41	Pte.		WOAS (1) Breaking out of barracks AA10(4) (2) AWL from 2359 hrs 7 May 41 to 0900 hrs 8 May 41 AWL 9 hrs 1 minute	Pte. Stephenson RF	120 hrs detn	8 May 41	Lt RST Seely	Forf 1 days pay
Jasper Camp	4 Jun 41	Pte.		WOAS Conduct to the predj etc;	Documentary	72 hrs detn	6 Jun 41	CO Pt 2 132	
Brixham	13 May 41	Pte.		AA Sec (15)1 AWL 10 hrs 45 mins	Sjt SHESS J	120 hrs detn	14 May 41	Lt/Col AP Plant	Forf 1 days pay
In the Field	11/41	Pte.		WOAS (1) Commiting a civilian offence, that is to say malicious wounding contrary to Sec 20 of the "Offences against person Act" (2) Conduct to predj etc)	Pte Ritchie	120 dys detn	9 Dec 41	FGCM	
Field	30 Jun 42	Pte		AA 15(1) WOAS absent in that he went absent from a workd party from Hanley Camp dump from 0900 hrs 30-6-42 till he reported In camp at approx 2000 hrs 30-6-42 abs 11 hrs	L/S Sutherland D Sjt Moss WF L/C Richardson DR	168 hrs detn	2 Jul 42	Lt RS Snider	Forf 1 dys pay

MITIGATION OF PUNISHMENT: Exhibit C ---DOLL

I admit: Pte DOLL admits that his record while in England has not been all that might be desired. Since his being in Action his sheet has been clear. This is just one more of the many instances where the so-called bad boys turn out the best after all. His actions in England, I attribute to the lack of activity which brings about a state of being known as "Browned Off" He is in the Army solely for adventure and put in special application to get to Italy. When he was left off, he committed his worst offence. He is the quiet type who keeps to himself and rather than steam off to his pals, he goes away by himself. In action, in quiet spells, this evidenced by a wordy outburst, as he now feels a sense of responsibility and does not leave.

He has paid and paid dearly for his past record and I ask "Gentlemen" that you judge the man as a fighting soldier not as a parade square--barrack room one.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H-20072 Rfn Paul Lindbergh DCLI

Charge. (Insert " alternative " where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 18 (3)	Not Guilty	Not Guilty	
2nd AA40	Not Guilty	Not Guilty	
3rd AA 8 (2)	Not Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~As present ~~ (1)

~~To [illegible]~~

Time in confinement awaiting present trial—a total of 20 days, of which No days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned for two years

(Sgd) A.C. Hall, Judge-Advocate, if any. Capt — 22 Nov 44, Date awarded. — (Sgd) George A.E. Edwards, President. (RP 45, 50.) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the sentence of the Court, and finding, but remit six months.

~~I direct that the accused be [illegible]~~ (1. AA 57A. Delete if not used.)

(Sgd) J.G. Sprague Brig.

Date 7 Dec 44

Commanding 7 th Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
H - 20072 Rfn DCLI, P.L.	8 Dec 44	E.A. Fowle Lt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4N-96

FIELD GENERAL COURT-MARTIAL

CFA96 (To [illegible] AFA81) 40/P & S/1[illegible] (40/DD)

4/38B

Convened by Order of Brig. J.G. Sprague Comd 7 Cdn Inf Bde dated 19 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H. 20072	Rfn		Paul Lindbergh	DCLI	Regina Rif

~~confirmed time cd~~ ~~Geo Waugh Major~~

~~Cdn Base [illegible] Feb 45~~

PROCEEDINGS OF TRIAL.

Held in the Fd [illegible] (country) HOLLAND on (date(s)) 22 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1145 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~[illegible]~~ Ans No

~~The Prosecutor informs the Court that the accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, ~~and offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	George A.E. Edwards	H.L.I of C.
Member	Capt.	A. Compton Lundie	1 C Scot R.
Member	Capt.	W.H. Hayward	N Shore R.
Judge-Advocate	Capt.	A.C. Hall	HQ 3 Cdn Inf Div
Prosecutor	Capt.	E.E. Douglas	1 Regina Rifles
Defending Offr	Capt.	E.E. Edwards	1 Regina Rifles

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused H 20072 Rfn Paul Lindbergh DCLI before arraignment make(s) (no) ~~a~~ plea

1 Regina Rifles (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (G)), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 13C, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned ~~severally~~ separately on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without asthy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*Ii*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 25(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to that Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

File here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statements or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is cleared, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Neither Do you intend to call witnesses on your behalf? Ans Yes Are they witnesses as to character only? Ans Yes
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the third charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 34(2) (a), RP 45, 120(A).* 2. *AA 34(3), RP 45, 117. This alternative pronouncement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents relate to the accused, because (i) they purport to be signed in the manner required by AA 163(i) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 538. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 34(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 46 proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 1313. MML p 80, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(i), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Convening Offr see KR Can 367. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

924 (2nd Case)

Pte Doll, P.L.

—

See 1726 for 1st case

Correspondence to be PINNED here.

5-4-4
924

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this SEVENTEENTH day of DECEMBER, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 6 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

"A"
F.J. Gilsour
Maj
Hq 2 Cdn Div

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[redacted]

In my opinion military exigencies, namely the dispersion of units and difficulties of communication and other difficulties render it inexpedient to observe the provisions of those rules inconsistent with Appendix "A" to D.R.O. 772 on the trial of the person named in the annexed schedule.

82

President.

Rank.	Name.	Regiment.
Major	F.J. Gilsour	Hq 2 Cdn Div

Members.

Rank.	Name.	Regiment.
Major	P.E. Lambert	Fus M R
Capt.	J.D.E. McManus	Camerons of C
Waiting Member		
Lieut	R.E. Doyle	S Sask R
Officer under Instruction		
Lieut	R.R. Counsell	Camerons of C

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed.
Commanding (H.A. Young), Brig,
6 Cdn. Inf. Bde.
Convening Officer.

* Convening Officer

for Reviewing Officer (J.A.G.) CHICAGO

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
H-20072 Pte PAUL LINDBERGH DOLL, Camerons of C	First Charge A.A. Sec 15(1) See charge sheet att	Guilty	Guilty	
	Second Charge A.A. Sec 15(1) See charge sheet att	Guilty	Guilty	
	Third Charge A.A. Sec 24(2) See charge sheet att.	withdrawn by Prosecution		
	Fourth Charge A.A. Sec 40 See charge sheet att	Guilty	Guilty	Confirmed 19 Dec 42
	Fifth Charge A.A. Sec 40 See charge sheet att	Guilty	Guilty Stoppage of $2/2/12/4 per day extra 9 Months detention 18 Dec '1942 J Wilmour Maj Pres	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) (H.A. Young), Brig, (Signed) J Wilmour Major.
Commanding 6 Cdn Inf Bde.
Confirming Officer (e). *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 18th day of December 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 18th day of December 1942.
J Wilmour Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*f*) on page 764 M.M.L. 1929.

I certify that the terms of *A.C.I. 370 of 1918 have been complied with.

Signed this ____ day of ____ 19__
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or having such authority, recommends suspension.

* ~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

Signed this 19th day of December 1942
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) 21 Dec 42 (Signed) L.D. MacNeil Capt - Adjt

Promulgated and extracts taken in the case of

(Dated) ____ (Signed) ____

Promulgated and extracts taken in the case of

(Dated) ____ (Signed) ____

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

M.F.B. 355
40/F & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H20072	Pte.	DOLL, P.L.	Camerons of Canada.

1. The following is a fair and true summary of the entries in the ~~Service and General Regimental and Squadron (Battery) Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For A.W.L.	two times	Seven times
For Conduct to the Prejudice,	times	Three times
For Breaking out	times	One times
For	times	times

~~(Number of instances of gallantry or distinguished conduct)~~

or,

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for 1 days in civil custody, and 4 days in military custody, making a total of 5 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 28 years

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 5 Apr 40

7. The service which the accused is allowed to reckon towards discharge is 2 years, 1 months and 23 days.

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to)~~. ~~State any air force decoration or reward~~ ~~military~~.

10. ~~(If the accused has warrant officer) The accused holds (or holds) a warrant officer's rank of the regimental rank of~~ "R" J. Johnson Maj Pay

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated, and in his regiment (or corps) the rank of dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, Air Force Act, and of cases in which trial has been dispensed with of accused, Number H200752 Rank PTE

Name DOLL, P L of Camerons of Canada, Cdn. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	In The Field	Malicious wounding A.A. Sec. 41 Conduct to the prejudice A.A. Sec. 40	120 days detention	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16 day of December 1942 A.B. MacNeill Capt.
(A.B. MacNeill)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Camerons of C. signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F.B. 122)
12DM—7-41 (1778-39)
H.Q. 1772-39-1652

No. H 20[illegible] Name DOLL, P L Sqn., Battery, or Company "D" Corps Q.O.C.H. of C. Date of enlistment 5/4/40 G.C. Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet 13/9/40 No. and date of last drunk N11 Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In The Field	30/6/42	Pte		W.O.A.S. absent in that he went absent from a work party at Morley Camp Dump from 0900 hrs 30.6.42 until he reported to camp at approx. 2000 hrs, 30.6.42 Absent 11 hrs. Sec 15(1) A.A.	L/S Sutherland, D Sgt. Moss, W.F. L/C Richardson, D.R.	168 hrs detention	2/7/42	Lieut. H. S. Snider	Forfeits 1 days pay.
In The Field	28/9/42	Pte.		W.O.A.S. absent without leave from 1200 hrs, 28.9.42 to 1900 hrs 29.9.42. Absent 1 day 7 hrs. A.A. 15 (1)	L/C. Dunlop, S.T.	Fined 21 days pay	30/9/42	Lt.-Col. D.C. Cunningham D.S.O.	Forfeits 1 days pay.

"S" Hutchinson Maj. A.P.M.

CERTIFIED TRUE COPY

L.B. MacNeill Capt.
(L.B. MacNeill)
Adjt. C. Camerons of Canada.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

dated, and in his regiment (or corps), the ~~rank of~~

dated

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ~~Rank~~ H200752 Rank PTE

Name DOLL, P L of Camerons of Canada, Cdn. Army (C.A.) Regiment

NOTE.—A verbatim extract from the regimental books stating those convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	In The Field	Malicious wounding A.A. Sec. 41 Conduct to the prejudice A.A. Sec. 40	120 days detention	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16 day of December 1942 R.B. MacNeill Capt. (R.B. MacNeill)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings. Camerons of C.

M.F.B. 355
40/P & B/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H20072	Pte.	DOLL, P.L.	Camerons of Canada.

1. The following is a fair and true summary of the entries in the ~~Service and General Regimental and Squadron (Battery) Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For A.W.L.	two times	Seven times
For Conduct to the Prejudice,	times	Three times
For Breaking out	times	One times
For	times	times

~~(Number of instances of gallantry or distinguished conduct)~~

or,

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for 1 days in civil custody, and 4 days in military custody, making a total of 25 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 28 years

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 5 Apr 40

7. The service which the accused is allowed to reckon towards discharge is 2 years, 1 months and 23 days.

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~he is in possession of or entitled to~~. ~~State any air force decoration or reward.~~

10. ~~(If the accused is a warrant officer:)~~ ~~The accused was made a warrant officer (or held the regimental rank of~~ R. J. Johnson Maj 2 Cmds

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Brixham	7/5/41	Pte		W.O.A.S. (1) Breaking out of Brks A.A.10(4).(2) A.W.L. from 2359 hrs 7.5.41 to 0900 hrs 8.5.41. Absent 9 hrs 1 min.	Pte. Stephenson, R.P.	120 hours detention	8/5/41	Lieut. S.T. Sealy	Forfeits 1 days pay.
Jasper Camp	4/6/41	Pte		W.O.A.S. Conduct to the prejudice	Dec'y	72 hrs detention.	6/6/41	C.O. Pt.II 132. Lt.-Col. A.P. Plante	
Brixham	13/5/41	Pte.		W.O.A.S. Absent without leave from 2215 hrs 13.5.41 to 0900 hrs 14.5.41. Absent 10 hrs 45 mins A.A. Sec. 15 (1)	Sgt. Hess, J.	120 hrs detention	14/5/41		Forfeits 1 days Pay.
In The Field	11/41	Pte		W.O.A.S. (1.) Committing a civil offence, that is to say, malicious wounding contrary to Sec. 20 of the "Offences against the persons Act". (2.) Conduct to the prejudice of good order and military discipline in	Pte. Ritchie, R.	120 days detention	9/12/41	F.G.C.M.	

No. H20072 Name DOLL P L | Sqn., Battery, or Company "D" | Corps C.C.H. of C. | Date of enlistment 5/4/40 | G.C. No/rks | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 17351—7-41 (1216-39) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet 13/9/40 | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with same	By whom awarded	Remarks
Cove Fd Brks.	8/11/40	Pte		W.O.A.S. absent from parade at 0830 hrs and 1330 hrs 8.11.40. Absent 7 hrs 30 mins.	P.S.M. Good, G.E. Sgt. Gordon, E	7 days C.B.	9/11/40	Capt. B.T. MacFarlen	Forfeits 1 days pay.
Cove Fd Brks	6/12/40	Pte		W.O.A.S. absent without leave from 0630 hrs, 6.11.40 to 1445 hrs 5.12.40. (Absent 8 hrs, 15 mins)	L/C Cameron Pte. Unger, H.	7 days C.C.	7/12/40	Lieut. N.R. Calder	Forfeits 1 days pay.
	15/5/41	Pte		W.O.A.S. A.W.L. 10 hrs, 15 mins. A.A. Sec. 15(1)		5 days detention		Lt.-Col. Redman	Forfeits 6 days pay
Jasper Camp	3/6/41	Pte.		Conduct to the prejudice of good or or etc., Failing to have his rifle Clean	Sgt. Watt, P I/C. Langstaff, W.W.	3 days detention	4/6/41		
Brixham	12/4/41	Pte		W.O.A.S. being absent without leave from 2215 hrs 12.4.41. to 0012 hrs. 13.4.41. (Sec. 15 (1) Absent 1 hr., 57 mins.		4 days C.B.	15/4/41	Lt.-Col. A.P. Plante	

No. H 20078 Name DOLL, P L Sqn., Battery, or Company "D" Corps C.O.C.H. of C. Date of enlistment 5/4/40 C.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 172) 175M—7-41 (1219-39) H.Q. 1372-39-1402

Date of last entry in Company Conduct Sheet 13/9/40 No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
In The Field	30/6/42	Pte		W.O.A.S. absent in that he went absent from g work party at Morley Camp Dump from 0900 hrs 30.6.42 until he reported to camp at approx. 2000 hrs, 30.6.42 Absent 11 hrs. Sec 15(1) A.A.	L/S Sutherland, D Sgt. Moss, T.F. L/C Richardson, D.T.	168 hrs detention	2/7/42	Lieut. R. S. Snider	Forfeits 1 days pay.
In The Field	28/9/42	Pte.		W.O.A.S. absent without leave from 1200 hrs, 28.9.42 to 1900 hrs 29.9.42. Absent 1 day 7 hrs. A.A. 15 (1)	L/C. Dunlop, S.T.	Fined 21 days pay	30/9/42	Lt.-Col. D.G. Cunningham D.S.O.	Forfeits 1 days pay.

"S" J. Gilmour May 1, 1943

CERTIFIED TRUE COPY

E.B. MacNaill Capt.
(E.B. MacNaill)
Adjt. C. Camerons of Canada.

(P.T.O.)

ABSTRACT OF EVIDENCE in the case of H 20072 Private Paul Lindbergh DOLL, of the Queen's Own Cameron Highlanders of Canada, a soldier in the Canadian Army Overseas.

First Witness

H 19144 L/Cpl. Banfield, R.K. will be called to give evidence as follows:

"I am H 19144 L/Cpl. Banfield, R.K., of the Queen's Own Cameron Highlanders of Canada, Canadian Army Overseas. On 2 Nov 42, I was Orderly Sergeant for "D" Coy., Queen's Own Cameron Highlanders of Canada. At 0600 hours I called the role. H 20072 Pte. Doll, P.L. whom I recognize as the accused, was absent. At 1035 hours 5 Nov 42, Pte. Doll returned to camp. I placed him under open arrest and ordered him to report to the Coy Comd for orders.

Second Witness

H 19320 L/Cpl. Thorne, L.A. will be called to give evidence as follows:-

"I am H 19320 L/Cpl. Thorne, L.A., of the Queen's Own Cameron Highlanders of Canada, Canadian Army Overseas. I am a clerk in the Battalion Orderly Room. On the night of 11/12 Oct 42, the Battalion Orderly Room Stamp disappeared. During the first week of Nov 42, a new stamp arrived and has been in use since that time. I recognize the facsimile in Exhibit "G" as our new Unit stamp.

Third Witness

H 20196 L/Cpl. Kilborn, G.E., of the Queen's Own Cameron Highlanders of Canada, Canadian Army Overseas, will be called to give evidence as follows:-

At 1425 hours on 14 Dec 42, I picked up H 20072 Pte. Doll, P.L. at Pulborough Railway Station. He was in custody of the Provost. From the Provost escort I took over the following documents:-

Certificate of Arrest by Sheffield Police (Exhibit "A")
Statement of P.C. 359 Henry Clifford Mortimer of the Sheffield Police (Exhibit "B")
Leave Pass for Pte. Doll, P.L. signed by T. Macklin, Lt. (Exhibit "C")
Six unsigned stamped passes (Exhibit "D")
Expense Voucher for Prisoner and Escort from Sheffield to London (Exhibit "E")
Expense Voucher for Prisoner and Escort from London to Pulborough (Exhibit "F")

Certified Extract

Fourth Witness Lieut R.S.M. Hannesson will present a certified copy of the finding of a court of Inquiry held on 30th Nov 42 at Petworth and to be absent from 1000 hrs 6 Nov and absent at [illegible]

Prepared by me at Petworth, Sussex, in accordance with Appendix "A" to D.R.O. 772, this 15th day of December 1942.

R.S.M. Hannesson Lieut.
(R.S.M. Hannesson)
Legal Officer,
Camerons of Canada.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No H 21072 Rank Pte Name Holl, P.L. Unit Com. Pro. Coy.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
14 Dec. 42	Escorts return fare from LONDON To Pulborough (Deportation		3	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Pulborough		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	8

R. Williams Major

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J. D. Lewis Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-55
40/P & S/462

F

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No H2007 Rank Pte Name Holl, P.L. Unit Queens Own Com of Con.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit~~ From London from Sheffield

Date	Particulars	Amount		
14/9/42	Escorts return fare from LONDON To Sheffield	1	4	5-
	Prisoners single fare to LONDON From Sheffield		12	3
	Prisoners fare from To			
	Escorts & Prisoners expenses for Rail, Meals, Bus fares		8	0
	Total £	2	4	8

"P" [illegible] Major PRO

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

"E"

CMHQ 1000-53
40/P & S/483

RECORD of the Declaration of a Court of Inquiry assembled at "In The Field" on the 30th day of November 1942, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H 20072 Pte. DOLL, P L

DECLARATION

Having examined the evidence laid before them

The Court declare, that No. H 20072 Pte. Doll, P.L. of the Queen's Own Cameron Highlanders of Canada, Canadian Army Overseas illegally absented himself without leave from Petworth Park Camp, Petworth, Sussex at 1000 hrs, ~~[illegible]~~ hrs on the 6th day of November 1942 and that on the 30th November 42 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE £	s	d	ARTICLES	VALUE £	s	d
Badges, Cap			4	Housewife		1	9
Boots, ankle, prs		16	2	Knife, Table			7
Brasses, Button			1½	Razor		1	5
Brushes, Boot, Polishing			6	Shirts, under, cotton		1	7½
Brushes, Boot, Blacking			7	Spoon, Table			3½
Brushes, Button			6	Straps, web, supporting			10
Brushes, Shaving		1	0	Respirator, haversack, Mk. VI		5	1
Brushes, Tooth			3½				
Combs, Hair			1½	Outfits, anti-dim			2
Drawers, cellular, shorts		3	1	Eyeshields, anti-gas, prs		1	9
Dressings, First Field			10	Plates, dinner, earthenware			5
Forks,			4	Plates, soup, earthenware			5½
Holdall			7	Ointment, Anti-Gas, tins		1	0
				Total	£2	0	0

"O" Kit issued Mtg in full

Capt. R. H. Lane — President

Lieut. D.W.R. Dodge — Member

Signed at "In The Field"

Lieut. E. C. Argue. — Member

this 30th day of November 1942

Signature of Commanding Officer D.G. Cunningham Lt.-Col. Comd Camerons of Can

Certified true copy R.B. MacNeill Capt.

(R.B. MacNeill) Adjt. Camerons of Canada. Signature of Officer having custody of original record

H

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No..... Regiment.....

Army Form B1295
(2 pads of 100)

PASS

No..... (Rank)..... (Name).....

has permission to be absent from his Quarters daily, from

..... to .....

for the purpose of proceeding to* .....

(Station).....

(Date)..... Commanding

[P.T.O.

* Destination not required unless allowance is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† *Delete whichever is not practicable.*

CROWN COPYRIGHT RESERVED

ORDERLY ROOM
SEP 22 [illegible]
QUEEN'S OWN
CAMERONIANS OF CANADA

No.....

Regiment.....

Army No.....

Rank.....

Name.....

Date from.....

to.....

Commanding.....

Station.....

Date.....

A Soldier in need who requires medical attention must apply for it, normally, to a medical officer by the nearest Military Hospital or Military Dispensary. If there is no such hospital or dispensary within reasonable distance, he may apply to a civilian doctor, to whom he will show this paper, and the doctor will then be allowed the following rates for medical attendance on the soldier as the latter's evidence.

VISIT AND MEDICINE	If not more than 2 miles away	Greater distances
Day	4s. 6d.	An additional 6d. for each mile or part of a mile with a limit of £1 a visit.
Night 22·00 to 07·00 hrs.	6s. 6d.	

When the soldier visits the surgery of a civilian doctor, the fee payable in respect of such visits will be ——s. per visit.

The Soldier will at once report the employment of the civilian doctor by a letter addressed to his Commanding Officer to whom the civilian doctor will submit his claim on Army Form O. 1067 for payment.

If hospital treatment is necessary, the soldier will at once report the fact, if possible, to the nearest Military, R. Naval or R. Air Force hospital, Military Reception Station or Medical Inspection Room for Troops, and telling that to his Commanding Officer, when arrangements will be made, whether possible, for any necessary treatment to be given him apart from military stations. If a soldier is admitting to a R. Naval or R. Air Force hospital, he will inform the fact immediately to his Commanding Officer. If, in the event of emergency, a soldier is admitted to a civil hospital, he will report the fact immediately to the Commanding Officer, who will at once notify the Authorities Director of Medical Services concerned.

When a soldier on sick [illegible] by sickness, which must be properly certified, or [illegible] other [illegible] [illegible] his Corps by the date on which his [illegible] expires, he will [illegible] [illegible] Officer, on the form of the purpose, to the [illegible] Commanding Officer of any unit or detachment of the Regular Army, or, if [illegible] Commanding Officer of any unit or detachment of the Regular Army, or, if none of these be within convenient distance, to a Justice of the Peace.

If, at Home, he is to furnish the medical certificate to his C.O.

A Soldier on leave at Home, who requires other than dental treatment must apply for it to the nearest military, Royal Naval or Royal Air Force Hospital or Dental Centre. If he resides more than five miles from such hospital or dental centre, he may apply to a civilian dental practitioner to whom he will show this paper; the dental practitioner will be paid only for strictly emergency treatment and at the rates prescribed under the National Health Insurance Act (Dental Benefit Regulations).

The soldier will at once report the employment of the civilian dental practitioner to his Commanding Officer, and the practitioner will submit his claim for payment on Army Form O 1067, and forward it to the Deputy Director of Medical Services at the headquarters of the Command to which the soldier is temporarily rendering.

These instructions, where applicable, will also be held to apply to a member of the Auxiliary Territorial Service or of a Voluntary Aid Detachment rather than an officer) of the Auxiliary Territorial Service or of a Voluntary Aid Detachment called out for service.

If his pass exceeds 24 hours a soldier is to leave his address with the Controls of his company, and he must at all times be prepared to return on the shortest notice, if required to do so.

[illegible] are not applicable to a soldier on Field Service [illegible]

No.....

Regiment.....

Army No.....

Rank.....

Name.....

Date from.....

.....to.....

.....

Commanding.....

Station.....

Date.....

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No..... Regiment.....

Army Form W 3347
(Usually 1 Oct)

PASS

No..... (Rank).....

has permission to be absent from his quarters/duty, from

..... to .....

for the purpose of proceeding to .....

(Station).....

(Date)..... Commanding

[P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† *Delete whichever is not practicable.*

CROWN COPYRIGHT RESERVED

ORDERLY ROOM
C.A.S.F.
DEC 14 1942
QUEEN'S OWN
CAMERON HIGHLANDERS OF CANADA

W.O. 29/424/1008 350m. 10/41. E.P.W. 41-7052.

A Soldier on pass who requires medical aid must apply for it, personally if possible, to the nearest Military, R. Naval or R. Air Force hospital or other Medical formation, showing this pass. If, however, he resides more than two miles from such hospital, etc., he may apply to a civilian doctor, to whom he will show this pass, and the doctor will then be allowed the following rates for medical attendance on the soldier at the latter's residence.

VISIT AND MEDICINE	If not more than 2 miles away	Greater distances
Day	4s. 6d.	An addition of 6d. for each mile or part of a mile with a limit of £1 a visit.
Night 22·00 to 07·00 hrs.	6s. 0d.	

When the soldier visits the surgery of a civilian doctor, the fee payable in respect of such visits will be :—3s. per visit.

The Soldier will at once report the employment of the civilian doctor by a letter addressed to his Commanding Officer to whom the civilian doctor will submit his claim on Army Form O 1567 for payment.

If hospital treatment is necessary, the soldier will at once report the fact. If possible, to the nearest Military, R. Naval or R. Air Force hospital, Military Reception Station, or Medical Inspection Room for Troops, and telling that to his Commanding Officer, when arrangements will be made, wherever possible, for any necessary treatment to be given from military sources. If a soldier is admitted to a R. Naval or R. Air Force hospital, he will report the fact immediately to his Commanding Officer. If, in the event of emergency, a soldier is admitted to a civil hospital, he will report the fact immediately to his Commanding Officer, who will at once notify the Assistant Director of Medical Services concerned.

When a soldier on pass is prevented by sickness, which must be properly certified, or by other unavoidable causes, from rejoining his Corps by the date on which his pass expires, he is to report himself before that date—

To the nearest General or other Officer on the staff of the Army or to the Commanding Officer of any unit or detachment of the Regular Army; or (if none of these be within convenient distance) to a Justice of the Peace.

If in Fire, he is to furnish the medical certificate to Lis C.O.

A Soldier on leave or furlough who requires emergency dental treatment must apply for it to the nearest military, Royal Naval or Royal Air Force Hospital or Dental Centre.

If he resides more than two miles from such hospital or dental centre, he may apply to a civilian dental practitioner to whom he will show this pass; the dental practitioner will be paid only for strictly emergency treatment and at the rates admissible under the National Health Insurance Act (Dental Benefit Regulations).

The soldier will at once report the employment of the civilian dental practitioner to his Commanding Officer, and the practitioner will submit his claim for payment on Army Form O 1567, and forward it to the Deputy Director of Medical Services at the headquarters of the Command in which the soldier is temporarily residing.

These instructions, where applicable, will also be held to refer to a member further than an officer of the Auxiliary Territorial Service or of a Voluntary Aid Detachment called out for service.

If his pass expires in 24 hours a soldier is to leave his address with the Captain of his company, and he must at all times be prepared to rejoin on the shortest notice, if required to do so.

NOTE.—The above instructions are not applicable to soldiers on Field Service overseas.

No.....

Regiment.....

Army No.....

Rank.....

Name

.....

Date from.....

.....to.....

.....

.....

Commanding.....

Station.....

Date.....

If a calling-out of the whole Army Reserve is ordered every soldier o
must return immediately to his unit without waiting for instructio

No..... Regiment ...A.....

Army Form H295
(In pads of 100)

PASS

No.....(Rank).....(Name).....

has permission to be absent from his ~~duties~~ duty, from

.....

.....to.....

for the purpose of proceeding to*.....

(Station).....

(Date).....

Commanding

[P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† *Delete whichever is not practicable.*

CROWN COPYRIGHT RESERVED

W71. 72424/3078. 350m. 10/40. D.F.W. 53-7955.

A Soldier on pass who requires medical aid must apply for it, personally if possible, to the nearest Military, R. Naval or R. Air Force hospital or other Medical Institution showing this pass. If, however, it resides more than two miles from such hospital, etc., he may apply to a civilian doctor, to whom he will show this pass, and the doctor will then be allowed the following rates for medical attendance on the soldier at the latter's residence.

VISIT AND MEDICINE	If not more than 2 miles away	Greater distances
Day	4s. 6d.	An addition of 6d. for each mile or part of a mile with a limit of £1 a visit.
Night 22·00 to 07·00 hrs.	6s. 0d.	

When the soldier visits the surgery of a civilian doctor, the fee payable in respect of such visits will be:—2s. per visit.

The Soldier will at once report the employment of the civilian doctor by a letter addressed to his Commanding Officer to whom the civilian doctor will submit his claim on Army Form O. 1687 for payment.

If hospital treatment is necessary, the soldier will at once report the fact, if possible, to the nearest Military, R. Naval or R. Air Force hospital, Military Reception Station or Medical Inspection Room for Troops, and failing that to his Commanding Officer, or Medical Inspection Room for Troops, and failing that to his Commanding Officer, to whom arrangements will be made, wherever possible, for any necessary treatment to be given from military sources. If a soldier is admitted to a R. Naval or R. Air Force hospital, he will report the fact immediately to his Commanding Officer. If, in the event of emergency, a soldier is admitted to a civil hospital, he will report the fact immediately to his Commanding Officer, who will at once notify the Assistant Director of Medical Services concerned.

When a soldier on pass is prevented by sickness, which must be properly certified, or by other unavoidable causes, from returning to camp by the time on which his pass expires, he is to report himself before that time—

To the nearest General or other Officer on the staff of the Army or to the Commanding Officer of any unit or detachment of the Regular Army, or if none of these be within convenient distance; to a Justice of the Peace.

If in Eire, he is to furnish the medical certificate to his C.O.

A Soldier on leave or furlough who requires emergency dental treatment must apply for it to the nearest military, Royal Naval or Royal Air Force Hospital or Dental Centre.

If he resides more than two miles from such hospital or dental centre, he may apply to a civilian dental practitioner to whom he will show this pass; the dental practitioner will be paid only for strictly emergency treatment and at the rates admissible under the National Health Insurance Act (Dental Benefit Regulations).

The soldier will at once report the employment of the civilian dental practitioner to his Commanding Officer, and the practitioner will submit his claim for payment on Army Form O 1687, and forward it to the Deputy Director of Medical Services at the headquarters of the Command in which the soldier is temporarily residing.

These instructions, where applicable, will also be held to refer to a member (other than an officer) of the Auxiliary Territorial Service or of a Voluntary Aid Detachment called out for service.

If his pass exceeds 24 hours a soldier is to leave his address with the Captain of his company, and he must at all times be prepared to rejoin on the shortest notice, if ordered to do so.

The above instructions are not applicable to a soldier on Field Service or overseas.



If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regiment .....

Army Form B295
(12 pads of 100)

PASS

No. ..... (Rank) ..... (Name) .....

has permission to be absent from his quarters/duty, from

..... to .....

for the purpose of proceeding on 1943

(Station) .....

(Date) .....

Commanding

[P.T.O.

No. ..... Name .....

Rank .....

Army No. .....

Regiment .....

Date from .....

to .....

Commanding .....

Station .....

Date .....

* Destination not required unless absence is to exceed 24 hours, unless authorization is desirable owing to local conditions or is necessary to enable purchase of a full ticket at reduced fare.

† *Delete whichever is not applicable.*

CROWN COPYRIGHT RESERVED

W.O. 278/24/1008. 250m. 10/43. P.T.W. 63/7655.

A Soldier on pass who requires medical aid must apply for it personally if possible to the nearest Military, R. Naval or R. Air Force hospital or other Medical formation, showing this pass. If, however, he resides more than two miles from such hospital, etc., he may apply to a civilian doctor, to whom he will show this pass, and the doctor will then be allowed the following rates for medical attendance on the soldier at the latter's residence.

VISIT AND MEDICINE	If not more than 2 miles away	Greater distances
Day Night 22:00 to 07:00 hrs.	4s. 6d. 6s. 0d.	An addition of 6d. for each mile or part of a mile with a limit of £1 a visit.

When the soldier visits the surgery of a civilian doctor, the fee payable in respect of such visits will be ——s. per visit.

The Soldier will at once report the employment of the civilian doctor by a letter addressed to his Commanding Officer to whom the civilian doctor will submit his claim on Army Form O. 1067 for payment.

If hospital treatment is necessary, the soldier will at once report the fact, if possible, to the nearest Military, R. Naval or R. Air Force hospital, Military Reception Station or Medical Inspection Room for Troops, and failing that to his Commanding Officer, when arrangements will be made, wherever possible, for any necessary treatment to be given from military sources. If a soldier is admitted to a R. Naval or R. Air Force hospital, he will report the fact immediately to his Commanding Officer. If, in the event of emergency, a soldier is admitted to a civil hospital, he will report the fact immediately to his Commanding Officer, who will at once notify the Assistant Director of Medical Services concerned.

When a soldier on pass is prevented by sickness, which must be properly certified, or by other unavoidable causes, from rejoining his Corps by the date on which his pass expires, he is to report himself before that date to

The nearest General or other Officer on the staff of the Army or to the Commanding Officer of any unit or detachment of the Regular Army; or (if none of these be within convenient distance) to a Justice of the Peace.

If in Eire, he is to furnish the medical certificate to his C.O.

A Soldier on leave or furlough who requires emergency dental treatment must apply for it to the nearest military, Royal Naval or Royal Air Force Hospital or Dental Centre.

If he resides more than two miles from such hospital or dental centre, he may apply to a civilian dental practitioner to whom he will show this pass; the dental practitioner will be paid only for strictly emergency treatment and at the rates admissible under the National Health Insurance Act (Dental Benefit Regulations).

The soldier will at once report the employment of the civilian dental practitioner to his Commanding Officer, and the practitioner will submit his claim for payment on Army Form O 1067, and forward it to the Deputy Director of Medical Services at the headquarters of the Command in which the soldier is temporarily residing.

These instructions, where applicable, will also be held to refer to a member (other than an officer) of the Auxiliary Territorial Service or of a Voluntary Aid Detachment called out for service.

If his pass exceeds 24 hours a soldier is to leave his address with the Captain of his company, and he must at all times be prepared to rejoin on the shortest notice, if required to do so.

[illegible] payable to a soldier on Field Service

No.....

Regiment.....

Army No.....

Rank.....

Name.....

.....

Date from.....

.....to.....

.....

Commanding.....

Station.....

* Date.....

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No..... Regiment.....

Army Forms W2265 (In pads of 100)

PASS

No..... (Rank)..... (Name).....

has permission to be absent from his †quarters, duty, from

.....to.....

for the purpose of proceeding to.....

(Station).....

(Date).....

Commanding

[P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless restriction is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† Delete whichever is not practicable.

CROWN COPYRIGHT RESERVED

Wt. 29424/3905. 350m. 10/43. J.F.W. 53-7603

A Soldier on pass who requires medical aid must apply for it, personally if possible, to the nearest Military, R. Naval or R. Air Force hospital or other Medical Establishment, showing his pass. If however, he resides more than two miles from such hospital, etc., he may apply to a civilian doctor, to whom he will show this pass, and the doctor will then be allowed the following rate, for medical attendance on the soldier at the latter's residence.

VISIT AND MEDICINE	If not more than 2 miles away	Greater distance
Day	4s. 6d.	An addition of 6d. for each mile or part of a mile with a limit of 4l. a visit.
Night 22·00 to 07·00 hrs.	6s. 0d.	

When the soldier visits the surgery of a civilian doctor, the fee payable in respect of such visits will be 10s. per visit.

The Soldier will at once report the employment of the civilian doctor by a letter addressed to his Commanding Officer to whom the civilian doctor will submit his claim on Army Form O. 1687 for payment.

If hospital treatment is necessary, the soldier will at once report the fact, if possible, to the nearest Military, R. Naval or R. Air Force hospital, Military Reception Station, or Medical Inspection Room for Troops, and failing that to his Commanding Officer, by whose arrangements will be made, wherever possible, for any necessary treatment to be given from military sources. If a soldier is admitted to a R. Naval or R. Air Force hospital, he will report the fact immediately to his Commanding Officer. If, in the event of emergency, a soldier is admitted to a civil hospital, he will report the fact immediately to his Commanding Officer, who will at once notify the Assistant Director of Medical Services concerned.

When a soldier on pass is prevented by sickness, which must be properly certified, or by other unavoidable causes, from rejoining his Corps by the date on which his pass expires, he is to report himself before that date—

To the nearest General or other Officer on the staff of the Army or to the Commanding Officer of any unit or detachment of the Regular Army, or of none of these be within convenient distance, to a Justice of the Peace.

If in Eire, he is to furnish the medical certificate to his C.O.

A Soldier on leave or furlough who requires emergency dental treatment must apply for it to the nearest military, Royal Naval or Royal Air Force Hospital or Dental Centre.

If he resides more than two miles from such hospital or dental centre, he may apply to a civilian dental practitioner to whom he will show this pass; the dental practitioner will be paid only for strictly emergency treatment and at the rates admissible under the National Health Insurance Act (Dental Benefit Regulations).

The soldier will at once report the employment of the civilian dental practitioner to his Commanding Officer, and the practitioner will submit his claim for payment on Army Form O 1687, and forward it to the Deputy Director of Medical Services at the headquarters of the Command in which the soldier is temporarily residing.

These instructions, where applicable, will also be held to refer to a member, (other than an officer) of the Auxiliary Territorial Service or of a Voluntary Aid Detachment called out for service.

If his pass exceeds 24 hours a soldier is to leave his address with the Captain of his company, and he must at all times be prepared to rejoin on the shortest notice, if ordered to do so.

NOTE.—The above instructions are not applicable to a soldier on Field Service overseas.

No.....

Regiment.....

Army No.....

Rank.....

Name.....

Date from.....

.....to.....

Commanding.....

Station.....

Date.....

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No..... Regiment.....

Army Form B.295
[In pads of 100]

PASS

No.....(Rank)..... "M Kilmartin" (Name).....

has permission to be absent from his †quarters/duty, from

.....to.....

for the purpose of proceeding to.....

(Station).....

(Date).....

Commanding

[P.T.O.

* Destination not required unless pass is issued for 24 hours, unless notification to destination owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† Delete whichever is not applicable.

CROWN COPYRIGHT RESERVED

ORDERLY ROOM C.A.S.F. DEC 9 1946 QUEEN'S OWN HIGHLANDERS OF CANADA

A Soldier on pass who requires medical aid must apply for it, personally if possible, to the nearest Military, R. Naval or R. Air Force hospital or other Medical formation, showing his pass. If, however, he resides more than two miles from such hospital, etc., he may apply to a civilian doctor, to whom he will show this pass, and the doctor will then be allowed the following rates for medical attendance on the soldier of the latter's residence.

VISIT AND MEDICINE	If not more than 2 miles away	Greater distances
Day	4s. 0d.	An addition of 6d. for each mile or part of a mile with a limit of £3 s visit.
Night 22.00 to 07.00 hrs.	6s. 0d.	

When the soldier visits the surgery of a civilian doctor, the fee payable in respect of such visits will be —/3. per visit.

The Soldier will at once report the employment of the civilian doctor by a letter addressed to his Commanding Officer to whom the civilian doctor will submit his claim on Army Form O. 1667 for payment.

If hospital treatment is necessary, the soldier will at once report the fact, if possible, to the nearest Military, R. Naval or R. Air Force hospital, Military Reception Station or Medical Inspection Room for Troops, and failing that to his Commanding Officer, by whom arrangements will be made, wherever possible, for any necessary treatment to be given from military sources. If a soldier is admitted to a R. Naval or R. Air Force hospital, he will report the fact immediately to his Commanding Officer. If, in the event of emergency, a soldier is admitted to a civil hospital, he will report the fact immediately to his Commanding Officer, who will at once notify the Assistant Director of Medical Services concerned.

When a soldier on pass is prevented by sickness, which must be properly certified, or by other unavoidable causes, from rejoining his Corps by the date on which his pass expires, he is to report himself before that date—

To the nearest General or other Officer on the staff of the Army or to the Commanding Officer of any unit or detachment of the Regular Army; or if none of these be within convenient distance) to a Justice of the Peace.

If in Eire, he is to furnish the medical certificate to his C.O.

A Soldier on leave or furlough who requires necessary dental treatment must apply for it to the nearest Military, Royal Naval or Royal Air Force Hospital or Dental Centre. If he resides more than two miles from such hospital or dental centre, he may apply to a civilian dental practitioner to whom he will show this pass; the dental practitioner will be paid only for strictly emergency treatment and at the rates admissible under the National Health Insurance Act (Dental Benefit Regulations).

The soldier will at once report the employment of the civilian dental practitioner to his Commanding Officer, and the practitioner will submit his claim for payment on Army Form O 1667, and forward it to the Deputy Director of Medical Services at the headquarters of the Command in which the soldier is temporarily residing.

These instructions, where applicable, will also be held to refer to a member of the (name of other) of the Auxiliary Territorial Service or of a Voluntary Aid Detachment called out for service.

If his pass exceeds 24 hours a soldier is to leave his address with the Captain of his company, and he must at all times be prepared to rejoin on the shortest notice, if ordered to do so.

NOTE.—The above instructions are not applicable to a soldier on Field Service overseas.



"H." Hutchison
Major
C.O.

I hereby certify that this is a true copy of the Orderly Room Stamp now being used by this Unit

R.B. MacNeill Capt.
(R.B. MacNeill)
Adjt. Camerons of Canada.

A Soldier on pass who requires medical aid must apply for it, personally if possible, to the nearest Military, R. Naval or R. Air Force hospital or other Medical formation, showing this pass. If, however, he resides more than two miles from such hospital, etc., he may apply to a civilian doctor, to whom he will show this pass, and the doctor will then be allowed the following rates for medical attendance on the soldier at the latter's residence.

VISIT AND MEDICINE	If not more than 2 miles away	Greater distances
Day	4s. 6d.	An addition of 6d. for each mile or part of a mile with a limit of £1 a visit.
Night 22·00 to 07·00 hrs.	6s. 0d.	

When the soldier visits the surgery of a civilian doctor, the fee payable in respect of such visits will be 4s. 6d. per visit.

The Soldier will at once report the employment of the civilian doctor by a letter addressed to his Commanding Officer to whom the civilian doctor will submit his claim on Army Form O. 1687 for payment.

If hospital treatment is necessary, the soldier will at once report the fact, if possible, to the nearest Military, R. Naval or R. Air Force hospital, Military Sergeant Station or Medical Inspection Room for Troops, and failing that to his Commanding Officer, when arrangements will be made, wherever possible, for any necessary treatment to be given from military sources. If a soldier is admitted to a R. Naval or R. Air Force hospital, he will report the fact immediately to his Commanding Officer. If, in the event of emergency, a soldier is admitted to a civil hospital, he will report the fact immediately to his Commanding Officer, who will at once notify the Assistant Director Medical Services concerned.

When a soldier on pass is prevented by illness, which must be properly certified, or by other unavoidable causes, from rejoining his Corps by the date on which his pass expires, he is to report himself before that date—

To the nearest General or other Officer on the staff of the Army or to the Commanding Officer of any unit or detachment of the Regular Army; or if none of these be within convenient distance) to a Justice of the Peace.

If an Elder, he is to furnish the medical certificate to his C.O.

A Soldier on leave or holiday who requires emergency dental treatment must apply for it to the nearest military, Royal Naval or Royal Air Force Hospital or Dental Centre.

If he resides more than two miles from such hospital or dental centre, he may apply to a civilian dental practitioner at whom he will show this pass; the dental practitioner will be paid only for strictly emergency treatment and at the rates admissible under the National Health Insurance Act (Dental Benefit) Regulations.

The soldier will at once report the employment of the civilian dental practitioner to his Commanding Officer, and the practitioner will submit his claim for payment on Army Form O 1687, and forward it to the Deputy Director of Medical Services at the headquarters of the Command in which the soldier is temporarily residing.

These instructions, where applicable, will also be held to refer to a member of the (other than an officer) of the Auxiliary Territorial Service or of a Voluntary Aid Detachment called out for service.

If his pass exceeds 24 hours a soldier is to leave his address with the Captain of his company, who will be asked at all times be prepared to rejoin on the shortest notice, if required to do so.

Note.—The above instructions are not applicable to a soldier on Field service overseas.

"C" 7 Fusiliers Army Pay Dept

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. 193 Regiment Can. I. C.

PASS

Army Form B.295
(In pads of 100)

Nº 2001/2 (Rank) Pte (Name) Tall P.L.

has permission to be absent from his quarters/duty, from 0600 hrs.

1/12/42 to 0600 hrs 15/12/42

for the purpose of proceeding to* Newcastle

(Station) In 24 hours Pte

(Date) 30/11/42 "C" Coy Commanding

D.E.O.Y. (P.T.O.)

ORDERLY ROOM
C.A.S.F.
DEC 1 1942
OFFICERS MESS

* Destination not required unless absence is to exceed 24 hours, unless identification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced rate.

† *Delete whichever is not practicable*

CROWN COPYRIGHT RESERVED

C O P Y

CITY OF SHEFFIELD POLICE

Headquarters Division

Criminal Investigation Department

13th December 1942.

The Superintendent,

C.I. Department

Sir,

re - Pte. H20072, PAUL LINDBERGH DOLL,
Queens Own Cameron Highlanders of
CANADA.

ABSENTEE

I respectfully report for your information that at 12-15 a.m. to-day, 13th. December 1942, a telephone message was received from Mr. Mellan, at the Victoria Hall, Sheffield, to the effect that three Canadian soldiers had booked beds for the night. They had all been drinking and one of them, Doll, above, had brought a suit case with him. He asked Doll if the suit case was his. Doll then left the premises and returned a short time later without the case. While he had been away the other two had gone to look for him and they had not returned. (Please refer to Misc. Book, entry 8403.)

At 12-30 a.m. with D.C. Longmore, I went to the Victoria Hall where I interviewed Doll. I told him who we were and asked him for his pass. He produced a leave pass, attached, which showed that he was on leave until the 15th. instant. He denied all knowledge of the suit case. He had been drinking and said he could not remember coming into the Victoria Hall at all.

Under the circumstances I was not satisfied with Doll's explanation and he was brought to the Central Police Offices where the following property was found in his possession:- 6 blank leave passes bearing dates from Dec 14th. to Feb. 1943; a leave pass bearing his name, expiring 15 Dec 42 and his Service Pay Book.

At the Police Office Doll admitted after being cautioned that he was absent without leave from his unit, which he stated was stationed in Petworth, Sussex, since the 6th. November 1942.

A telephone message was put through to the A.P.M. Canadian Military Forces, telephone Temple Bar 3818, London, and they said they would send escort in the morning, i.e., Sunday 13th. instant.

I am, Sir,

Your obedient servant,

Henry Clifford Mortimer

Police Constable 359.

Certified a true extract of the statement of Henry Clifford Mortimer

I CERTIFY that the man whose personal description is given below surrendered himself to* Police Constable 359 Mortimer at Sheffield at (hour) 0110 hours on the 13th day of December 1942 as being No. 200/12H (Rank and Name) Private Paul Lindbergh Doll a deserter (or absentee without leave) from 1st Bn, G.O.C.H. of Canada and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 28 years Height 5 Feet 9 Inches

Complexion Dark Hair Brown Eyes Blue

Marks Lt

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	5th April 1940 Winnipeg
Probable Date of Desertion or beginning of absence, and from what place	6th November 1942 Petworth, Sussex

W. Burns P.C. 8

Signature of Officer of Police in charge of ..... Station.

CITY OF SHEFFIELD POLICE 13 DEC 1942 CHARGE OFFICE

Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.
(It should not be detached from Part 1 unless delay in completion is unavoidable.)

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ..... Police in the case of

No. .....

who surrendered to the Police at ..... on .....

Payable to .....

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at .....

Date of Signature.

IMMEDIATE.

Army Form O.16[illegible]
R.A.F. Form 1617

PART 1.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit,* notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depôt in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depôt, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depôts are shown in the Monthly Army and Air Force Lists.

(12959) W[illegible] 20,000 12/39 A.& E.W.,Ltd. Gp.698 Forms/O.1617/12

F

Sentence.

The Court sentence the accused H.20072 Pte Sentence.
Paul Lindbergh Doll to
undergo detention for nine Months ~~&~~ in
to be pro under stoppages of Pay £2/12/4 on
respect of cost of
return to unit —

J Johnson
Major
Pres

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused H 20072 Pte Paul ~~J. L. Doll~~, Queen's Own Cameron Highlanders of Canada

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

~~The Court being re-opened, the accused is again brought before it.~~

Lt. R S M Hanneson is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* AFB 272 + yes MFM Co.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked A + S, signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. yes

Cross-examined by the accused. no

[Instruction.—If no witness is called on the service of the accused on a departmental conviction, the finding of the Court remains open in case additional punishment or an excess is that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused. Do you wish to address the Court? *Answer.* No Sir.

The Court is closed for the consideration of the sentence.

J. A. Hanneson Maj & R.S.M.

F

Sentence.

The Court sentence the accused H.20072 Pte Sentence.
Paul Lindbergh Dall to
undergo detention for nine Months ~~H~~
to be put under stoppages of £2/12/4 in
respect of cost of
return to Unit

H Johnson
Major
Pres

DD

If I am still in detention when this regiment goes overseas I ask to get out of detention and go along with this regiment.

Do you wish to give evidence yourself or to call any witnesses as to character? No Sir.

Question to the accused.

Answer.

Evidence as to character.

H Gilmour
Major
Pres

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been recorded.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused H. 20012 Pte Paul L. Doll is found guilty of the 1st, 2nd, 4th & 5th Charges

†The summary (or abstract) of evidence is read, marked "D", signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Yes.

Answer. The accused in mitigation of punishment says:—

[or hands in a written statement, which is read, marked ——, signed by the President, and attached to the proceedings.]

The reason I went AWL is because a couple of weeks before I stayed at Brighton one day & 6 hours overstay pass & when I came back I got 21 days pay for that. A few days later one of the boys in My Co'y stays overdue for 8 days & he gets 7 days pay & 14 days C.B. On a/c of that 5th a fellow comes back 8 days late & he got 8 days pay & 28 days C.B. - Then 2 days ago the same fellow comes back 8 days overdue & he got 8 days pay & I don't forgive everybody is getting a square deal in this unit but I (cont'd overleaf)

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

T. Fulmour Maj
Pres

B

The President, members and ~~judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 16 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read?

Question to the accused.

Guilty

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read?

Question.

Guilty

Answer.

Are you guilty or not guilty of the ~~fifth~~ charge against you, which you have heard read?

Question.

Guilty

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Question.

Guilty

Answer.

The accused having pleaded Guilty to 1, 2, 4 & 5 charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

H. Thomas
Maj

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field† Court-Martial held at in the field
on the 18th day of December 1942 by order of
Brigadier H. A. Young
Commanding 6 Cdn Inf Bde
dated the 17th day of December 1942

President.

Major F. S. Gilmour RCA, HQ 6 Cdn Inf Bde

Members.

Major P. E. Lambert Fus M R
Capt J. E. E. McNamara Cameron of C

Judge Advocate.

Trial of* H 20072 Pte Paul Leadbeater DOLL, Cameron of C

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that ~~ is not available to sit; ~~ is ~~ ~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† ~~Counsel~~‡ or defending officer† Capt R.S.M. Hannesson Cameron of C. Capt H. R. Dagnan Cameron of C.

At 1020 o'clock the Trial commences.

The order convening the Court is read, and is marked "A" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No, Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

F Gilmour Maj
Pres

Forms A 9/20.

THE QUEEN'S OWN CAMERON HIGHLANDERS OF CANADA, CDN. ARMY (O.S.)

18 Dec 42

I certify that I have this day examined H-20072 Pte. Doll, P.L.

and find him fit to undergo trial by Court Martial

"C" Armour
Maj
RCR

H. Marantz Capt.
(H. Marantz) RCAMC
Medical Officer, Camerons of Canada

I hereby acknowledge receipt of one copy of Charge Sheet and Abstract of Evidence.

P.L. Doll

(H20072 Pte. Doll, P.L.)

I request that an Officer be appointed to represent me at my trial.

I request the services of Lieut J.J.D. Ferguson if he is available.

P.L. Doll

(H20072 Pte. Doll, P.L.)

CHARGE SHEET

H 20072 Private Paul Lindbergh DOLL, of the Queen's Own Cameron Highlanders of Canada, a soldier in the Canadian Army Overseas, is charged with:-

First Charge
A.A. Sec. 15 (1)

When on active service, absenting himself without leave,

in that he,

at Petworth Park Camp, Petworth, Sussex, did absent himself from 0600 hours 2 Nov 42 until 1035 hours 5 Nov 42. Absent 3 days 4 hours, 35 minutes.

Second Charge
A.A. Sec. 15 (1)

When on active service, absenting himself without leave,

in that he,

at Petworth Park Camp, Petworth, Sussex, did absent himself without leave from 1000 hours 6 Nov 42 until 0410 hours 13 Dec 42. Absent 36 days, 22 hours and 10 minutes. Expenses to the amount of £2-12-4 were incurred in returning him to the Unit.

Third Charge
A.A. Sec. 24 (2)

When on active service, losing by neglect his equipments, clothing and regimental necessaries, in that he, at 1000 hours 27 Nov 42, was deficient the following:-

	£	s	d
Badges, Cap (1)			4
Boots, ankle, prs. (1)		16	2
Brasses, Button (1)			1½
Brushes, boot, polishing			6
Brushes, boot, blacking			7
Brushes, button			6
Brushes, shaving		1	0
Brushes, Tooth			3½
Combs, Hair			1½
Drawers, cellular, shorts, prs.(1)		3	1
Dressings, First Field (1)			10
Forks (1)			4
Holdall (1)			7
Housewife		1	9
Knife, Table			7
Razor		1	5
Shirts, under, cotton (1)		1	7½
Spoon, Table			3½
Straps, web, supporting			10
Respirator Haversack, Mk. VI		5	1
Outfits, Gas, Anti-Dim			2
Eyeshields, Anti-Gas, prs (1)		1	9
Plates, dinner, earthenware (1)			5
Plates, soup, (1)			5½
Ointment, A.-G. Tins, (1)		1	0
To the value of. Total	£	2	0

Fourth Charge
A.A. Sec. 40

When on active service, conduct to the prejudice of good order and military discipline,

in that he,

at 0410 hours 13 Dec 42, at Sheffield, England, was in possession of a document purporting to be a genuine leave pass, knowing it not to be genuine.

B. J. Fishbourne
Major

JJ·18 (case #2)

PTE DOLLARD · H·J·

See 5·24 for 1st case

G-37047 Pte DOLLARD, Harvey, Joseph.
Royal Regiment of Canada,
4 Cdn. Infantry Reinforcement Unit.

JJ 18

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this ninth day of July, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "D" Group, Canadian Reinforcement Units, Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~ G.W.H.

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* ~~I am unable to appoint~~
*(1) ~~Three Officers to form the Court~~ G.W.H.
*(2) ~~A Field Officer as President~~
~~for the following reasons, namely:—~~

*Omit if applicable.

Passing Bonnet

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event the ranks, names, &c., of the members of the Court, as constituted, will be recorded in the proceedings.

President.

Rank.	Name.	Regiment.
Lieut-Colonel	D.I. Redman	Calg. Highrs Regt

Members

Rank.	Name.	Regiment.
A/Captain	to be detailed by O.C.	5 C.I.R.U.
A/Lieutenant	to be detailed by O.C.	5 C.I.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed G.W. Haedenty Brigadier.
Commanding "D" Group, Cdn Rft Units.
Convening Officer.

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G-37047 Pte. DOLLARD, Harvey, Joseph. R. R. of C. 4 C.I.R.U.	First Charge A.A. Sec.15(1)	Guilty	Guilty Sentence To undergo detention for a period of four (4) months and to be put under stoppages of pay until he has made good $4-12-5 the expenses of his arrest and return 10th July 1943 WW	Confirmed 12 July 43 E.W. Haedenty Brig

See Charge Sheet Attached.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) E.W. Haedenty Brigadier (Signed) [signature]

Commanding 2nd Group, C.R.U.
Convening Officer (d) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 10th day of July 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
~~2. The witnesses~~
~~3. The Interpreter~~)
~~4. The officers under instruction~~)

*Omit if not applicable.

were duly sworn.

Signed this 10th day of July 1943

[signature]
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (f) on page 767 M.M.L. 1929.

~~I certify that the terms of A.C.I. 370 of 1918 have been complied with.~~

Signed this ____ day of ____ 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention barracks have been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

E.W.H.

Signed this 12 day of July 1943

E.W. Haedenty
Confirming Officer. Brig

Promulgated and extracts taken in the case of G 37047 Pte Dollard Harvey Joseph

(a) (Dated) 12 July 43 (Signed) [signature]
Officer Commanding 4 Con Inf Regt Unit

Promulgated and extracts taken in the case of

(Dated) ____ (Signed) ____

Promulgated and extracts taken in the case of

(Dated) ____ (Signed) ____

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, No. G 37047, Pte. HARVEY JOSEPH DOLLARD, of the Royal Regiment of Canada, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
AA 15 (1)

WHILE ON ACTIVE SERVICE, Absenting himself without leave,
in that he
at Aldershot, Hants., absented himself without leave whilst undergoing Field Punishment from 1245 hrs. 25 May 43 until apprehended by the Cdn. Provost Corps at Glasgow, Scotland, at 1445 hrs. 28 June 43.
(Total absence 34 days 2 hrs.)
Total cost of apprehension £4-12-5.

IN THE FIELD
7 JULY 1943

(J.H. Christie) A/Col.,
Officer Commanding,
4 Cdn Inf Rft Unit, C.A.O.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

IN THE FIELD
9 JULY 43.

(E.W. Haldenby) Brigadier.
Commander
"D" Group, Cdn Rft Units.

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. G37047.....

....PTE DALLARD H.J. ..... of. H.Q.I.R.C. .....

and in my opinion, he is.. fit .. to undergo trial by Court Martial.

Station..FIELD .....

Date. 10. July 43.. ..... (Sgd.)..P.A. Lumsden Capt.
(Medical Officer)

(Canadian Reinforcement Units Routine Order No. 27, ~~c/o Jan 42~~)

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT BARROSSA BKS ALDERSHOT HANTS
ON THE 10TH DAY OF JULY 1943

The accused. C 87047 Pte DOLLARD H J ...Unit. RR of C ....4 C I R U....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Lieut-Colonel D L REDMAN V D ..Unit. H Q C R U.....

Members, CAPT B B SCOTT .....Unit...5 C I R U.....

LIEUT J S BLAIR .....Unit...5 C I R U.....

The officers under instruction are duly sworn:-

.....Unit.....

.....Unit.....

Prosecutor LIEUT B W RICH .....Unit...4 C I R U.....

Defending Officer LIEUT G WISHART ..Unit...4 C I R U.....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) Calls ~~witnesses as to character~~.
(c) ~~Calls witnesses in mitigation of punishment~~.
(d) ~~Addresses the Court by his Defending Officer~~.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Statement by accused in mitigation
when the girl I murdered in the Summary
Came down on 24th May she threatened me
if I didn't marry her I got 10 days F.P. because
I seen with her Wilson the 24th. when I was
arrested I was very worried because I couldn't
where for 10 days and I might be arrested (OVER)

On 25th Sheard I went to Dorking. I said if the child was mine I would marry her. If it was not I wouldn't. I found she was a widow and her husband and child 2 wks before I met her. I sent her back to Glasgow. I both but left to Glasgow. I saw her every day for 11 days. when she told me to go back. I stayed in London some time. I got to Trade 7 in school. I worked on a farm with my father. I have plat put and I would like to keep to it but before I must have to work so much.

The Deft Offs stated he had nothing to add in mitigation

Sentenced

EXHIBIT "A"

CERTIFICATE IN ACCORDANCE WITH P.C. 2707 OF 10 SEP 40.

I CERTIFY that No. C-37047 . Rank Pte. . Name Pollard, N.J. . . . .

Unit . No-4 C.I.R.U. . . . . was arrested at Glasgow . . .(Place)

at . 1445hrs.(hour) on 28-June-43 .(date) and that at the time of his arrest he was wearing (Military Uniform) or (Civilian Clothing).

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

. . . . . Capt.

(M. Form) D. A. P. M.,
London Area.

EXHIBIT B"

Expense Voucher Re—: Ref: K.R. & O. (Can) 833

Reg. No. C 7047 Rank Pte Name Hollard, H J Unit 4 CIRC
RRB Can

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit From London from Glasgow

Date	Particulars	Amount		
29 Jun 42	Escorts return fare from LONDON To Glasgow	3	1	7
	Prisoners single fare to LONDON From Glasgow	1	10	10
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	4	12	5

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/483

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No. G 37047 Private Dollard, H.J., Royal Regiment of Canada, on strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the summary of evidence is taken on oath.

FIRST WITNESS

For the Prosecution

No. B 72984 Sgt. Walsh, A.R., 48th Highlanders of Canada, on strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:-
I am B 72984 Sgt. Walsh, A.R., (48th Highrs.) posted to "A" Coy., #4 C.I.R.U., C.A.O., employed as Coy. Orderly Sgt. since 15 May 43 until the present time. At 1245 hrs. 25 May 43 I called the coy. roll for afternoon parade and Pte. Dollard, whom I now recognize, did not answer. I searched the coy lines and Coy. area and found him to be absent. At that time the accused was undergoing a sentence of Field Punishment. I was present at Lt.-col. McPherson's Orderly Room #4 C.I.R.U. on the morning of 25 May 43 when this punishment was awarded. I next saw the accused on the morning of 8 Jul 43 at "A" Coy. Office at about 0945 hrs. If he had been present between the dates mentioned I would have known it.

A.R. Walsh.
B 72984 Sgt. Walsh, A.R.

The accused declines to cross-examine this witness.

Certificate in accordance with P.C. 2797 of 10 Apr. 42, purporting to be signed by Capt. W. Fern, D.A.P.M., London Area, has been read to the accused and is included in this summary and marked Exhibit "A".

C.M.H.Q. 1000:55 Certificate of Cost of Apprehension purporting to be signed by Capt. W.Fern, D.A.P.M., London Area, has been read to the accused and is included in this summary marked Exhibit "B".

(J.H.H. Morgan) Capt.

The accused was cautioned as follows:- "Do you wish to make any statement or to give evidence on oathe? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

FIRST WITNESS

For the Defence.

The accused, No. G 37047 Private Dollard, H.J., Royal Regiment of Canada, on strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states:
After getting my sentence of F.P. on 25 May 43, I went absent without leave to see a girl who said that I had her in trouble. She came to No. 4 C.I.R.U. to find me. She threatened to have me arrested unless I helped her. I admit having relations with her but have reason to doubt that I am the father of the child she is expecting in August. She returned to Glasgow on the Monday and I promised to follow her to straighten things out. During the time I was absent I was attempting to find proof that I am not the father of her child. I told her that if I could not show that I wasn't the father that I would marry her. I wore my uniform all the time.

H.J. Dollard
G 37047 Pte. Dollard, H.J.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

IN THE FIELD
7 July 1943.

(J.R.H. Morgan) Capt., Q.O.R. of C.
Officer detailed to take the Summary.

Original Conduct Sheet destroyed 15-11-41

M.F.M. 6

No. G37047 Name Dollard, H.J. | Sqn., Battery, or Company | Corps C.I.C. | Date of enlistment 15-5-41 | G.C. Badges | Service or Proficiency Pay | (A.F.B. 2)

Date of last entry in Company Conduct Sheet: Nil | No. and date of last drunk: Nil | Period not reckoning towards freedom from extra fine: N/A | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19/2/42	Tpr.		WOAS Conduct to the prejudice of good order and military discipline in that he through personal uncleanliness was likely to jeopardize the health of his comrades. A.A.40	Sgt. Jarvis	7 days C.B.	20/2/42	A. Woodhouse, Capt.	
Field	23/2/42	Tpr.		WOAS Conduct to the prejudice etc while serving food to his comrades in the mess hall used the knife he was using to pick his teeth in front of his comrades thereby jeopardizing the health of his comrades. A.A.Sec. 40.	L/C. Carr. Tpr. Steeves Tpr. Brennan	7 days C.B.	23-2-42	A. Woodhouse Capt.	
Field	27-2-42	Tpr.		WOAS Conduct to the prej. etc. failed to carry out his duties as a guard. A.A.Sec. 40.	Major Van Straubenzee	7 days C.B.	28-2-42	A. Woodhouse, Capt.	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2-12-41	Tpr.		WOAS Neglect to the prej. etc. while driving W.D. truck did not take enough precaution while attempting to avoid collision with W.D. motorcyle. A.A.Sec. 40.	Sgt.Lovell Sgt. Burns Documentary	14 days C.B. Permanently Grounded	6-2-42	Major C.B. Van Straubenzee	
Field	31 Jul 42	Pte.		WOAS AWL in that he was absent from 2200 hrs. 31 Jul.42 until 2215 hrs. 16 Aug.42.A.A. 15(1)	Lt.A.J.Davies L/C.Everette.	21 days F.P.	20-8-42	Major G.A. Turcot	Cost App.13/3 Forf. 17 days pay
Field	23/9/42	Pte.		A.A.Sec.15(1)AWL from 1530 hrs. 23-9-42 to 0800 hrs. 24-9-42.	A/Cpl.Brogan	7 days C.B.	28 Sep.42	J.F.LawCapt	For 1 days pay.
Field	29/9/42	Pte.		A.A.Sec.15(1) AWL from 1330 hrs. 29/9/42 till apprehended in London at 1345 hrs. 1 Nov. 42(33 days15 mins) A.A.Sec.24(2) Losing by neglect his equipment in the amount of -/6/10.		six (6) months detn.	10/11/42	FGCM Confirmed by Brig. Penhale	forf.34 days pay FR&I 149(1)(a)forf. 184 days pay FR&I 149(1)(b) Forf. 9 days pay FR&I 149 (1)(c)(1)Forf. 9/6 FR&I 172(8) 6/10 FR&I 158(2)

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2637)

No. G37047 Name Dollard, H.J. Sqn., Battery, or Company Corps C.I.C. Date of enlistment 15-5-41 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet Nil No. and date of last drunk Nil Period not reckoning towards freedom from extra fine N/A Sheet No. 2 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Released from the DETENTION BARRACK, Headley Down Feb 10, 1943 SENTENCE suspended by Senior Authority-Marks earned toward Remission - 723 Commandant's Initials. J.A.H.									
Field	27 Apr 43	Pte.		A.A.15(1) WOAS AWL from 1300 hrs 27 Apr 43 to 2359 hrs 27 Apr 43 (10 hrs 59 mins)	Cpl.Byford L/C.Christopher	Forf. 10 days pay	28Apr 43	Lt.-col. R.J.McPherson	Forf. 1 days pay FR&I 149(1)(a)
Field	24 May 43	Pte.		A.A.15(1) WOAS AWL from 1430 hrs 24 May 43 to 2220 hrs. 24 May 43 Total absence 7 hrs 5 mins.	Cpl.Knowles Sgt.Walsh,A.	10 days F.P.	25 May 43	Lt-col. R.J.McPherson	Forf. 1 days pay FR&I 149(1)(a)

Certified to be a true copy from the Regimental Books and documents in my possession.

.....Captain
Admin. Officer, Holding Wing
4 Cdn. Inf. Reinf. Unit

(P.T.O.)

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
G 37047	Pte.	Dollard, H.J.	4 C.I.R.U.

1. The following is a fair and true summary of the entries in the Regimental and Squadron Service and General Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For A.A. 40	Nil	times	A.A. 40	4 times
For A.A. 15(1)	4	times	A.A. 15(1)	4 times
For		times		times
For		times		times

There are no entries in the conduct sheet of the accused.

2. The accused has been previously convicted as follows:

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused at the present time is under sentence for 10 days C.B. beginning on the 20th day of May, 1942.

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 12 days in military custody, making a total of 12 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 22

6. The date of his attestation specified in his attestation paper is 18 May 41

In the case of an officer: The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated, and in his regimental rank (if any) the rank of dated.

The accused has served as a non-commissioned officer continuously, without reduction, to the present date—

Date of promotion

in the rank of years

in the rank of years

in the rank of years

[Note: if any matter in any of the foregoing paragraphs cannot be stated from the regimental books, the paragraph number should be struck through.]

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number 937047 Rank Pte.

Name Dollard, E.J. of 4 C.I.H.U. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	In the Field 29 Sep 42	A.A. 15(1) A.A. 24(2)	6 months Detention	10 Feb 43 Sentence suspended by Sen. Authority. Marks earned toward Remission-723

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of Jul 43 Captain
Admin. Officer, Holding Wing,
4 Can. Inf. Resd. Unit.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

LIST OF WITNESSES

In the case of G 37047 Pte. Dollard, H.J., 4 C.I.R.U.

FOR THE PROSECUTION

(1) Sgt. A.R. Walsh (48th Highrs.) 4 C.I.R.U.

FOR THE DEFENCE

(1) Pte. Dollard, H.J. (R.R.C.) 4 C.I.R.U.

LIST OF EXHIBITS

In the case of G 37047 Pte. Dollard, H.J., 4 C.I.R.U.

(1) Exhibit "A" - Certificate in Accordance with P.C.2797 of 10 Apr 42

(2) Exhibit "B" - C.M.H.Q. 1000:55, Cost of Apprehension.

#4 CANADIAN INFANTRY REINFORCEMENT UNIT, C.A.(O). 40/24

.....8 July.....1943...

I, No...C 37047 Pte. Dollard, H.J....., wish to have
(Rank) (Name)
an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of...Lt. Wishart.....R.C.R.
if he is available.

(Sgd.) ...H. J. Dollard.....

WW-35 (case #3)
PTE DOLLARD H.J.

See S-24 for 1st case
" JJ 18 " 2nd "

WW - 35

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G-37047 Pte DOLLARD, Harvey Joseph R Regt of Canada (4 CIRU)

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.SEC 15 (1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(9) Nine months detention.

(Sgd) ..... Judge-Advocate, if any. 29 Nov 43 Date awarded. (Sgd) J H Anderson President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is

Finding and Sentence Confirmed but I remit three months detention

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) G Francoeur BGen

Date 30 Nov 43 Commanding D Gp Con Rft Units Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr

G-37047 PTE DOLLARD, HARVEY JOSEPH. 30 NOV 43 D H Lennox Capt

Captain Adjutant

for 4 Cdn Inf Rein Unit

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AF42) 40-P-S-S 1098 (2804)

Convened by Order of G. Francoeur Comd "D" Gp, CRU dated 28 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-37047	Pte	Harvey Joseph	DOLLARD	Royal Regiment of Canada (4 Canadian Infantry Reinforcement Unit)

Proceedings Reviewed
13 Dec 43
W H Stanyd Capt
Reviewing Officer (J.A.G.) C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 29 Nov. 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 4. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1415 1545 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~Previous to accused the you object to as interpreter; the~~

~~The interpreter is sworn (1). The you object to as shorthand writer; the~~

~~The shorthand writer is sworn (1).~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J H Anderson	3 C I R W.
Member	Capt.	H M Pothecary	4 C I R W.
Member	Lieut.	A E Robinette	4 C I R W.
~~Judge-Advocate~~			
Prosecutor	Lieut	W W Niles	A C I R W.
Defending Offr	Lieut	W J Poole	A C I R W.

Questions by President: Is the Prosecutor a lawyer? Ans Nil Is the Defending Offr a lawyer? Ans Nil (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D/ p 33)

~~A8. The accused~~ ~~before arraignment make(s) (any) plea~~

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 136, RP 57), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or opposit., the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or to call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans N. C. .....(5)
(*1. RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes(es) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement.* Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "X", initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here "Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 90(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* 493. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 43, 117(*B*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(2) (*a*), *RP* 45, 120(*A*). 2. *AA* 54(2), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans N. O.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "A" and Ex "B" respectively.(3)
(*1. AFB* 255 *or AFB* 256. 2. *MFM* 6. 3. *RP* 44, *KR Con* 558. *If above documents not produced, see RP* 44 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans N. C. .....(2)
(*1. RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(5), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 328, 330, 563-566. *Overseas RO* 309, 1323. *MML p* 60, 737-739. *As to sentences designed for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(3)(*b*), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

(Insert name of non-officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

and in his regiment (or corps), the rank of

The accused has served as a non-commissioned officer continuously, without reduction, in the above-mentioned rank

Date of promotion.

In the rank of

In the rank of

In the rank of

Where any material alteration should be made in any paragraph, it must be struck through from the regimental books the paragraph must be struck through

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number G-37047 Rank Pte. Unit

Name Dollard, H.J. of No. 4 C.I.R.U.

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	10 Nov 42 In the Field	A.A. Sec.15(1) A.A. Sec. 24(2)	6 months' Detention	Sentence suspended 10 Feb 43 by Senior Authority.
F.G.C.M.	3 Aug 43. In the Field	A.A. Sec 15(1)	4 months' Detention	Earned 39 days remission of sentence

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27 Nov 43 day of Admin. O

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Ex 4

M.F.B. 355
2M—5-41 (572-3)
H.Q. 1772-89-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
G-37047	Pte.	Dollard, H.J.	4 C.I.R.U.

1. The following is a fair and true summary of the entries in the ~~Service and Conduct~~ Regimental ~~books~~ sheets ~~and Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.A. Sec 15(1)	2 times	A.A. Sec 15(1)	4 times
For	A.A. Sec 40	1 times	A.A. Sec. 40	5 times
For	~~Nil~~	~~times~~		~~times~~
For	~~Nil~~	~~times~~		~~times~~

~~There are no entries in the accused sheets of character.~~

~~The accused's character for sobriety, industry and~~ ~~is recommended.~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act~~ Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence of~~ ~~imprisonment~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in ~~custody~~ civil custody, and 5 days in military custody, making a total of 5 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22 years

6. The date of his ~~birth as~~ specified in his ~~record of service~~ attestation paper is 15 May 1941

~~The service which the accused is about to enter is~~

~~The accused is entitled to~~

~~The accused is in possession of or entitled to receive~~ ~~military~~ ~~pension~~ ~~gratuity~~

~~At the date of the accused's enlistment~~ ~~Air Force~~ ~~the accused held the rank of~~

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified to be true Copy from the Regimental Books and Documents in my Custody

Admin. Officer, Holding Coy.
4 Con. Ind. Base Unit.

No. 837047 Name Holland H J | Sqn., Battery, or Company | Corps C A C | Date of enlistment | G.C. Badges | Service or Proficiency Pay

M.F.M. 6 (A.F. B.122) 40/P & /5136 (2/05)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27 Sept 44	Pte		AA 40 (1) Absent from 1130 hrs 27 Sept 44 to 1130 hrs 28 Sept 44 (Period 24 hrs)	Sgt Boyd H. Shuttleworth	Forfeit 1 day pay	2 Oct 44	Lt Col R J McKeown	Forfeit 1 day pay
Field	28 Sept 44	Pte		AA 40 (1) Absent from 1130 hrs 28 Sept 44 to 1245 hrs 29 Sept 44 (Period 25 hrs 15 mins)	Sgt Boyd H. Shuttleworth	Forfeit 1 day pay	2 Oct 44	Lt Col R J McKeown	Forfeit 1 day pay
Field	29 Sept 44	Pte		AA 40 (1) Absent from 1245 hrs 29 Sept 44 to 1245 hrs 30 Sept 44 (24 hrs)	Sgt Boyd H. Shuttleworth	Forfeit 1 day pay	2 Oct 44	Lt Col R J McKeown	Forfeit 1 day pay

Released from the Detention Barracks Field Sept 30 1944, to return Army Upon Termination Command and to Report for Detention Barracks Notified Person 29 Sept Commandant Detention Barracks

Field	4 Oct 44	Pte		AA 40 (1) Absent from 1130 hrs 4 Oct 44 to 1130 hrs 5 Oct 44 (Period 24 hrs)	Sgt Shuttleworth H.	1 Days C.B.	25 Oct 44	Maj R.C. Bell	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Tidworth	4/9/42	Gnr		1) 1045 hrs 4 Sept 42 Disobedience of lawful order in that he while serving with Dorset Yeo did not take every step in his power to prevent a disturbance which occurred in the Dorset Yeo Dormitory	Sgt Lovell Sgt Burr	14 days C.B. Remainder of sentence suspended for 6 months		Lt Col Barnes Comdg Dorset Yeo	
				2) 1045 hrs 4 Sept 42 Using threatening language to Sgt Lovell					
Tidworth	5/9/42	Pte		1) 1045 absenting himself from 2200 hrs 3/9/42 to 0715 hrs 4/9/42 & 0715 hrs 4/9/42 to 1045 hrs 4/9/42	Lt Col Barnes Lt Col Wells D.R.	21 days F.D.	21 Sept 42	Maj [illegible] [illegible]	Part of punishment remitted Maj 17 days pay
Tidworth	5/9/42	Pte		2) Disobedience of lawful command given by his superior officer in that he did not parade at 0715 hrs 4/9/42 & 0715 hrs 5/9/42 & 0715 hrs 6/9/42	Sgt Pl Burgess	7 days C.B.	21 Sept 42	Lt Col Cobb	Rem of 14 days pay
Tidworth	7/9/42	Pte		1) 1045 hrs 4/9/42 Absenting himself from 2330 hrs 4/9/42 till apprehended in London at 1345 hrs 7/9/42 (39 hrs 15 mins)		Dis (C) [illegible] detention	10/9/42	D.S.C.M.	Rem 14 days pay & 1 reduction
								Confirmed by	Rem 14 days pay & 1 reduction
				2) 1045 hrs 4/9/42 Losing by neglect his equipment to the amount of £4/10				Brig	Rem 2 days pay & 1 reduction
								[illegible]	Rem 3 days pay
								Comd D.S.C.M.	[illegible]

Released from the Detention Barrack A Block on Feb 10, 1943. Detainee handed by Escort Authority
marched round towards Command HQ. Escort Corporal sent Station. [illegible]

Original Conduct sheet destroyed 15-10-41

Ex "Z"

No. Name Sqn., Battery, or Company Corps O.C. Date of enlistment G.C. Badges Service or Proficiency Pay

M.F.M. 6
(A.F. B.122)
40-P & S/136 (2065)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc. A Woodhouse Capt — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with Trial	By whom awarded	Remarks
Tobruk	10/5/42	Tpr		1683 Conduct to the prejudice of good order and military discipline in that he though present on parade was liable to perform duties on the Establishment of the Corps R.A.S.C.	Sgt Jarvis	7 days C.B.	10/5/42	Lt A Woodhouse	
Tobruk	23/5/42	Tpr		1683 Conduct to the prejudice of good order and military discipline in that he while on guard at the guard tent used the butt of his rifle to strike the bell and in front of the Commanding Officer thereby prejudicing the discipline of the Establishment R.A.S.C.	H/C Cain Tpr Stimson T.R. Brennan T.R.	7 days C.B.	23/5/42	Capt A Woodhouse	
Tobruk	23/5/42	Tpr		1683 Conduct to the prejudice of good order and military discipline in that he when on guard did use abusive and insulting language to Sgt Montgomery	Maj Hon Scarborough Sgt Montgomery	7 days C.B.	23/5/42	Capt A Woodhouse	

(P.T.O.)

40

CHARGE SHEET

The accused, No. G 37047, Pte. HARVEY JOSEPH DALLARD, of the Royal Regiment of Canada, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

WHILE ON ACTIVE SERVICE, Absenting himself without leave,
in that he
at Aldershot, Hants., absented himself without leave from 2200 hours, 1 November, 1943, until apprehended by the Canadian Provost Corps at Guildford at 1400 hours, 22 November, 1943; (time absent:- 20 days, 16 hours).

(J.H. Christie) Col.,
Officer Commanding,
4 Cdn Inf Rft Unit, C.A.O.

IN THE FIELD
26 NOVEMBER 1943

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(G. Francoeur) Brigadier.
Commander,
"D" Group, Cdn Rft Units.

IN THE FIELD
29 NOV 1943

41

4Hb

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. F. 37042
PTE. DOLLARD H.J. of #4 C.I.R.U.
and in my opinion, he is fit to undergo trial by Court Martial.

Station FIELD

Date 29-11-43 (Sgd.) (Medical Officer)

(Canadian Reinforcement Units Routine Order No. 3, para 27, d/d Jan 42)

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/PAS/1097 (2663)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 103(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
G-37047	Pte		Harvey Joseph	DOLLARD	Royal Regiment of Canada (4 Canadian Infantry Reinforcement Unit)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 28 Nov 43 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 103(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J.H. Anderson	3 CIRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
1 Captain	to be detailed by Commanding Officer	4 CIRU
1 Lieutenant	to be detailed by Commanding Officer	4 CIRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 28 Nov 43

Commanding HQ "D" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

S-37074 Pte Dellard, H. J.

Plea in mitigation of sentence:

Although he was absent for some 20 days, he has no excuse for the breach of regulations. However he asked to be granted to his unit commander and requested to go on an early draft to Sicily where his unit is. During the time he spent with his original unit, his conduct sheet will bear me out, he was apparently a good soldier. In view of the fact he was desirous to go on draft and join his original unit, I ASK the Court to be lenient.

W. J. Poole, Lt.

SCHEDULE "F" EXHIBIT "A"

Certificate in Accordance with P.C. 2737 of 10 Apr 40

I CERTIFY that No. G37047 Rank Pte, Name Dollard H.J.

Unit "F" Coy. 4 C.I.R.U. was arrested at Guildford

at 1400 (hour) on 22 Nov 43 (date) and that at the time of his arrest he was wearing (military uniform) XXXXXXXXXXXXXXXXXXXX

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Can Army, into whose custody the above named person was taken on arrest.

(F.A.Love) Capt.
O.C.No.9 Cdn.Provost Coy.

26 November 1943

This is to certify that I have received the following documents free of charge:

One copy Charge Sheet
One copy Summary of Evidence
One copy List of Witnesses
One copy List of Exhibits

H. J. Dollard

G-37049 Pte. Dollard, H.J.

#4 CANADIAN INFANTRY REINFORCEMENT UNIT, C.A.(C). 40/24

26 November 194.3.

I, No. B-37047 Pte. Dollard, H.V., wish to have
(Rank) (Name)

an Officer defend me at my forthcoming trial by Court Martial.

I Desire the services of ~~whoever~~ may be detailed if he is available.

(Sgd.) H. V. Dollard

LIST OF EXHIBITS

Certificate in Accordance with P.C. 2797 - Exhibit "A".

Ala

LIST OF WITNESSES

For the Prosecution - H-37925 Sgt. Shuttleworth, F.

- Capt. F.A. Love, O.C. #9 Can. Provost Coy.

SUMMARY OF EVIDENCE Ex "X"

Summary of Evidence in the case of No. G 37047 Private Dollard, H.J., Royal Regiment of Canada, on strength on No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the summary of evidence be taken on oath.

FIRST WITNESS

For the Prosecution

No. B 37925 Sgt. Shuttleworth, P., Royal Hamilton Light Infantry, on strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states:
"I was Coy. Orderly Sergeant of "F" Coy., #4 C.I.R.U., 1 November 1943. At 2200 hours I called the roll of "F" Coy., to which the accused, whom I now recognize, is a member, and he failed to answer his name. I checked the quarters of "F" Coy., and the accused was not to be found.
I have been permanent Coy. Orderly Sgt., the entire month of November, and call the roll twice daily. G 37047, Pte. Dollard, H.J. has never appeared on any Coy. parade and has been absent from his billets".

P Shuttleworth Sgt
B 37925 Sgt. Shuttleworth, P.

The accused declines to cross-examine this witness.

SECOND WITNESS

For the Prosecution

Capt. F.A. Love, Officer Commanding No. 9 Canadian Provost Company.
I certify that, in my opinion, the attendance of this witness is, owing to this officer being employed on special duty, not readily procurable, and a written certificate of his evidence, signed by him, has been read to the accused, and is attached hereto, as "Exhibit A".

R W Barker Lieut
R.W. Barker, Lieut.
Officer detailed to take summary

I do not require the attendance of this witness for the purpose of cross-examination.

H J Dollard
G 37047 Pte. Dollard, H.J.

The accused was cautioned as follows:- "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writting and may be given in evidence."

After the above caution, the accused declined to make a statement.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence of the accused, and that Rules of Procedure 4 (c), (e) & (f) have been complied with.

R W Barker Lieut
R.W. Barker, Lieut.
Officer detailed to take summary.

IN THE FIELD
24 NOVEMBER 1943

58-b Ste. Dolline L. 9.

STATEMENT BY THE ACCUSED FOR A DEFENDING OFFICER

If I am to be tried by Court Martial on charges now pending against me, I wish to have Major Swaisland D.F.C. act on my behalf.

L A. Dolliver

LIST OF WITNESSES IN THE CASE OF K.39590 Pte Dolliver, L.A.

Prosecution:
1. C.[illegible] L/Cpl Mudge, G.W. - No. 1 Pro Coy, RCMP
2. K.39718 Pte Whynot, D.H. - West NSR
3. K.39656 Sgt Morosan, W.L. "
4. K.40651 Pte Goodwin, A.E. "
5. K.42661 Cpl Miller, C.E. "
6. K.42654 Pte Rhodenizer, O.K. "

Defence

NIL

W-39590 Dolliver, L.A.

E 3 pcs
H Beardsley Maj
President

no

-48-

-48-

no

27

8 Sep 39



Army Form B.122

No. T 3959 Name T ~~3959~~ Dollhoze La | Sqn., Batty., or Company | 1 Glc Corps West N S R | Date of enlistment | E 2 M Guard Duty May [illegible] | Sheet No. 2

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Badges | Long Service and G.C. Pay | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aberdeen NS	2/2/42	Pte	1	Drunkenness - Sec 9 AA	Cpl Sabourin G	5 days C.B.	16-2-42		
				[illegible] Company Completed [illegible]	[illegible]	[illegible]	[illegible]		
				RCA [illegible]					
				[illegible]					
Field	16/2/42	Pte		Wood: AWL from 2230 - 2300 15/2/42	Cpl Hall Duplay	2 days reverted	16/2/42		
				Sec 15 AA [illegible]					
				[illegible]					
Field	28/2/42	Pte		Wood: AWL [illegible] Sec 194	Sgt Wrights	28 days F.P. No.			
				[illegible]					
				[illegible]					
				[illegible]					

App II
JRC

Amount, and value, of beer stolen from Regimental Canteens Stoneshed night of 12/13 Apr 41

72 Bear (pints) @	10d each	£1.10.0
30 Bottles (pints)	" 2d "	4.6
2 Casks	" 1/6 "	2.5
2 Cases Beer (½ pints)	" 6d "	2.4.0
2 Cases bottles (½ pints)	" 1/- "	2.8
2 Casks	" 3/0 "	12.0
1 Box beer (½ pints) Cases	" 9d "	1.16.0
1 Box bottles (½ pints)	" 1/- "	5.0
1 Chest	" 5/- "	2.5
	Total value	£ 6.19.6

SIXTH WITNESS cont'd

the main road with the case Dolliver had taken. On Sunday 13 Apr 41 I did see Dolliver around billets. I was speaking to him at billets sometime before dinner when I told him how I had broken the lock on the storehouse door. On Monday I spoke to Dolliver about being in the guard house overnight. Dolliver did not say anything about the beer question that I remember.

The accused declines to cross-examine this witness.

Lt. H.A. Whitney

SEVENTH WITNESS for prosecution

F.39657 Pte Morris, C.J. of West NSR, having been duly sworn, states as follows:-

I am Pte Morris of HQ Coy West NSR. I know the accused Pte Dolliver. On Saturday I spent the evening with friends in Warlingham and returned with Pte Dolliver, the accused, in a civilian car at 2225 to my billets at Dukes House. My friend in the car agreed to wait for me till after tatoo, so that we could go back to her place. We went ~~xxxx~~ up to our room in Dukes House and were there when the orderly corporal called the roll. Dolliver left the house a few minutes before I did and as I went down the road towards the gate of Ashen Coppice, I noticed Dolliver and Rhodenizer standing beside a large tree a few yards in front of Ashen Coppice. I did not speak to Rhodenizer but helped Dolliver carry away one case of twelve bottles of beer, seven small bottles and five large bottles to my friend's car and we went back to Warlingham. Pte Dolliver told me he had bought the beer from Pte Rhodenizer and I asked no more questions. We returned to our billets at about 0200 hrs. On Sunday after church parade around 1100 hrs Dolliver and I went down to where we had seen two bottles of beer on our way to church and each took a bottle of beer, which we drank there. I did not see any others around then. As we came back I saw Rhodenizer and I told him we had taken a couple of bottles and he said he had noticed some were missing. The case was an Allsopp yellow case built to contain 12 large bottles. There were 5 large bottles of Allsopp's Ale and 7 small bottles of Bass. Monday when I heard the beer was stolen I was afraid of becoming involved in trouble so I went up to my friend's house and took the large bottles and threw them away. I hid the small bottles out in the back yard and then I smashed the case up into kindling wood. On Tuesday I got the small bottles from the yard so that the police could have them for evidence if they wanted them.

C J Morris

The accused declines to cross-examine this witness.

The accused, having been duly warned in accordance with RP 4, reserves his defence.

I certify that RP 4 (c), (d), (e), (f), and (g) has been complied with.

Taken down by me in the presence and hearing of the accused this 23rd day of April, 1941.

J.R. Rhodes Lieut
Officer taking Summary of Evidence

5th Witness for Prosecution

F-42634 Pte Rhodenizer, G.H., having been du'y sworn, is examined b y the prosecution.

Question: Do you recognize the accused?

Answer: Yes, sir, Pte Do''iver.

Question: Wi'' you te'' the court what you know dea'ing with this case?

Answer: They came here with evidence to me that he was in on this stea'ing racket. They came here and said that there was a statement made that he was with me on the night that this had happened so I took it for granted that he was there as I was drunk myse'f.

Question: Where did you first see Do''iver on Saturday?

Answer: I seen him around dinner time and I seen him a'' the time for we sleep in the same room and eat in the same mess.

Question: Did you see him Saturday afternoon?

Answer: Yes, sir.

Question: Did you see him on Sunday?

Answer: Yes, sir.

Question: Was Do''iver in the warehouse with you when this happened?

Answer : No, sir.

Question: Was he outside the warehouse beside the open door?

Answer: I was under the inf'uence of 'iquor at the time and I cannot swear that it was Do''iver.

Question: Did Do''iver carry away one case of beer?

Answer: I can't swear it was Do''iver.

Question: Who was it then?

Answer: I can't say sir as I was pretty drunk.

Question: Did Do''iver say anything to you about the windows being boarded up?

Answer: It seems to me that there was something said about it but I don't remember the exact words.

Question: The door of the shack being opened, did Do''iver know that?

Answer: Not to my know'edge, sir.

Question: On the next day, did you give Do''iver any beer?

Answer: No, sir.

Question: Did you see him next day at a''?

Answer; I wasn't with him Sunday and I did not give him anything.

[signature] President

Question: Were you on Church Parade?

Answer: No, sir.

Question: Were you home a'' day?

Answer: Yes, sir.

Cross-examination by the Defence:

Question: Were you drunk Sunday morning?

Answer: I was under the inf'uence of 'iquor.

Question: Did you know what you were doing?

Answer: I can't reca'' everything I did.

Re-examined by the Prosecution:

Question: When did you first see the beer in the shed or know that there was beer there?

Answer: Saturday morning.

Question: Were you a'one at that time?

Answer: Yes, sir.

Question: Were you ta'king to Do''iver that morning?

Answer: No, sir.

Question: Did you see Do''iver at noon?

Answer: Yes, sir, I sat next to him at the tab'e.

Question: Did you p'an anything for the evening?

Answer: I asked him a few questions and to'd him there was beer in the shed and I wou'd 'ike to have some.

Question: What did Do''iver say?

Answer: I can't reca'' the words he said.

Question: Did you mention that the door cou'd be opened?

Answer: I said something about it.

Question: What do you mean by something?

Answer: I said it 'ooked 'ike it cou'd be opened easi'y.

Question: What did you say about the window?

Answer: One of us said something about going in through the window. I don't remember whether it was me or Do''iver.

Question: What happened then?

Answer: That was passed up.

Question: Why?

Answer: The windows were a'' boarded up.

Question: You knew they were?

Examined by Maj President

Answer: Yes, sir.

Question: Had you been down there in the morning?

Answer: No, sir, I was drinking surgical spirits and went down there to get a drink and they were unloading the truck then and I made a second trip before dinner.

Question: Did you spend the afternoon with Do'liver?

Answer: No, sir.

Question; Did you make plans to meet Do'liver?

Answer: We made plans but I don't think he thought much of it.

Question: Did you see Do'liver that evening?

Answer: Yes, sir, he came in the room about 1030 PM.

Question: Where did you go then?

Answer: I went outside and had an argument with the barber.

Question: Were you alone with the barber?

Answer: I can't swear to it but I heard someone talking.

Question: When did you see Do'liver next after talking to the barber?

Answer: I thought I saw him come out of the billets.

Question: Did either of you speak?

Answer: I forget now, sir.

Question: When next did you see Do'liver?

Answer: I surmise it was Do'liver that helped me carry away this case of beer?

Question: You were that drunk that you can't remember whether it was Do'liver?

Answer: I was drunk and don't remember. I was going by the RCMP when he told me what the others had done and I planned that might to get him to help me.

Question: How was the beer placed in the shack?

Answer: As far as I can remember it was in tiers. The put Pepsi-Cola in there too and empty bottles.

Question: Did you see any Pepsi-Cola?

Answer: No, sir, I did not have time to look.

Question: Would you know the difference?

Answer: I would know if I had tasted it.

Question: How many cases were taken out that night by the fellow who was with you?

Answer: I am pretty sure it was two.

Question: You carried one; who carried the other?

Answer: I thought it was Do'liver. E Lansdowne Maj Coy

Question: Did you c'ose the door?

Answer: It seems to me I did.

Question: Then what happened?

Answer: I carried it down to a tree.

Question: How far away?

Answer: No more than 200 yards.

Question: When did you drink the beer from those cases?

Answer: I don't remember. I can remember taking five cases out and the 'ast case I took out in front of the ground.

Question: Was there just two peop'e there?

Answer: Yes, sir.

Question: Are you sure?

Answer: We'', there was no-one e'se there. There was on'y one other fe''ow there.

Question: Was there somebody e'se there when you put the beer under the tree?

Answer: I thought it was Morris.

Question: Were there three with you?

Answer: When I was there by the tree Morris came around there and he spoke about something. I don't know what it was but it sounded 'ike his voice.

Question: Did this a'' take p'ace on Saturday night?

Answer: Yes.

Question: When did you first see Do''iver on Sunday?

Answer: When he got up from bed. He s'eeps about three feet from me.

Question: Then what did you do?

Answer: I can't remember everything that I did do. I was pretty fu'' to go on church parade and I knew if I went I wou'd get in the guard room.

Question: Did you drink any beer on Sunday morning?

Answer: No, sir.

Question: What did you do after dinner on Sunday?

Answer: I went and drank some beer and gave some to Forbes and Mapp'ebeck and Roger Fiende' and Veniott had some of his own.

Question: Was Do''iver with you Sunday afternoon?

Answer: No, sir.

Question: Did you see Do''iver at a'' on Sunday?

Answer: No, sir, I was with Pte Veniott from dinner time on unti'

Sjt Lupton picked us up and put us in Detention.

Question: Wil' you te'' to the Court any conversation that happened to you and Do''iver whi'e wa'king from your dinner?

Answer: I remember te''ing Do''iver something about beer being in the shack and that ~~xx~~ I wou'd 'ike to have some and I said that we cou'd get in through the door a'right and I don't know whether it was him or myse'f that said something about going in through the window as I knew that the window was a'' boarded up and I to'd him something about wou'd he he'p me get some tonignt and he hummed and nawed and said he was going away and we then went to our bi''ets and I never seen him since unti' that night at tattoo.

Question by the Court:

Question: Did you recognize Morris at the tree?

Answer: I did not see his face but the voice that spoke sounded 'ike Morris's because he has a funny way of ta'king it seems to me.

Question: How many bott'es/~~xxxxx~~ did you give these two men at the tree?

Answer: I did not give them any, sir. I dumped one case under the tree and when I got ~~xxxxxxx~~ through hiding it under the nett'es I got off my stomach and 'ooked around but there was no-one e'se there.

Question: What was the argument about that you had with the barber?

Answer: I had asked him the day before for a haircut and when I to'd him I had no money he said he wou'dn't cut my hair. I to'd him to stick the c'ippers up his ass and we got dirty about it and it ended up in an argument. We never fought but just ta'ked it over.

Question: How far is it from the bi''ets to the storehouse?

Answer: About '50 yards.

Question: And from the storehouse to the tree?

Answer: Less than 200 yards.

Question: Did ~~xxx~~ this man you were with walk with you from the bi''ets to the storehouse and then to the tree?

Answer: I thought it was Do''iver but I am pretty sure there was somebody.

Question: Did you ta'k to him on the way over?

Answer: As far as I can remember I was ta'king to somebody.

Question: How 'ong have you known Do''iver?

Answer: About two weeks before this thing happened he was transferred to HQ from "C" Coy.

Question: Had you been s'eeping together?

Answer: ~~He~~ just came back from Fie'd Punishment camp and he was there over a week.

Question: Under normal circumstances if you slept with a man for two or three weeks would you know his voice by his talk?

Answer: I think I would, sir.

Question: When you think it was Dolliver that walked with you, that is a fairly good figure.

Answer: According to what we were talking about I thought maybe it was him that I was talking to. I was doing most of the talking.

Question: On the walk from the billets to the storehouse and on to the tree did the two of you talk?

Answer: I am pretty sure I was talking on the way over but I was pretty full.

Question: Was it right that you had sworn that you recognized the barber and remember his conversation immediately before and recognized Morris immediately after but yet did not know the man you walked with for one quarter of a mile in between but only think it was Dolliver?

Answer: Yes, sir, I had an idea it was him but I was mad and confused.

Question by Defence: Did the same person that followed you down to the shack follow you to the tree?

Answer: Yes, sir.

RP 83 (b) has been comp'lied with.

6th Witness for Prosecution

F-39657 Pte Morris, C.J., having been duly sworn, is examined by the prosecution.

Question: On Saturday evening 12 Apr, who were you with?

Answer: I spent the evening with friends in Warlingham with Pte Dolliver, the accused.

Question: How long did you stay with them?

Answer: We stayed out until 1030 and then came and checked in at tattoo.

Question: Then what did you do?

Answer: Then Dolliver and I went back to Warlingham.

Question: Right back to Warlingham?

Answer: Dolliver said he would meet me down by the road and he went out and I came out a few minutes behind Dolliver.

Question: Was Dolliver alone when you met him?

Answer: Pte Rhodenizer was with him.

Question: Was there any beer around?

Answer: When I met Dolliver he had a case of beer.

Question: What happened to the beer?

Answer: We took it in the car to War'ingham.

Question: Did you ask Do''iver where he got the beer?

Answer: Yes, he said he got it from Rhodenizer.

Question: And then you took the beer to War'ingham?

Answer: Yes, sir.

Question: And then what happened?

Answer: We took the beer to our friends' home in War'ingham and nothing e'se happened unti' we came home at 0200 hrs and went to bed.

Question: What happened on Sunday?

Answer: Sunday morning we went to church parade and when we returned we seen two bott'es of beer 'ying by the road.

Question: Was this the same spot where you saw Do''iver the night before?

Answer: Yes, sir, after church parade we went down and drank the two bott'es of beer.

Question: What did you do after you drank the two bott'es of beer?

Answer: I met Pte Rhodenizer by the house and he asked me if we had found any beer and I said two bott'es and he said it was a'right. There was some missing but he did not know how much.

Question: Some missing from where?

Answer: Wherever he had it hidden. It must have been around the tree.

Question: Anything about Sunday afternoon?

Answer: I went up to War'ingham Sunday afternoon and I did not see Pte Do''iver any more unti' Monday morning.

Question: What happened Monday?

Answer: Nothing, sir.

Question: The beer that you took to War'ingham, what became of that?

Answer: We drank it at the house.

Question: What happened to the bott'es?

Answer: Monday Do''iver to'd me that the po'ice were down after him for taking beer and I was scared about getting in-vo'ved so I went to War'ingham and destroyed the bott'es and case.

Question: What did Do''iver say about the po'ice?

Answer: It was just that the po'ice were b'aming him for stea'-ing beer but he said he did not know anything about it.

Cross-examined by the defence:

Question: How long after Pte Do''iver 'eft Dukes House, did you 'eave?

Answer: Approximate'y three to five minutes.

Question: Do you think that a fast runner cou'd run from Dukes House to the canteen shed and then to the tree within that time?

Answer: I don't think so.

Re-examined by the prosecution:

Question: Were you drink"heavily Saturday?

Answer: Quite heavi'y.

Question: And sti'' you know it was three to five minutes?

Answer: I figure it was about that time.

Question: Can you wa'k that distance from the bi''ets to Ashen Coppice gate and the canteen in five minutes?

Answer: Yes, sir.

Question: How far is it?

Answer: A good 'itt'e ways.

Questions by the Court:

Question: You have mentioned seeing Rhodenizer and Do''iver Saturday night. At what time did you see them?

Answer: Approximate'y '040.

Question: Where were they?

Answer: By a tree in front of Ashen Coppice.

Question: How 'ong wou'd it take to go from that tree to where Do''iver s'eeps, going past the storeshed?

Answer: About five minutes.

Question: Why did Do''iver 'eave about five minutes before you?

Answer: I cou'dn't say, sir.

Question: Were you ~~expecting~~ expecting Do''iver at the p'ace you met him, before going out?

Answer: No, sir.

Question: Where were you expecting to meet him?

Answer: Down by the foot of the road where our friends were waiting.

Question: What kept you five minutes behind him?

Answer: I don't know, sir.

Question: Cou'd a man wa'king from Dukes House pick up a case of beer at the storehouse and proceed to the tree in five minutes?

Answer: I don't think so sir.

Question: What is the minimum time in which it cou'd be done?

Answer: About ten minutes. E. Lumbly Lt/ President

F-39590 Pte Do''iver (page 13) PEB

Question: How 'ong was it from the time Do
bi''ets unti' the time you saw

Answer: About five minutes.

Question: You mention in your evidence that Do''.
Have 'eft the bi''et about five minutes be.
'eft. Is that correct?

Answer: I think I said in the Summary of Evidence three to five minutes.

Question: How 'ong does it take to wa'k from the bi''et to the tree where you met Do''iver?

Answer: I was drinking fair'y heavy and cou'd not be sure that these figures are exact for the timing.

Question: Did you have to go by that tree to get to the car?

Answer: Yes, sir, I a'ways go by that way.

RP 83 (b) has been comp'ied with. [signature] President.

Question: How 'ong was it from the time Do''iver 'eft the bi''ets unti' the time you saw him at the tree?

Answer: About five minutes.

Question: You mention in your evidence that Do''iver must Have 'eft the bi''et about five minutes before you 'eft. Is that correct?

Answer: I think I said in the Summary of Evidence three to five minutes.

Question: How 'ong does it take to wa'k from the bi''et to the tree where you met Do''iver?

Answer: I was drinking fair'y heavy and cou'd not be sure that these figures are exact for the timing.

Question: Did you have to go by that tree to get to the car?

Answer: Yes, sir, I a'ways go by that way.

RP 83 (b) has been comp'ied with. [signature] Lieutenant

Page 14 PES.

NOTE B.

DEFENCE.

The Accused is informed of his rights in accordance with R.P. 40 (a) and Note 2 of page 644 of the Manual of Military Law, 1929 edition. PES.

The accused is asked the following questions:-

Q.1 Do you wish to give evidence as a witness?

A.1 No PES

Q.2 Do you intend to call any other witnesses on your behalf?

A.2 No PES

Q.3 Are these witnesses as to character only?

A.3 PES.

E Lennox Tobyn Maj
President

CLOSING ADDRESS BY THE PROSECUTION:

Due to the fact that the accused did not give evidence therefore speaks for itself. Evidence has been submitted that the accused was present during the steal'ing.

CLOSING ADDRESS BY THE DEFENCE:

In this case the prosecution has presented six witnesses to establish their case, on'y two of which produced evidence re'ative to the theft of the beer from the regimenta' institution. A witness for the prosecution stated that he thought that Pte Do''iver was present when the theft took p'ace but admits that he is very doubtfu' as to who it was. In this the prosecution has fai'ed to produce evidence that the accused actua''y sto'e a case of beer for which he is charged under Sec '8 (4) of the Army Act. I therefore 'eave the decision to the Court.

At 1730 hrs 5 Jun 4' the Court adjourned unti' 0830 hrs on 6 Jun 4'.

On 6 Jun 4', at 0830 hrs, the Court assemb'ed pursuant to adjournment.

Present: Same members as on 5 Jun 4'.

The accused is brought in and found NOT GUILTY of the first charge.

Lieut. D.McG. Archibald, West NSR, having been du'y sworn, gives the fo''owing evidence:

I present to the Court a copy of MFM 6, certified to be correct by the Adjt, West NSR. I a'so present to the Court, in dup'icate, Short Statement As to Particu'ars of Service of the Accused.

(The MFM 6 is marked E.', signed by the president and annexed to the proceedings).

(The Statement as to Particu'ars of Service of the Accused is marked E.2, signed by the president and annexed to the proceedings.)

Question by the Court- Do you wish to address the court or to ca'' witnesses as to character?

Answer: Yes, sir, I wish to ca'' a character witness first and address the court afterward.

'st Witness as to Character

Lieut. C.R. Day, West NSR, having been duly sworn, gives the fo''owing evidence:

Question: Wi'' you te'' the Court who you are and what p'atoon you were in command of when Pte Do''iver served under your command?

Answer: I am Lieut. C.R. Day of No.16 P'atoon, West NSR. At one time I was signa' officer, No.' P'atoon. The accused was the driver of my 8 cwt truck. He he'd that position for about four months unti' he went into the garage as a mechanic. During the time he was my driver I found him very competent and had no troub'e whatsoever with him. After 'eaving me I did not see very much more of him.

RP 85 (b) has been comp'ied with.

The prosecution dec'ines to cross-examine the witness.

Wednesday 6th June

F-39590 Pte Do'liver (page 17) PCB

The defence makes the fo'lowing address in mitigation of sentence:-

I cou'd bring further witnesses to give evidence as to the character of Pte Do'liver but since time is at such a premium and in view of the fact of what Lieut Day, Pte Dol'iver's former p'atoon commander, has said, I think I have estab'ished to the Court that the accused is not a hardened crimina' but a capab'e driver who has not committed any major crime and is furthermore a competent so'dier.

RP 83 (b) has been comp'ied with. The charge sheet is marked Ex signed by the Provost Marshal who convened the proceedings RP 83. The Summary of evidence is marked Ex signed by the Field Officer who convened the proceedings RP 83.

Elizabeth Kay
Captain

SUMMARY OF EVIDENCE
in the case of

F.32590 Pte Do''iver, L.A. of the West NSR, a soldier of the Cdn Army (Overseas), stationed in the Fie'd

By order of Lt-Col L.T. Lowther, ED, Officer Commanding West NSR, the evidence is taken on oath.

1st Witness for prosecution — C.42058 L/Cpl Mudge, G.W. of No. ' Pro Coy, RCMP, having been du'y sworn, states as fo''ows:-

I am and was at a'' times materia' hereto L/Cpl Mudge, G.W. of No. ' Pro Coy, RCMP. On '3 Apr 4', acting on instructions received from the adjt West NSR, I investigated a breaking, entering and theft from a regimenta' institution storehouse, situated at transport H., West NSR. During the course of my investigation I interviewed the fo''owing persons, Cp' Mi''er, S.Sjt Whynot, S.Sjt Moreash, Pte Goodwin, Pte Do''iver, Pte Morris, Pte Rhodenizer and a Mrs Wa''ace, 6 The Green, Mar'ingham. From S.Sjt Moreash I obtained a 'ocK which has been in my continuous possession since. This 'ook had been forced. I tender it as exhibit "A" for further identification. From the finding I wou'd ask the above witnesses be ca''ed to give evidence.

The accused dec'ines to cross-examine this witness.

2nd Witness for prosecution — F.397'6 S.Sjt Whynot, R.H. of the West NSR, having been du'y sworn, states as fo''ows:-

I am and was at a'' times materia' hereto transport serjeant of the West NSR. On Sunday '4 Apr 4' at approximate'y '640 hrs Pte Goodwin reported to me that two men were drinking beer down by a truck in front of Dukes House. I went down immediate'y to the spot named, but there was no one there but I found five or six empty beer bott'es, and a short distance away five empty cases. I identify exhibit "C" as the five empty cases found. I then went to check the canteen storehouse and found the 'ock had been pried off and the door open. I then reported the matter to S.Sjt Moreash.

The accused dec'ines to cross-examine this witness.

THIRD WITNESS for prosecution

F.39656 S.Sjt Moreash, W.L. of the West NSR, having been duly sworn, states as follows:-

I am S.Sjt Moreash, W.L. of HQ Coy West NSR. I am and was at all times material hereto the manager of the regimental canteen, i.e., I keep the books and procure the stocks for distribution to the various Coy Canteens. At approx 1845 hrs 13 Apr 41 on my return to billets I was met by Sjt Whynot who informed me that Pte Goodwin, W.J. had reported the matter to him. I immediately went over to the store shed and found that while the door was pulled to and the lock in its proper place the lock had been forced and broken. I identify exhibit "A" as the lock in question. Sjt Whynot then told me where he thought we might find some cases. We proceeded to a hedge approx 40 yards below the shed and to the right and there we found three cases empty, with a fourth in an air raid trench a short distance beyond. Thinking to find a cache of beer I returned to billets and got a couple of men and made a detailed search. Pte Goodwin joined the party approx 15 or 20 minutes later and in the course of the search found another empty case near a hedge almost directly behind the shed. I produce five cases marked exhibit "B" being the cases found as a result of the search. The bottles which I produce, marked exhibit "E" are similar to those taken. On checking stores I found missing nine cases in all. The statement att hereto and marked appx 11 is a detailed account with wholesale value of amount and retail value of amount of beer bottles and cases taken.

The accused declines to cross-examine this witness.

FOURTH WITNESS for prosecution

F.40651 Pte Goodwin, W.J. of the West NSR. having been duly sworn, states as follows:-

I am Pte Goodwin, W.J. of HQ Coy of the West NSR. On Saturday night 12 Apr 41 Pte Dauphinee was duty driver for HQ and at 1530 hrs I brought in a load of beer for the canteen, then I took over from Dauphinee. as Cpl Miller, i/c HQ canteen was busy, he gave me the key of the storehouse which is situated between Dukes House and Ashen Coppice. I store 17 cases of beer there and after locking the door returned the key to Cpl Miller. While I was engaged in unloading the beer Pte Rhodenizer was walking up and down the road but did not stop to speak. On Sunday afternoon 13 Apr 41 at approx 1630 hrs I went down to my truck which was parked about 30 yards in fron of Dukes House, under the trees, beside the tpt rd leading to Ashen Coppice Gated. I heard a noise in the bushes across the rd and when I investigated I saw Pte Veinot sitting down drinking beer and Pte Rhodenizer was standing by Veniot. Rhodenizer ee called to me to come down out of sight. When I reached where he was sitting Rhodenizer said to me "You are not going to squeal on me are?" So I asked what about and he said "Do you know that beer you brought in yesterday, well that fellow that was with you in Redhill broke in to the canteen storehouse and this is the beer we are now drinking. Don't say anything about this to anyone. If they have us up tell them I was with you when you unloaded the beer." But I said I couldn't as I was alone. Veniot had a bottle in his hands and I noticed about two cases of beer lying around mostly 2 pint sizes. I immediately went back to Dukes House and reported the whole matter to Sjt Whynot, who left at once to investigate Then Sjt Whynot told me to stay at the house. Then after he came back we reported to Lieut. Spurr. After Sjt Moreash came back we went down and looked for bottles and

FOURTH WITNESS cont'd

cases. Sjt Moreash found an empty case and I found one. The case I picked up was an old case, it was a big case built to hold 24 half pints.

W J Goodfellow

The accused declines to cross-examine this witness.

FIFTH WITNESS for prosecution

F.42621 Cpl Miller, C.H. of the West NSR, having been duly sworn, states as follows:-

I am Cpl Miller of HQ Coy the West NSR. I have charge of HQ Coy canteen. Between 1230 hrs and 1430 hrs Saturday 12 Apr 41 I delivered beer from the store house to three of the coys. Then I locked the storehouse. The lock marked exhibit "A" is the one I used to lock the storehouse. That's all I know of the storehouse until Monday morning when I found the Storehouse had been broken into. When I locked the storehouse Saturday afternoon there were at least 7 cases of beer left. I particularly noticed 3 cases of pints and 2 cases of Worthington, how many cases of half pints I could not swear, there were at least three if not more. I dont remember selling Dolliver, the accused, any beer. I was put in charge of the storehouse from Saturday noon till S.Sjt Moreash returned Saturday night.

C.H. Miller

The accused declines to cross-examine this witness.

SIXTH WITNESS for prosecution

F.42634 Pte Rhodenizer, G.H. of the West NSR, having been duly sworn, states as follows:-

I am Pte Rhodenizer, G.H. of HQ Coy West NSR. On Saturday 12 Apr I was coming down from dinner with Pte Dolliver, the accused. I said there was beer in the shed there and some words passed between us about getting it. I said it looks like the shack could be easily got into. Dolliver said something about the window in the shed but I said that was boarded up. I said we could get in through the door very easily. So we kept on walking down to the house and Dolliver said something about waiting until tonight that he was going out for the day. That's all I say of Dolliver until he came home at 1030 PM, when he came in and made down his bed. The Orderly Corporal came in and checked the man. Then Dolliver said he was going to the toilet which was upstairs and I went out in the hall where it was dark. The Regimental Barber and I had an arguement which we finished outside and then the barber went back inside. Morris was standing there listening. While the argument was going on Dolliver came out of the house over to the corner of the barber shop. Then Dolliver called me by name and I went over. Then I said something about the beer and that the door of the storehouse was open and I said "come on". Dolliver and I then went over and we each got a case. I went in the storehouse first. I couldn't swear Dolliver came inside but he was right up to the door. There were two cases there right inside the door and we each took one. I moved both cases. I took one in my hands and I slid the other one out to the door where he was standing. He picked it up and then sat it down while I carried out the case I had in my hands and I sat that down too. Then I closed the door and put the lock back on. Then we went over to the tree. I hid my case underneath the tree and while I washiding the case under the tree Morris came along and there was some words passed between Dolliver and Morris but I don't know what was said. Then there was an exchange of bottles between Dolliver and myself and when I got up on my feet they had disappeared down toward

F-39590 Pte Do''iver (page 4) 883

The Defence dec'ines to cross-examine the witness.

RP 83 (b) has been comp'ied with.

3rd Witness for Prosecution

F-397'6 Sjt Whynot, R.H., of the West NSR, having been du'y sworn is examined by the prosecution.

Question: Sjt Whynot, wi'' you te'' the Court what you know dea'-ing with the accused in connection with this case.

Answer: Pte Goodwin reported to me that he saw some men down by the woods consuming beer with ahe case near them. By the time I got my coat on the so'diers had gone. I investigated and found that the storehouse had been broken into and entered. I then went to the scene where they were drink-ing this 'iquor and found some empty cases. Ir reported the matter to S.Sjt Moreash and Sjt Lupton.

Question: What day was that on?

Answer: I do not remember, sir.

Question: Did Pte Goodwin say who was there at the time?

Answer: No, sir.

The defence declines to cross-examine this witness.

RP 83 (b) has been comp'ied with.

4th Witness for Prosecution

F-39656 S.Sjt Moreash, W.L., of the West NSR, having been duly sworn, is examined by the prosecution.

Question: Do you recognize the accused?

Answer: Yes, sir.

Question: Wi'' you te'' the court your job and position in HQ Coy and what you know about the accused dea'ing with this case?

Answer: I am order'y room c'erk of HQ Coy and I am a'so manager of the Regimenta' Canteens. At approximate'y '845 hrs '3 Apr I was informed by Sjt Whynot that Pte Goodwin had reported to him that the Regimenta' Canteen storehouse had been broken into. I investigated this and found it to be true. I immediate'y instigated a search with the he'p of three other men, in the nearby woods hoping to find a cache of the beer that was sto'en. In my searching I found five empty cases and a number of empty bott'es. The bott'es were not in the cases or near the cases. Fai'ing to find the cache of beer and darkness setting in the search was abandoned. At that time it was reported by Pte Goodwin that he had seen some men drinking approximate'y 75 yards be'ow the canteen storeshed. On my instructions Sjt Whynot got in touch with the Provost Sjt, who then took charge.

The defence dec'ines to cross-examine this witness.

RP 83 (b) has been comp'ied with.

a statement, exhibit, or a witness in the case.

The Court is closed to consider the objection.

Objection is overru'ed.

Question by Court: Refresh your memory from the statement and give the court the gist of that statement.

Answer: Do''iver states,after being du'y warned by me, that on Saturday evening, '2 Apr, he spent the evening in War-'ingham at a private house with Pte Morris. At '025 PM we came home in a civi'ian car driven by Mrs. Wa''ace, 6 The Green, War'ingham. The car stopped at the gates of Ashen Coppice, transport HQ of the West NSR HQ Coy. We then proceeded up the driveway to our bi''ets in Dukes House. We did not see or hear anything on the way up. After arriving we answered our names at tatoo ro'' ca'' and I 'eft Dukes House in company with Pte Morris and when we came to a point on the driveway in front of Ashen Coppice House we noticed Pte Rhodenizer knee'ing beside a 'arge dedar tree. On ~~him~~ going up to him we noticed he had beer. Rhodenizer asked me if I wanted any beer so I said I haven't any money but I cou'd pay you on pay day. So he passed out 7 sma'' bott'es and 5 'arge bott'es of beer. Some were in a dozen beer case which was fi''ed with sma'' bott'es. There was no more conversation then and we proceeded down the road and back to War'ingham in the civi'ian car which had brought us down and which had waited at the gates whi'e we checked in. On Sunday '3 Apr at approximate'y '230 PM I was a'one in a room ~~with~~ at Dukes House with Pte Rhodenizer and I~~s~~ asked him where he got the beer he had the previous evening. So he to'd me out of the canteen store-house. He then said he had gone to a 30 cwt truck, taken an iron bar and had forced the 'ock on the storehouse. On Monday morning '4 Apr I spoke to Rhodenizer and asked him what the He'' he meant by saying I had broke the 'ock, which he denied saying , so I got him and Pte Goodwin together and Rhodenizer then said if he had said anything to me he must have been drunk as he cou'dn't remember.

HP 83(b) has been comp'ied with.

2nd Witness for Prosecution

F-4262' Cp' Mi''er, C.H., having been du'y sworn, is examined by the prosecution.

Question: Do you recognize the accused?

Answer: I do.

Question: Te'' the Court anything you know dea'ing with this case.

Answer: There is nothing I know about the ~~accused~~ accused in regard to this case.

Question: Can you give the court any evidence?

Answer: I have charge of the HQ Canteen. On that Saturday S.Sjt Moreash turned the keys over to me to the 'itt'e bui'ding the beer was kept in and I so'd some beer to different coys. After I ~~had~~ got through se''ing this beer to the different coys there were at 'east two cases of Worthington, two cases of pints, and two cases of ha'f pints. I cou'd not say exact'y how many. I did not hear about the bui'ding being broken into unti' Monday morning

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL

In the case of F-39590 Pte Dol'iver, L.A., West NSR.

1st Witness for prosecution

C-42058 L/Cpl Mudge, of No. ' Pro Coy, RCMP, having been du'y sworn, is examined by the prosecution.

Question: Do you recognize the accused?

Answer: Yes, sir.

Question: Wi'' you te'' the court what you know of this case?

Answer: I am and have been at a'' times materia' hereto, L/Cpl Mudge, G.W., of No. ' Pro Coy, RCMP. On Apr '4, '94', acting from instructions received from the adjt of the West NSR, I investigated a breaking and entering and theft from a regimenta' institution storehouse situated at transport HQ of the West NSR. During my investigation it became apparent that the accused, L. Dol'iver, was invo'ved in said theft. In this connection I interviewed Cp' Mi''er, Sjt Whynot, S.Sjt Moreash, Pte Morris, and Pte Do''iver. These above mentioned I wou'd 'ike to have ca''ed in here to give evidence.

Question: Did the accused make any statement to you at a'' with bearing on the case when interviewing him?

Answer: Yes, sir. As it was taken by me a'one without witnesses, I do not wish to enter this as evidence.

Question by Defence: You say it is apparent that the accused was invo'ved in this case. Why did you say this was apparent?

Answer: During the course of my investigation from the statements received from the various witnesses named and by a statement given me by the accused himse'f.

Question by the Court: You refer to a statement that the accused has made to you. When the accused made this statement had he been warned that anything he might say cou'd be he'd against him?

Answer: Yes, sir, he had been warned.

Question: Do you remember what that statement was?

Answer: I can't remember it word for word.

Question: Do you remember the gist of the statement?

Answer: No, sir, it is near'y two months since I took the statement and I cou'dn't give it exact'y.

Question: Was this statement taken down in writing?

Answer: Yes, sir, I have it here.

Objection by the Defence: I object that un'ess the accused is given 48 hrs notice the prosecution may not bring

5th June.

F 39540 Pte Sullivan W.A. WMSR.

Prosecutor. Lt D. Kelly. Archibald

Defending Officer. Lt I.H. MacIntosh

Officers under Instruction. None

The members retired & heard R. Report by the President

1. The order convening this Court is read in the presence of the Accused.

2. The Accused is asked the following question:-

Do you object to being tried by the President or any Members of the Court, whose names you have heard read over?

Answer - No

3. The President, Members, [illegible], Officer, [illegible] are duly sworn.

4. (a) The Accused [illegible] is satisfied with.

5. The Accused is shown the question at the foot of page 2 of [illegible], and his answer is recorded [illegible] with the question.

6. The Prosecutor calls [no] witnesses.

[illegible]
President

WEST NOVA SCOTIA REGIMENT

This is to certify that E.39590 Pte Rollins L. A.
of the West Nova Scotia Regiment, Canadian Active Service Force, has
this day been examined by me, and found medically fit/[redacted] to under-
go trial by Court Martial.

Date Jan 6th/1941

Medical Officer
West Nova Scotia Regiment

WEST NOVA SCOTIA REGIMENT

E-1 Pte Beresford, W.J. Lunenburg

This is to certify that E.39590 Pte Collins L.A.

of the West Nova Scotia Regiment, Canadian Active Service Force, has this day been examined by me, and found medically fit/~~unfit~~ to undergo trial by Court Martial.

Date June 5th 1941

Medical Officer
West Nova Scotia Regiment

E # [illegible]

CHARGE SHEET

Charge against F.39590 Pte Dolliver, L.A., of the West NSR, a soldier of the Canadian Army Overseas, stationed in the field.

CHARGE
Sec 18 (4)
Army Act

While on Active Service, STEALING PROPERTY BELONGING TO A REGIMENTAL INSTITUTION,

in that he,

in the field, on or about the 12 Apr 41, stole one case of beer to the value of £0.13.6, the property of the West NSR Regimental Canteen, a regimental institution.

ALTERNATE CHARGE
Sec 18 (4)
Army Act

While on Active Service, RECEIVING, KNOWING IT TO HAVE BEEN STOLEN, PROPERTY BELONGING TO A REGIMENTAL INSTITUTION,

in that he,

in the field, on or about 12 Apr 41, did receive, knowing it to have been stolen, one case of beer, the property of the West NSR Regimental Canteen, a regimental institution, to the value of £0.13.6.

A. A. Ernst
(A.A. Ernst), Major
Commanding West NSR

[illegible]

Army Form A.3.

Correspondence to be PINNED here

Form for Assembly a[illegible] General Court Martial o[illegible]ings of Field Service.

PROCEEDINGS.

A.

On Active Service, this 25 th day of May, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 3rd Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for the convening of a separate Field Officers~~

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

* Omit if not applicable

*~~Three Officers to form the Court~~
*~~Three Field Officers, the President~~
*~~Three Officers having more than~~
~~as follows~~

for the following reasons, namely :—]

	President.	
Rank.	Name.	Regiment.
Major	J.P.E. Bernatchez	R 22e R
	Members.	
Rank.	Name.	Regiment.
Capt	E.T. Ewart	5 Fd Amb
Lieut	G.F. Beatty	Carlt & York R
Lieut	T.A. HAYDEN	Carlt & York R
Waiting Capt	D.M. Gillpatrick	

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed H.D. Jamieson Brigadier,
Commanding Corresponding 3rd Infantry Brigade
Convening Officer.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 25 th day of May , 1941.

Whereas it appears to me, the undersigned, an officer in Command of 3rd Canadian Infantry Brigade , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior military officer~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~[men unable to appear]~~
*~~[Three Officers to form the Court]~~
*~~[Senior Field Officer as President]~~
*~~[Three Officers having more than two years service]~~

for the following reasons, namely :—]

President.

Rank.	Name.	Regiment.
Major	J.P.E. Bernatchez	R 22e R

Members.

Rank.	Name.	Regiment.
Capt	H.T. Duart	5 Fd Amb
Lieut	C.F. Beatty	Carlt & York R
~~Waiting~~ Capt	~~D.C. HAYDEN~~ D.M. Kilpatrick	Carlt & York R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed H.D. Jacques Brigadier,
Commanding Commanding 3rd Infantry Brigade.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
V.39590, Pte Dolliver, L.A. 2/NEST N S R	Charge:- Sec 18 (4) A.A. Alternate Cahrge SEC 18 (4) A.A. See Charge Sheet Attached	Not guilty Not guilty	not guilty guilty To be kept under stoppage of 1 made up the sum of six shillings and one penny (£ 0-6-1) 40 days detention 6 Jun [illegible]	Confirmed [illegible]

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*): No Reply

(Signed) [illegible] (Signed) H. F. Beauty Lt
[illegible] Brigadier.
Commanding 3rd Infantry Brigade. [illegible] President.
Confirming Officer (d)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the sixth day of June 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~
4. The officers under instruction

5 the Shorthand writer

were duly sworn.

* Omit if not applicable.

Signed this sixth day of June 1941.

[illegible]
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1920.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison until further orders.)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 9 day of Jun 1941.

[illegible] Brigadier,
Commanding 3rd Infantry Brigade,
Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) 10 June 1941 (Signed) [illegible] Lieut

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

5 V-145.

Ft. Dallo, T. P.

missing

Z-24

PTE DOLLO F.P.

The accused B-82827, Pte. DOLLO, Francis Paul having been duly cautioned in accordance with Rule of Procedure 4(E), reserved his defence.

Certified that Rule of Procedure 4,(D), (E), (F) and (G), have been complied with.

Taken down by me in the presence and hearing of the accused this 24th day of February, 1943 in the Field.

F. A. Kavanagh, Lt.

F.A. Kavanagh, Lieut.,
31 Cdn Corps Tps Coy,
R.C.A.S.C.

CC 1.

SUMMARY OF EVIDENCE in the case of B-82827, Private DOLLO, Francis Paul of 31st CANADIAN CORPS TROOPS COMPANY, ROYAL CANADIAN ARMY SERVICE CORPS, CANADIAN ARMY OVERSEAS.

By direction of the Commanding Officer the Evidence is taken under oath.

1st Witness for The Prosecution: D-91471, CSM Ramsay, D. of 31 CANADIAN CORPS TROOPS COMPANY, ROYAL CANADIAN ARMY SERVICE CORPS, CANADIAN ARMY OVERSEAS, having been duly sworn states:-

I am D-91471, CSM Ramsay, D. of 31 CANADIAN CORPS TROOPS COMPANY, ROYAL CANADIAN ARMY SERVICE CORPS, CANADIAN ARMY OVERSEAS. I here produce a certified true copy of The Declaration of a Court of Inquiry assembled in the Field on the 27th of OCTOBER, 1942 declaring B-82827, Pte. DOLLO, F.P. whom I now see and recognise to be Illegally Absent from 1530 hours 4th OCTOBER 1942 (Exhibit "A"). I also produce Army Form C-1618 (Exhibit "B") Certifying the apprehension of Pte. DOLLO, F.P. by the Civil Police at 1900 hours 30th OCTOBER 1942 in LONDON and that Pte. DOLLO was wearing uniform at the time of his apprehension. I further state that B-82827, Pte DOLLO, F.P. was still absent from 27th OCTOBER 1942 until apprehended by the Civil Police in LONDON at 1900 hours on 30th OCTOBER 1942. I here produce Expense Voucher (Exhibit "C") covering cost of apprehension, Prisoner and Escorts fare from WANDSWORTH to LONDON in the amount of £0-1-6. I also produce Metropolitan Police Form No. 111 (Exhibit "D") Notification of Conviction by Civil Trial of B-82827, Pte. DOLLO, F.P., I further state that Pte. DOLLO was not returned to this unit until 1245 hours 23rd FEBRUARY 1943 on completion of sentence in WANDSWORTH PRISON.

The accused declines to cross-examine this witness.

D Ramsay Capt.

.....

D-91471, CSM Ramsay, D.,
31 Cdn Corps Tps Coy,
R.C.A.S.C.

E

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~Finding.*~~

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused is guilty~~

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

Proceedings on Conviction *before Sentence.*

*The Court being re-opened, the accused is again brought before it.

Capt. L. R. Armstrong, Nelson is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes sir I produce H.R. 7.B.339 a certified true copy of L.C.M. 7.86.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Enc 2 signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes sir

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes sir.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes sir.

~~Cross-examined by the accused.~~

[Observation:—In cases of the trials of the accused in the margin in a departmental corps or civilians, the finding of the Court ought here made to any additional punishments to be awarded by the Court the prisoner must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of the additional punishments.]

Question to the accused.

~~Do you wish to address the Court? *Answer.*~~

~~The Court is closed for the consideration of the sentence.~~

The Court is closed for the consideration of the sentence

(3)

F

Sentence.

The Court sentence the accused B/52827 Pte Dolle, Howard Basil.
to nine months detention.

In the field
24.2.43

Lt Col
President

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a ~~Field General~~ Court-Martial held at In the Field.

on the 26th day of February 1943 by order of

Col. W. V. McQueen.

Commanding RCASC, 1 Cdn. Corps.

dated the 25th day of February 1943

President.

Majr G. Gibb
31 Cdn Tpt Coy (Hybrid) RCASC

Members.

Capt J. A. E. Du Bois
32 Cdn G.T. Coy, RCASC

Lieut. ~~J. W. Fox~~ J. W. Fox.

Trial of* ~~Judge Advocate~~ B52827 Private Francis Basil Dodd
31 Cdn. G.T. Coy, RCASC.

The order convening the Court, the charge-sheet and the summary ~~(if any)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~

~~by reason of his~~

~~, writing hereafter takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt J. A. Courtney 31 Cdn G.T. Coy, RCASC

~~Counsel~~ or defending officer† Lieut J. D. Heath 31 Cdn G.T. Coy RCASC

At 10.15 o'clock the Trial commences.

The order convening the Court is read, and is marked 'A', signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer. No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q6274. W.O.F. 6/2670/38. 25,000 pds. 6/43. E. & H. Ltd. 64/2511. Forms A 9/22.

B

The President, members ~~and judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [~~first~~] charge against you, which you have heard read ?

Question to the accused.

Guilty

Answer.

~~Are you guilty or not guilty of the second charge against you, which you have heard read ?~~

Question.

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~

Question.

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~

Question.

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

Instruction.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

~~*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused is found guilty of the charge.

†The summary (or abstract) of evidence is read, marked CC1 signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—I wish any defending officer to speak for me.

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

This soldier though AWL, came back in possession of his complete kit & though he has been in civilian prison he gained a remission of one & a half (1½) months on a five months sentence. He has good stuff in him & I think it can be brought out.

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer.

No sir.

Evidence as to character.

"X"

MEDICAL CERTIFICATE (K.R. (Can) 557)

I certify that I have this morning examined No. B-82827, Pte. DOLLO, F.P. of 31 Canadian Corps Troops Company, R.C.A.S.C. and, in my opinion he is fit to undergo trial by Court-Martial.

Station:- Field
Date: 26 Feb 43.

J. Humphrey Roderick
Major R.C.A.M.C.

'B2'

CHARGE SHEET

The accused B-82827, Private DOLLO, Francis Paul of 31 CANADIAN CORPS TROOPS COMPANY, ROYAL CANADIAN ARMY SERVICE CORPS, A soldier of the CANADIAN ARMY OVERSEAS is charged with:-

WHILE ON ACTIVE SERVICE

1st Charge. ARMY ACT Sec. 15(1)

Absenting himself without leave

in that he

in the Field did absent himself without leave from 1530 hours 4th OCTOBER 1942 until apprehended by the Civil Police in London at 1900 hours 30th OCTOBER 1942, thereby incurring costs of apprehension in the amount of £0-1-6. (Absent 26 days 3 hours 30 minutes.)

R.A. Slaney, Capt.,
A/Officer Commanding,
31 Cdn C.T. Coy,
R.C.A.S.C.

Field,
24 Feb 43.

Time of Signature 1915 hrs.

To be tried by Field General Court Martial.

(M.V. McQueen), Colonel,
DJAG,
1 Cdn Corps.

Field.
25 Feb 43

LIST OF EXHIBITS

Exhibit "A"	Certified True Copy of Declaration of a Court of Inquiry dated 27th OCTOBER 1942.
Exhibit "B"	Army Form O-1618, Descriptive Return of a Deserter or Absentee Without Leave.
Exhibit "C"	Expense Voucher covering Cost of apprehension.
Exhibit "D"	Metropolitan Police Form No. D11 Notification of Conviction by Civil Trial.

"E 1"

M.F.D. No. 40/D.A.G. 675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-82827	Private	DOLLO, Francis Paul,	31 Cdn C.T. Coy, R.C.A.S.C.

1. The following is a fair and true summary of the entries in the Field [redacted] Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For A.A. Sec. 15(1)	2 times	2 times
For	times	times
For	times	times
For	times	times

[redacted]

Note:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. [redacted]

Previous convictions of the accused by a court-martial or a civil court, of summary awards under [redacted] Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for 101 days in civil custody, and 3 days in military custody, making a total of 104 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is 25 years 151 days

6. The date of his attestation specified in his record of service is 18th March 1940

7. The service which the accused is allowed to reckon towards discharge is 2 years 11 months 5 days

8. The accused is entitled to reckon 2 11/12yrs service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward [redacted] State any military decoration or reward. NIL

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of

11. ~~(In the case of an officer.)~~ The accused holds in the ~~Royal Canadian Air Force~~ Permanent Force unit the rank of ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the ~~above paragraphs cannot be stated from the Regimental~~ books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name B-82827, Pte DOLLO, F.P. of 31 Cdn C T Coy, RCASC Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	Field 23 Jan 41	Sec:15(1) A.A. A. W. L.	1 years Detention	
Aldershot Police Court	Aldershot 12 Mar 42	Forgery with intent to defraud	4 months with hard labour	
Bow Street Police Court	London 30 Oct 42	Larceny	5 months with hard labour	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~24th~~ 26th day of FEBRUARY, 1943

Adjt. for Major, O.C. 1 Cdn C.T. (31 Coy) C.A.S.C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "F" signed by the president, and annexed to the proceedings.

O.C. / Regimental Records

...Company, RCASC. Corps ... destroyed 29/7/42.

E2

C.P.M.S.

Date of last entry in Company Conduct Sheet	30-8-40	No. and date of last drunk	NIL	Period not reckoning towards freedom from extra fine		Date of enlistment		G.C. Badges		Service or Proficiency Pay		Sheet No. 1	Signature O.C. Company, etc.	Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD.	10 AUG 41.	Pte.		SEC:15(1) A.A. W.O.A.S.. A.W.L. from 2300 hrs 9 AUG 41 to 0830 hrs 10 AUG 41. (9 hrs 30 mins)	L/C PEHROTT	7 DAYS C.B. 2 # FORF. pay Art: 46(2)(d)A.A.	11 AUG 41	Major Bisson	FORF.1 days pay ART:149 (1)(a)F.R.&I.
FIELD.	17 AUG 41.	Pte.		SEC:15(1) A.A. W.O.A.S. A.W.L. from 2300 hrs 17 Aug 41 until surrendering himself to the civil police London 0340 hrs 23 Aug 41. (absent 5 days 4 hrs 40 mins.	CPL GALBRAITH CPL KAVANAGH DOCUMENTARY	27 days F.P. with loss of pay.	25 Aug 41	Major Bisson.	Forf.6 days pay ART:149 (1)(a)F.R.&.I 1 days pay Art.149(1) (c) II.
FIELD.	NOV 41 FEB 41			Civil offence forgery with intent to defraud.5 charges.		4 months imp.	12-3-42,		

(P.T.O.)

B-88827 DOLLO. F.P.
No. Name

ON 8-9-40 six months service completed old sheet destroyed 29/11/42.

Sqn., Battery, or Company RCASC. Corps

Date of enlistment

G.C. Badges

Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 30-8-40

No. and date of last drunk NIL

Period not reckoning towards freedom from extra fine

Sheet No. 1

Signature O.C. Company, etc.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD.	10 AUG 41.	Pte.		SEC:15(1) A.A. W.O.A.S.. A.W.L. from 2300 hrs 9 AUG 41 to 0830 hrs 10 AUG 41. (9 hrs 30 mins)	L/C PERROTT CPL GALBRAITH CPL	7 DAYS C.B. 2 # FORF. pay Art: 46(2)(d)A.A.	11 AUG 41	Major Bisson	FORF.1 days pay ART:149 (1)(a)F.R.&I.
FIELD.	17 AUG 41.	Pte.		SEC:15(1) A.A. W.O.A.S. A.W.L. from 2300 hrs 17 Aug 41 until surrendering himself to the civil police London 0340 hrs 23 Aug 41. (absent 5 days 4 hrs 40 mins.	KAVANAGH DOCUMENTARY	27 days F.P. with loss of pay.	25 Aug 41	Major Bisson.	Forf.6 days pay ART:149 (1)(a)F.R.&.I 1 days pay Art.149(1) (c) II.
FIELD.	NOV 41 FEB			Civil offence forgery with intent to defraud,5 charges.		4 months imp.	12-3-42,		

(P 103)

Place	Date of offence	Rank	Class of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with award	By whom awarded	Remarks
FIELD.	6-2-42	Pte.		WOAS. AWL FROM 0900 HRS 6-2-42 till 1000 hrs 6-2-42(1 hr) Sec. 15(1) A.A.	L/CPL KILLERON.	admonished.	9-2-42	Lt-Col. F.W.G. Miles.	
FIELD.	14 JUN 42.	Pte.		SEC.15(1) A.A. WOAS AWL. from 2359 hrs. 14 Jun 42 to 0645 hrs 16 Jun 42. (absent 1 day 6 hrs 46 mins)	Cpl. Ogg. Sgt. Burns.	7 days C.B.	17 JUN 42.	Major Bisson.	FORF. 2 days pay Art. 149 (1)
FIELD	16 AUG 42.	Pte.		SEC.9(a) A.A. W.O.A.S. disobeying a lawful command given by his superior officer in that he when told by CSM Ramsay to report to the Orderly sergeant did not do so. SEC 40 A.A. while on active service. Conduct to the prejudice etc. in that he on 17 Aug 42. was improperly in possession of a forage cap and badge.	C.S.M. RAMSAY.	28 days Fd.Pun.	17 AUG 42	Major Bisson.	

I certify that I am the officer in charge of Regimental Records ~~Records~~ Books in 31 CDN.C.T.COY.RCASC. and that this is a certified true copy of the original MFM 6. of Pte. DOLEO.F.P.B-82827

F.A. KAVANAGH, LIEUT. ~~ADJUTANT~~. O/C in charge of Regimental Records

31 CDN. CORPS TROOPS COY. R.C.A.S.C.

2-24 "A."

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 25th day of February, 1943.

Whereas it appears to me, the undersigned, an officer in Command of R.C.A.S.C. 1 Canadian Corps, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[It is impracticable to appoint—

*(1.) Three officers to form the Court.)

*(2.) A Field Officer as President.)

for the following reasons, namely:—]

* Omit, if not applicable.

Proceedings Reviewed
W. H. Plant Jr.
Dep. Reviewing Officer
12 Jan 43

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	G. Gibb	47 Cdn Gen Tpt Coy

Members.

Rank.	Name.	Regiment.
Captain	J.H.E. DeBeze	32 Cdn C.T. Coy
Lieutenant	J.H. Fox	32 Cdn C.T. Coy

*Signed (W.T. McQueen) Colonel
Commanding R.C.A.S.C. 1 Cdn Corps
Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B.82827 Private Francis Paul Dollo 31 Cdn C.T. Coy	1st Charge Sec. 15(1) A.A.	Guilty	Guilty The court sentence the accused to the punishment of the dismissal from His Majesty's Service 26th Feb 43	I confirm the finding and sentence of the Court but remit three months detention. WcG

*~~Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—~~

~~"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"~~

~~Answer (to be recorded on separate sheet if necessary):—~~

(Signed) W.V. McQueen (Signed)

(W.V. McQueen) Colonel

Commanding A.A.S.C. 1 Cdn Corps — *President.*

Confirming Officer (e)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 26th day of February 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~)
4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 26th day of February 1943.

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 26th day of February 1943

W.V. McQueen Col.

Confirming Officer.

Promulgated and extracts taken in the case of B.82827 Pte Dollo F.P.

(*a*) (Dated) Feb 27-1943 (Signed) E. Kavanagh, Lt.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] 40767/1937 30 M. 3/43 K.J./7302(2) Gp. 698/3

Exhibit "A"

Record of the Declaration of a Court of Inquiry assembled at FIELD on the twenty seventh day of OCTOBER 1942 for the purpose of investigating and recording the absence without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. B-82827, Pte. DOLLO, F.P. of 1 C.T. AMN COY (31 COY) R.C.A.S.C.

D E C L A R A T I O N

The Court declare that, B-82827, Pte. DOLLO, F.P., of 1 C.T. AMN COY (31 COY) R.C.A.S.C., illegally absented himself without leave at 1530 hours on the fourth day of OCTOBER 1942 from 1 C.T. AMN COY (31 COY) R.C.A.S.C., in the field and that he is still so absent and that on the twenty seventh day of OCTOBER 1942, he was deficient and that he is still so deficient the following articles valued as shown.

		Full vocabulary Prices.	75% full Vocab. prices.
Blouses, Serge	2	£ 2-15- 4	£ 2- 1- 6
Greatcoat, drab	1	3-17- 0½	2-17- 9½
Drawers, cotton, short prs.	2	7- 4	5- 6
Shirts, Anglo, drab	1	9- 2	6-11
Vests, Gymn	1	1- 6	1- 1
Brasses, button	1	2	1½
Brushes, button	1	8	6
Brushes, shaving	1	1- 4	1- 0
Brushes, tooth	1	4½	3½
Combs	1	2	1½
Dressing, first field	1	1- 1	9
Forks	1	5	4
Holdalls	1	9	7
Knives, table	1	9½	7
Spoons, table	1	4½	3½
Towels, hand	1	11½	8½
Braces, right	1	2-11½	2-3
Haversacks,	1	10- 5	7-10
Helmets, steel	1	10- 1	7- 6½
Haversacks, Anti-Gas	1	6- 6	4-10½
		£ 9- 7- 4½	£ 7- 6- 7

PRESIDENT: Sgd. F.L.P. Anderson, Capt., 28-10-42
F.L.P. Anderson, (Captain)
1 C.T. AMN COY (31 COY) R.C.A.S.C.

MEMBERS: Sgd. F.D. Heath, Lt., 28-10-42
F.D. Heath, (Lieutenant)
1 C.T. AMN COY (31 COY) R.C.A.S.C.

Sgd. G.J. Johanson, Lieut., 28-10-42
G.J. Johanson, (Lieutenant)
1 C.T. AMN COY (31 COY) R.C.A.S.C.

Signature of Commanding Officer: Sgd. R. Slaney, Capt.

Certified True Copy: Sgd. F.D. Heath Lt.
Signature of Officer having custody of original record.

CERTIFIED TRUE COPY F.A. Kavanagh, Lt.
F.A. Kavanagh, Lieut.,
31 Cdn C. Tps Coy,
R.C.A.S.C.

Field,
24 Feb 43.

Exhibit "C"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. B82827 Rank Pte Name Dallo, F. P. Unit C. Pl. Ammo Coy.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit From London from Wandsworth.

Date	Particulars	Amount		
21 Feb 43	Escorts return fare from LONDON To Wandsworth		1	0
	Prisoners single fare to LONDON From Wandsworth			6
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		1	6

I certify that the above statement of Expenses is Correct. and that the amounts are fair and just.

[signature] [signature]

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-55
40/P & S/483

Exhibit "B"

RECEIVED 7 NOV 1942

Army Form G.1613

IMMEDIATE.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*41924) Wt.12295/226 15,67[illegible] 4/42 A.&E.W.Ltd. Gp.698 Forms/G.1613/51

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the _____

Police in connection with the apprehension of _____

_____ and are

payable to _____

_____ (Superintendent or Officer i/c Police Station at _____

Date _____

AUTHORITY for the PAYMENT of a REWARD. (*For Army use only.*)

The Command Paymaster _____ is hereby authorised to

pay to _____ being the person recommended by the

Committing Magistrate, a reward of _____ for the apprehension

of _____

Date _____ _____ (O.C. Unit)
Officer Commanding.

Where no reward is authorised though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

DESCRIPTIVE RETURN OF § Frank Paul Dolle B.87827 who
‡ apprehended at 7pm (hour) on the 30th day
of October, and was committed to confinement at
on the day of as a Deserter (or Absentee without
leave) from the 1st/3rd Bn. of the Royal Canadian Army Service Corps
Regiment of 3 Bridges Levis Q.

Age 24	Height 5 feet 9 inches
Complexion Sallow	Hair Black Eyes Brown
Marks scar left forearm	In uniform or plain clothes Uniform
Probable date and place of attestation	Toronto 8/3/40
Probable date of desertion or beginning of absence and from what place	Three Rivers 4/10/42
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured.	P.C. Conlon 2464

Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.

Arrested for Larceny 7pm 30-10-42
being found in possession of stolen
property from 4th CA Instruments Unit
subsequently charged with being absent
from his unit from 19-10-42.
The above facts to be
admitted as evidence.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he is a deserter from the above-mentioned Corps.

J. R. Russell Signature
One of the Magistrates of the Police Residence
Courts of the Metropolis acting at Post Town
The New Bridge Street Police Courts
31st October 1942. Date of Signature

J. P. Dolle Signature of Prisoner
Thomas Conlon R 424 Signature of Informant

2/- POLICE COURTS

I DO HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances charged, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence.

Signature
Residence
Post Town
Date of Signature

§ Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs" or "does not belong to," as the case may be.

Army Form O.1626.

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. of
Regiment at on by
who was committed as a Deserter (or Absentee without leave) on the

RECOMMENDATION FOR REWARD.

I RECOMMEND*

Address

for a reward of

Signature of Committing Magistrate.

Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, or a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

PP-68 (AFRICA)

PTE DOLSON C.L.

A9258, Pte. Dolson, C. L.,
3 Bn., 1 Cdn Base Rft Depot

PP-68

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this twentieth day of September, 1943.

Whereas it appears to me, the undersigned, an officer in Command of No. 1 Canadian Base Reinforcement Depot, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[redacted]

Judge Advocate

Captain W. B. Bredin, HQ, 1 C.B.R.D.

*Omit if not applicable.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	F. M. Nash, E.D.	CAC, 1 Bn., 1 CBRD.

Members.

Rank.	Name.	Regiment.
Captain	D. W. Hay,	CIC, 2 Bn., 1 CBRD.
[redacted]	[redacted]	[redacted]
Captain	F.R. Greaves,	CAC, 3 Bn., 1 CBRD

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

Colonel
Commanding 1 Cdn Base Reinforcement Depot
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A9258, Private Dolson, C. L., 3 Bn., 1 CHRD	FIRST CHARGE AA Sec 11	Not Guilty	Guilty	I confirm the findings and sentences of the Court. G Kenny Barker Col. 1 CRRD.
	SECOND CHARGE AA Sec 22	Guilty	Guilty	
	THIRD CHARGE AA Sec 15(1)	Guilty	Guilty To undergo 150 days Detention 21 Sept 43.	
	FOR FULL DETAILS OF CHARGE SEE CHARGE SHEET.			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) —

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ? "

Answer (if it is recorded separately attached if necessary) —

(Signed) G Kenny Barker Colonel (Signed) H.W. Woods Major
Commandant, Canadian Reinforcement Depot 1 CRD. 1 CIB. R.D
Convening Officer (c) President.
W Stretton Capt. DA.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B.

Certificate of President as to proceedings.

I certify that the above Court assembled on the 21st day of September 43 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*Omit if not applicable.

fmb ~~*(3. The Interpreter)~~

*(4. The officers under instruction)

were duly sworn.

Signed this 21st day of Sept. 1943.

W B Barbin Jr. Capt.

F W Nash Major

President of the Court Martial.

C.

Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

fmb.

President of the Court Martial.

D.

Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be put to penal servitude, imprisonment or detention barrack until further orders.)

Signed this 22nd day of Sept 1943.

Harry Barker Colonel

Commanding Combined Base Improvement Depot.

Promulgated and extracts taken in the case of A9258 Pte Dolan C.L. 7E ICORD

(a) (Dated) 22 Sep 43 (Signed) Lt Reynolds 2I/C

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused A.9258 Pte Charles Lewis DOLSON R.C.A.S.C. on strength 3 Battalion 1 Cdnadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas is charged with:

1st Charge
Sec 11
Army Act

WHEN ON ACTIVE SERVICE NEGLECTING TO OBEY CAMP ORDERS

in that he,

In Philippeville at approximately 2225 hrs on the 13th day of August 1943, was found out of bounds in a "Brothel" area without a pass, contrary to 1 Canadian Base Reinforcement Depot Part I Order No. 8 Para 56 dated 7 August 1943.

2nd Charge
Sec 22
Army Act

WHEN ON ACTIVE SERVICE AND WHEN IN CONFINEMENT ESCAPING

in that he,

In the Field on the 16th day of August 1943 at 0915 hrs, when in confinement in the guard room at 3 Battalion 1 Canadian Base Reinforcement Unit escaped.

3rd Charge
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the Field at 0915 hrs on the 16th day of August 1943, absented himself without leave until reporting in to U.1737 Cpl Appleton, D.M. at 2030 hrs 26th day of August 1943.
Absent 10 days 12 hours 15 minutes.

(VINCENT McKENNA) Lt-Col. M.C., E.D.
Commanding,
3 Bn., 1 Cdn Base Rft Depot.

In the Field
31 August 1943.

To be tried by D.G.& M.

3 Depot # 3

C. Mowry Barber Colonel
Commandant, 1 Cdn Base Reinforcement Depot

Ex. "H"

MEDICAL OFFICERS CERTIFICATE

I CERTIFY that to-day I have examined A/ 9258 Pte. Dolson, C.L. 3rd Bn I.C.B.R.D. and in my oppinion he is fit to undergo trial by Court Martial

21 st. September 1943

W. S. Woolner Capt.
(Medical Officer)

PAGE 1

Accused A92558 Pte Charles Lewis Dolson 3 Bn. ICBRR
(Number) (Rank) (Christian Names) (Surnames) (Unit)

Held in the Field in _____ on _____
(Country) (Date)

	Rank	Name	Unit
PRESIDENT	Maj.	F M Nash ED	CAC 1 Bn ICBR
MEMBERS	Capt	D W. Hays	CIC 2 Bn ICBRR
	Capt	F R Evans	CAC 3 Bn ICBR
JUDGE ADVOCATE (if any)	Capt	G B Beattie	HQ ICBR
OFFICERS UNDER INSTRUCTION:	~~Lieut~~	Lt. Lewis A.E.	Lt. Rodney N
		Lt. Bryce E.R.	Lt. Dutton W.B.
		Lt. McRoberts D.B.	All of 3 Bn.

PROSECUTING OFFICER Lt. D.E. Ross 3 Bn ICBR Lawyer? Ans. No

DEFENDING OFFICER Lt. P.S. Hellen 3 Bn ICBRR Lawyer? Ans. No

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs P 17(E), 22(a)).

The President, in closed court (R.P.22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members and the Court satisfy themselves that it is properly convened (A.A.49;R.P.105) and constituted that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P. 106).

The accused is (are) brought before the Court, and at 1415 hrs hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can) 557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

~~President to the Accused:~~

~~Do you object to _____ as interpreter? Answer _____~~

~~The interpreter is duly Sworn~~

~~Do you object to _____ as shorthand writer? Ans. _____~~

The shorthand writer is duly sworn (Forms of Oath on Page "D").
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (R.P.10

President to the accused:

Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Answer No.

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.26-27 (Forms of Oath on Page "D"))

(PTO)

Fmch

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused ~~has~~(has not) elected trial by Court Martial (A.A. 46(8)).

(If special plea(s) is (are) made for separate trial on one or more charges (Rs 62(E), 108); or as to the jurisdiction of the Court (R.P.34) or in bar of trial (R.P. 36) or as to accused's mental fitness to stand trial (A.A. 130, R.P.57), record such pleas and evidence (if any) on separate sheet (s) to be initialled by the President and attached to the proceedings.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112) He pleads as follows.

FIRST CHARGE Not Guilty	NINTH CHARGE_____
SECOND CHARGE Guilty	TENTH CHARGE_____
THIRD CHARGE Guilty	ELEVENTH CHARGE_____
FOURTH CHARGE_____	TWELFTH CHARGE_____
FIFTH CHARGE_____	THIRTEENTH CHARGE_____
SIXTH CHARGE_____	FOURTEENTH CHARGE_____
SEVENTH CHARGE_____	FIFTEENTH CHARGE_____
EIGHTH CHARGE_____	SIXTEENTH CHARGE_____

(For procedure on alternative charges, see R.P.37, fn 2)

Further proceedings are recorded on Pages hereto attached.

Final

PAGE "C"

(For use when there are pleas of "Guilty" and "Not Guilty"

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President).

1. R.P.35(B) is complied with, in respect to "Guilty" pleas, by the President ascertaining that accused understands the nature of the charge(s)(fn 3) and his plea thereto, explaining the difference in procedure by the plea(RP37)(B) and advising him to withdraw his plea if he thinks the accused ought to plead "Not Guilty" thereto.

2. President to the Accused:

Q. Do you wish to apply for adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby or that you have not had sufficient time for preparing your defence?(R.P.39(A). Ans No

3. The Prosecutor's opening address(if any) (R.P.39(B) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto.(See Record of Evidence on Page "B"). No opening address.

4. The Prosecution is closed.(If submission that no prima facie case established, see R.P.40 fn 1; R.P. 70 fn 1).

5. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination.(R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement upon which he can not be cross examined (R.P.40(D)(ii)(a)), & that he may do neither

6. President to the Accused

Q. Do you apply to give evidence yourself as a witness? Ans Yes.
Q. Do you intend to call any other witness in your defence? Ans Yes
Q. Is he a witness as to character only?(R.P.40(B) Ans. No.

7. The evidence for the defence(~~if any~~) is recorded on separate sheets, initialled by the President and attached hereto.

8. The closing addresses of the Prosecutor, Defending Officer and Judge Advocate(~~if any~~) are recorded on separate sheets, initialled by the President and attached hereto.(For order of address, see R.P. 40,41 and 42).

9. The Court is now closed to consider the finding.(RsP43 and 117) (Record Finding on Page 2 of A.F.A.3).

10. The Court being re-opened, the accused is again brought before it and the findings of "Not Guilty"(if any) are pronounced(RP117(B)). ~~Where the Court acquits the accused of one or more charges and find him guilty of any other charge or charges, the President of the Court, when announcing the finding(s) of not guilty will add that "The findings of the Court on the _____ charge(s), being subject to confirmation, will be promulgated later".~~

11. The charges, to which the accused pleaded "Guilty" are read to the accused.

12. President to the Accused

Q. Do you desire to make any statement of the circumstances in reference to the charge(s) to which you have pleaded "guilty"(R.P.37(B)
Answer Yes - (p. E5)

(Statement(if any) not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross examination thereon).

13. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If not such Summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings(RP37(B) (P.T.O.)

Fault.

PAGE "B" (CONT'D)

12. The Court is now closed to consider the sentence(Record on Page 2 A.F.A. 3).
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, (R.P.48); sentence should be dated.

Fault. When the President announces that "The Court is closed for the consideration of the sentence" he will add that "The sentence to be awarded by the Court, being subject to confirmation, will not be announced but will be promulgated later and the proceedings in Open Court are accordingly terminated".

The sentence is NOT announced to the accused by the Court

J. W. Vaskmagn
.....
(Signature of President).

PAGE "C"(CONT'D)

14. President to accused:

Q. Do you wish to make any statement in mitigation of punishment? (R.P.37(C) Ans Yes.
No cross examination.
(Statement(if any) is recorded on separate sheet, initialled by the President and attached hereto)

15. President to accused:

Q. Do you wish to give evidence yourself or call witnesses as to character? (R.P.37(C) Ans No

16. Statement of Character and Service(A.F.B.296) and Field Conduct Sheet (M.F.M.6) signed in the manner required by AA 163(1)(h) and purporting to refer to the accused by his number(if any) rank, name and Corps, are produced to the Court, read, marked "C", and "D", initialled by the President and attached to the proceedings. (R.P.46; Oversons R.O.3131).

17. President to the accused

Q. Do you wish to address the Court on the Statement of Character Service and Conduct and in mitigation of punishment?(R.P.46(D). Answer No. No cross examination.

(Record address (if any) on separate sheet, initialled by the President and attached hereto).

18. The Court is now closed to consider the sentence.(Record on Page 2 of A.F.A.3).

When the President announces that "The Court is closed for the consideration of the sentence", he will add that "the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in Open Court are accordingly terminated".

J. M. Blackman
(Signature of President)

Record evidence in narrative form, i.e, "No. 1357, Corporal W. Jones, W.R., being duly sworn states:- "I am a Corporal of #5 Platoon to which the accused belongs. On 14 Jan 42 at 1500 hrs I ordered the accused to go on parade. He refused and did not do so". If a shorthand writer is employed, he should record the evidence verbatim, i.e., by questioning and answer. After completion of Examination-in-Chief, enter the words "Cross examined by the Defending Officer" and thereafter record the evidence in the same manner. If the Prosecutor then re-examines, enter the words "Re-examined by the Prosecutor" and record evidence similarly. If a shorthand writer is not employed, the evidence of each witness must be read over to him after he has given evidence and a note made after the evidence of each witness "R.P.83(B) complied with". If a shorthand writer is employed, it shall not be necessary to read the evidence over unless the witness so desires; if the evidence is not read over, a note should be made after the evidence of each witness "In the opinion of the Court and Judge-Advocate, it is unnecessary to comply with R.P.83(B)".

FORM OF OATHS FOR USE IN COURTS MARTIAL

President and Members

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law".

Judge Advocate

"I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court martial until it is duly confirmed, and that I will not, on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law".

Shorthand Writer

"I swear by Almighty God that I will truly take down to the best of my power, the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same".

Interpreter

"I swear by Almighty God that I will, to the best of my ability, truly interpret and translate, as I shall be required to do, touching the matter before this court-martial".

Witness

"I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth and nothing but the truth".

E.

1. Pros. off. does not desire to make an opening address.

2. First witness for prosecution: A/Capt. F W Smith 3 Bn (CBRD), sworn, states:-
On 14 Aug 43 I was Coy. Comdr. of "D" Coy. 3 Bn. I recognise accused. I was his Coy. Comdr. on 16 Aug 43. I had asked for Pte Dolan to be paraded before me. He did not appear. This is Part I orders of the Dispatch HQ. of 7 Aug 43 (marked Exhibit "B") I did not read these orders to the parade myself. (Disp. officer accepts copy as true copy of original orders)
Q. by J.A. Did you see these orders on the notice board of the Coy?
A. I cannot swear that this order was posted on Coy. notice board.
No cross-examination.
RP 83 (b) complied with.

3. Pros. officer applies to have to call CSM. Finlayson whose evidence is not contained in summary. Disp. officer agrees & waives right to adjournment.

4. Second witness for prosecution: B98267 CSM Finlayson J.H.
I sub-unit 3 Bn (CBRD), sworn, states:-
When "D" Coy. get orders from Dispatch they are read to the troops on the first Coy parade which is usually morning parade & then they are posted on orderly room notice board outside of Coy. orderly room. I recognise order (Ex "B") I read this order to troops on Coy. parade & posted it on Coy. notice board.
Cross examined.
I recognise accused, but I could not swear he was on the parade when I read the orders, or that he was present when any one else read the orders. And I could not swear that order in question was posted immediately after having been read on D Coy board & has remained posted from that date until 13 Aug 43. The orders were

E 2

remained after one & two days.
Q by J.A. On what date were the orders posted?
A. On 8 Aug 63 & they remained posted for one & two days.
Q Was accused a member of 'D' Coy at that time
A. Yes.
No re-examination.
R P 83 (b) Complied with.

5. Third witness for prosecution: R 22138 C/Cpl Vanderven WA
Cdn Prov. Corps, sworn, states:-
I recognise accused. On 13 Aug 63 at approx 2225 hrs.
I saw accused in out of bounds area in Philippeville. I halted
him & asked him for his pass. He had no pass. I placed him
under arrest & took him to guard room. I am sure that
accused was in Brothel area at the time.
Cross-examined.
I recognise accused & am sure. The accused when first I saw him
was about 3 ft. from point where I halted him. I saw him
enter area & go further into it. I saw him about 100 yds.
inside the brothel area. I was posted at static point No. 6
referred to in our orders. There are "out of bounds" signs marking
the area. Street on which I was standing was boundary of
brothel area. Other boundary was edge of waste ground. Waste ground is
an area east of 2 streets. Waste ground covers from street to Army P.O.
Third side is another road. Fourth side is back entrances to brothels.
Area is clearly marked & fenced. Quite a few signs with big
lettering marking brothel area. It was dark when I saw accused.
I had to use a flashlight to recognise him. It would have been
impossible for accused to see the signs at that time. The accused
was not drunk. He answered all questions intelligently. He did not
falter or stagger. There was no ill-behaviour on his part.
Re-examined
I arrested this man because he had no pass & was in out of bounds
area.

E3

Q by Court :-
Accused gave straightforward answers & didn't try to hide fact that he was without a pass.
RP 83 (6) complied with.

6. Fourth witness for prosecution :- 4807365 Tpr. Stubbsford F.T. attd. 6 Armd Div., sworn, states :-
I recognise accused. I was on duty about 2225 hrs on 1804 beat in brothel area Philippeville 13 Aug 63. We saw accused in brothel area. L/Cpl. Vandeveen told him to halt. He went down & took his particulars & asked him for his pass. He had no pass. L/Cpl Vandeveen placed accused under arrest.
Cross-examn.
Accused was not drunk. We did not test him to see if he was drunk.
RP 83 (6) complied with.

Prosecution closed.
(see page "C" para 5")

7. Accused, sworn, states :-
On 13 Aug 63 my brother, myself & a friend were drinking wine in canteen. I drank 3 canteen mugs of wine. We bought a round each. I don't remember what happened until I wakened in guard room house the next morning. My brother told me when he saw me I was on my way to my tent. I am positive I remember nothing after drinking until the next morning.
Cross-exam.
I was drinking in Tri camp. My brother said I left about 1900 hrs. I remember the 3 drinks & talking for a few minutes I felt woozy & my mind went blank.
Re-examn.
The CSM did not read the orders (Ex "B") to me on any parade at which I was present.
RP 83 (6) complied with.

Fmk.

E4

8. Second witness for Defence: A 9071 CSM McWaine G A formerly 3 CIB Coy. RCASC. Sworn, States:-

The accused whom I recognise was formerly a member of my unit. Accused joined RCASC in 1939 & proceeded overseas with same unit. As a member of my unit accused was a willing soldier, doing things as he was told & causing no trouble in vicinity of camps. Away from camps while in Cairo he got into a mix up a bar - drunkenness was one affair. On Sept 42 he suffered a lapse of memory & was excused duty for a time - He had worries over personal affairs at home. The M.O. said that this trouble was caused by his personal worries. This lapse of memory lasted for about 7 hrs. To my knowledge accused had no further lapse of memory. Accused did not drink around camp.

Cross-examn:

Accused & I were together in same unit until June 43.

R.P. 83(6) complied with.

Defence closed.

9 J.A.: As the last witness was a witness as to character only the pros. officer should address the Court first & then the Def. officer, vide R.P. 40(C).

10 Closing address of pros. officer:- Summed up evidence & submitted charge proved.

11 Closing address of pros. officer:- Submitted accused was drunk, & discrepancies between evidence at trial & in summary.

12 J.A. summed up:-

(a) accused entitled to benefit of doubt - facts to be determined by Court.

(b) When referred to in charge sheet no reference to "hostile area" - the breach alleged to be in Philippeville without a pass. If he was in a hostile area that may aggravate the offence but need not be proved to establish the offence.

(c) Drunkenness is not an excuse for offence in 1st charge but may be a mitigating circumstance.

(d) Proof of knowledge of order that accused ought to have knowledge of them essential. Evidence to this was faulty as Coy. broke when accused in unit.

Front.

E5

(See page "C" paras 9 & 10)

13. Statement of accused as to RP 37 (B) (page "C" para 12.)
I was under close arrest & thinking it over I decided to get into action. After waiting four yrs. & as my brother was going on draft I decided that I would try & get to Sicily on my own, knowing that two previous persons who had left with the same idea, had due to their length of absence probably reached Sicily, I made up my mind to try & make it myself. I left guard-room barracks & took my rifle & web equipment & my large pack & ammunition. I went to Tunis & found that the harbour was not operating, so I went to Bizerte & went to English mov. Control who could not help me. I left for Ferryville & still could'n't make it. I then tried Sousse without any luck & so I returned to Ferryville I was on an invasion boat for a day & a half. but on finding that they were expecting to return to England instead of Sicily I got off the boat & returned to my unit.

(See p. "C" para 13)

14 Statement of the Def. officer in writing as to RP 37(C) (page "C" Contd. para 14)
Def. Off. quoted HMC p 23 para 38. Accused not prosecuted guarded when he escaped, therefore escape invited.
Instance of accused in escaping was to get to Sicily to get into action. Praiseworthy motive.
Quoted HMC p 447 for 3 & AA 22 & KR Cap 1562 — charge of AWL would have been sufficient.
Accused has been in confinement 26 days 63 & 21 Sept 43 — part of time was spent in hospital.
(See page "C" Contd. paras 15 - 18).

fmk

SUMMARY OF EVIDENCE

In the case of A9258 Pte DOLSON, C.L. RCASC 'D' Coy 3 Bn., 1 C.B.R.D.

By the direction of the Commanding Officer evidence will be taken upon oath.

First Witness — Capt F.W. Smith RCA having been duly sworn states:

I am Capt F.W. Smith, RCA., 3 Bn 1 C.B.R.D. and I am in command of 'D' Coy 3 Bn., 1 C.B.R.D. of which A9258 Pte Dolson, C.L. is a member. I was advised on Saturday 14 Aug 43 that Pte Dolson was in the guard room under close arrest and that information would be submitted by the Canadian Provost Corps regarding the Charge or Charges. The information did not arrive at our Bn HQ until 1730 hrs on the 14th August 1943. On Monday 16 Aug 43, I learned that when I sent for Pte Dolson, C.L. to appear before me, that he had escaped. All Battalion and 1 C.B.R.D. Orders are read to the company on parade and then posted on the company board. I produce 1 CBRD Pt I Order #8 dated 7 August 43.

F.W. Smith
.....

The accused declines to cross examine the witness.

Second Witness — G36717 Tpr Pelow, J.A. 'A' Sub Unit 3 Bn., 1 C.B.R.D. having been duly sworn states:

I am G36717 Tpr Pelow 'A' Sub Unit 3 Bn 1 CBRD. I was Sgt of the Guard on the night of 15 Aug 43. I took over the guard at 1600 hrs and there were three prisoners in the guard room, one of whom was A9258 Pte Dolson, C.L. The Provost Sgt brought in another prisoner at 1900 hrs and I checked the prisoners them and Dolson was still present. This is the last time I remember seeing Dolson. The Provost Sgt also checked at this time. I was sitting out in front of the guard room almost all night, except when changing the guard. I slept from about 5 o'clock (A.M. 16 Aug 43) until 0700 hrs and whn I left for breakfast, one of the guards told me that Dolson was away under escort, washing. (I do not know who the escort was). When I returned from breakfast, I asked if Dolson was back and no one knew where he was. While at breakfast, 0730 hrs, I reported found that the prisoners all present to the R.S.M. When I found that Dolson was definitely gone, I again reported to the R.S.M. This was just after 0915 hrs 16 Aug 43. The I returned to my guard room post.

At about 1000 hrs 16 Aug 43, I went to Dolsom's Sub Unit and tent to see if he had taken his equipment. His large pack, skeleton web and rifle was missing. His small pack, ground sheet, blankets and mosquito net, was in the guard room and his kit bag and respirator was in his tent. No one in the Sub Unit, 'D', knew of his whereabouts.

This is all I know of the case and I was placed under open arrest on 16 Aug 43.

.....

The accused declines to cross examine the witness.

Third Witness

K22138 L/Cpl Vanderven, W.A. Cdn Provost Corps having been duly sworn states:

I am K22138 L/Cpl Vanderven, W.A. at approx 2225 hrs 13 Aug 43. While on duty at state point #4, in the town of Philippeville I saw Pte Dolson, C.L. entering the out of bounds area (brothel area). I stopped him, asked for his pass, which he did not have. I recognized him as the same soldier, whom I had arrested on the same charge on 5 Aug 43, and again placed him under arrest. I escorted him to his guard room, when a body receipt was obtained, which is on file in D.A.P.M.s office.

W.A. Vanderven.....

The accused declines to cross examine the witness.

Fourth Witness

4807365 Tpr Stableford, F.J. (Attd) 6 Armd Div (Br) Provost Coy having been duly sworn states:

I am Tpr Stableford, F.J. Reg. No. 4807365, 6 Armd Div Pro Coy. At Philippeville at about 2225 hrs on 13 Aug 43, I was on duty in the brothel area, accompanied by L/Cpl Vandervene. We saw Pte Dolson, C.L. Reg. No. A9255 in the out of bounds area. L/Cpl Vandervene [redacted] called him to halt. We went down to take his particulars. L/Cpl Vandervene recognized him as being A.W.L. and placed him in close arrest.

F.J. Stableford T1[illegible]365.....

The accused cross examines the witness

Q. Did I seem drunk when L/Cpl Vandervene arrested me?

A. You did not appear to be drunk, to me.

Fifth Witness P17099 RSM McKenzie, A.C. 3 Bn., 1 C.B.R.D. having been duly sworn states:

I am P17099 RSM McKenzie, A.C. 3 Bn 1 CBRD. At approx 0730 hrs 16 Aug 43, Sgt Pelow Unit Guard Commander reported to me as per guard orders, giving me the names of all persons under close arrest, certifying that all were present, with the exception of Pte Dolson, who was out under escort. At approx 0915 hrs, Sgt Pelow again reported to me that Pte Dolson had escaped.

I asked him who was responsible and he could give me no definite information.

In instructed him to investigate and inform me of the complete facts. About an hour later, he informed me that he had not himself seen the accused after 1900 hrs 15 Aug 43, nor could any of his guard give any information as to the whereabouts of Pte Dolson or the time of his departure.

I informed Sgt Pelow that I considered him entirely responsible and laid the appropriate charge against him.

Sgt Pelow was tried summarily under A.A. Sec 20 sub para 2. He was found guilty and reduced to his permanent grade.

A.B. McKenzie RSM

The accused declines to cross examine the witness.

The officer taking the summary thereupon warned accused as follows.

"Do you wish to make any statement or give evidence under oath? You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declined to make a statement.

I certify that the forgoing Summary of Evidence was taken by me in the presence and hearing of the accused and that Rules of Proceedure 4 (C)(D)(E) & (F) have been complied with.

.....
(N. Pooley) Lieut
'A' Sub Unit 3 Bn 1 C.B.R.D.
Offr taking Summary

In the Field
31 Aug 43

fmk

SUPPLEMENTARY SUMMARY OF EVIDENCE

In the case of A9258 Pte Dolson, C.L. 'D' Coy 3 Bn 1 CBRD

By direction of the Commanding Officer, evidence will be taken upon oath.

Sixth Witness

U1737 Cpl Appleton, D.M. 'D' Coy 3 Bn., 1 C.B.R.D. having been duly sworn states:

I am U1737 Cpl Appleton, D.M. 'D' Coy 3 Bn., 1CBRD and I am 'D' Coy Orderly Room Corporal. At approx 2030 hrs on the 26 day of August 1943, A9258 Pte Dolson, C.L., a member of our company reported to the orderly room. He was properly dressed but appeared to be in a dazed condition. He was brought in by two other ranks, who I have never seen before or since.

D.M. Appleton

The accused declines to cross examine the witness.

The officer taking the summary thereupon warned accused as follows:

"Do you wish to make any statement or give evidence under oath? You are nor obliged to say anything or give any evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declined to make a statement.

I certify that the forgoing Summary of Evidence was taken by me in the presence and hearing of the accused and that Rules of Proceedure 4(C)(D)(E) & (F) have been complied with.

N. Pooley

(N. Pooley) Lieut
3 Bn., 1 C.B.R.D.
Officer taking Summary

Ex "B"

1 CANADIAN BASE REINFORCEMENT DEPOT
CANADIAN ARMY OVERSEAS
PART I ORDERS
Issued by

ORDER NO. 53 COLONEL G. HEDLEY BASHER, O.B.E., E.D., COMMANDANT

THIS ORDER NO. 8
7 AUG 43

53. CHURCH PARADE, SUNDAY, 8 AUG 43

Protestant
Holy Communion for Church of England personnel will be held in 2 Bn. Mess tent ("C" Coy) directly opposite Depot H.Q. at 0945 hrs.
Church parades will be under bn arrangements.

Roman Catholic
Mass will be said at 0800 hrs in 3 Bn. lines for personnel of 3 Bn.
Mass for 1 Bn. and 2 Bn. personnel will be said at 0945 hrs in the Outdoor Theatre.

54. BOUNDS

1. The stream of water from bridge on lower road approximately one and one quarter miles from 1 Bn. lines (M.R.263805 Sheet 15) the Dam at 280414, Sheet 15 and all that stream is out of bounds to Cdn. troops.

2. This water supplies drinking water for all units in this area and must not be contaminated by bathing and washing of clothes.

55. ROADS

1. Further to Part I Order No. 5, d/23 Jul 43, Para 35, vehicles which of necessity must use the one way portion of the road for serving 3 Bn. will obtain written permission from DAA & QMG, DAPM or S. & T.O.

56. PASSES

1. Attention is drawn to HQ, 1CBRD letter 1CBRD/5-7, d/13 Jul 43 Para 1(a).

2. Personnel below the rank of Sgt. must have a pass to be in Philippeville at any time.

57. FIRE POINTS

1. Fire points will be laid out to the following scale: 3 fire points to every line of tents and one fire point for every two Nissen huts. These fire points will consist of 3 buckets of sand.

2. "NO SMOKING" notices will be displayed in all stores and storage points of inflammable materials.

58. MARRIAGES IN NORTH AFRICA

1. Any members of the British military forces (including members of the women's forces, V.A.D. and F.A.N.Y.S.) and all British nationals subject to military law, who wish to be married in this theatre must apply to their C.Os.

2. The application will be considered and the applicant told what certificates and formalities are necessary; but it should be understood that marriages in this theatre are strongly discouraged.
Full instructions are being issued to C.Os and formation and area Commanders.

(P.T.O.)

58. MARRIAGES IN NORTH AFRICA (Cont'd.)

3. No marriages will be permitted without the certificate of the appropriate military authority.

59. MOSQUITO NETS

The following is an extract from G.R.O. Serial 27, d/30 Jul 43, No. 350

1. "Mosquito nets are a personal issue. Any soldier, other than a battle casualty, reporting sick, will take his mosquito net with him to hospital. The hospital will be responsible for storing the net and handing it over to the patient on his discharge or transfer from hospital".

60. TOMMY COOKERS

The following is an extract from G.R.O. Serial 27, d/30 Jul 43, No. 359.

1. "The new type of Tommy Cooker is equivalent to two of the old type and will be issued accordingly".

61. REGISTERED D.R.L.S.

The following is an extract from Area R.O. Serial 56, d/2 Aug 43 No. 722.

"Responsibility of Originators

1. They will mark to be sent by REGISTERED DRLS ONLY, those despatches bearing a security classification of CONFIDENTIAL or higher, or those requiring registering for some special reason (for example: drafts of which NO copy is retained, or documents difficult to reproduce).

2. They will endorse dispatches for REGISTERED DRLS with the following in addition to the addresses:-

(a) A blue pencilled cross made over the entire face of the dispatch.
(b) A reference (file) number.
(c) The signature, and organization of an officer.

3. ALL UNREGISTERED parcels will be counted and checked at Dispatching and Receiving Officers".

62. GRAPES

The following is an extract from Area R.O. Serial 56, d/2 Aug 43, No. 724.

1. "All grapes in this area have recently been sprayed with a poisonous solution of arsenic and copper sulphate.

2. If grapes are eaten unwashed, in addition to the danger of contracting dysentry, there is also a considerable risk of metallic poisoning".

63. FIELD PUNISHMENT CAMP AND MILITARY PRISON

The following is an extract from Area R.O. Serial 56, d/2 Aug 43 No. 726.

(Cont'd.)

63. FIELD PUNISHMENT CAMP AND MILITARY PRISON (Cont'd).

1. "No. 9 Field Punishment Camp at SIDI MABROUK, CONSTANTINE (L963822, Sheet 17 CONSTANTINE 1:200,000) will accept soldiers sentenced to Field punishment for 21 days or over from BONE, CONSTANTINE and PHULIPPEVILLE AREAS and also from localities in BOUGIE AREA which are situated nearer CONSTANTINE than ALGIERS. The telephone number of the camp is CONSTANTINE 3426, ext. 74. The nearest railway station is CONSTANTINE.

2. Sentence of less than 21 days Field punishment will continue to be served under formation or unit arrangements.

3. Before despatching a soldier under sentence, units will ascertain from the Commandant of the Field punishment camp concerned that accommodation is available. They will then despatch the soldier in time to arrive at the camp, whenever practicable, not later than 1800 hrs on the day of admission.

4. OsC units (or unit providing escort) will ensure that all soldiers sent to the camp are clothed, including greatcoat and equipped in accordance with King's Regulations 1940, para 747(i), and War Clothing Regulations 1941, para 83. Blankets will be taken by the soldier. Arms, but not ammunition will be taken by all soldiers who are issued with rifles or pistols.

5. The following documents, duly completed, will accompany the soldier.

(a)	A.F.B. 122 (MFM 6)	- Field Conduct Sheet.
(b)	A.F.C. 385A (Form D see MML p 775)	- Form of commitment on award by court martial. This form will be amended to suit awards of Field punishment to be served in a Field punishment camp.
(c)	A.F.C. 355	- This will accompany the commital warrant.
(d)	Medical Officer's certificate)	- Certifying that the soldier is fit to serve his sentence and is free from vermin, infectious or contagious disease. The soldier's medical category will also be included.
(e)	C.O's Report	- To enable the Commandant, Field punishment camp to arrange suitable military training, the OC unit will attach a brief description of the man's character as a soldier and any subjects on which the soldier requires further instructions.
(f)	A.F.H. 1157 or AFP 275)	- Inventory of kit (in duplicate).

64. PREVENTION OF DISEASES

The following is an extract from Area H.Q. Serial 56, d/ 2 Aug 43, No. 727.

1. "Diseases in dogs that can be readily transmitted to human beings are very prevalent in this country. Apart from rabies which is caused by the bite or saliva of a dog, there are other diseases such as typhus that may be transmitted by dog ticks or excreta. All ranks are consequently warned of the danger of allowing stray dogs to come near them or to lick them

(P.T.O.)

64. PREVENTION OF DISEASES (Cont'd.)

2. In the event of being bitten by a dog, medical treatment will be sought without delay in accordance with instructions given in G.R.O. 183/43. Every effort will be made to identify the dog and get it tied up and isolated".

65. SAFEGUARDING MOTOR VEHICLES

The following is an extract from Area R.O., Serial 56, d/2 Aug 43, No. 728.

1. "All motor vehicles, when not attended to under charge of a guard will be locked up in a garage or immobilised. If a vehicle contains stores or equipment, the driver will sleep in the vehicle at night whenever the vehicle or its contents cannot otherwise be safeguarded".

66. TRANSIT RATIONS

The following is an extract from Area R.O., Serial 56, d/2 Aug 43, No. 730.

1. "In view of the delays attendant upon railway journeys in this thentre, troops travelling by rail are normally issued with a proportion of rations in excess of strict requirements, in order to cover such contingencies. Soldiers should, however, be instructed that any rations not consumed must be handed in to the unit ration stores on completion of the journey; the retention by the soldier of any excess is forbidden".

67. BOILERS, STOVES SOYER

The following is an extract from Area R.O. Serial 56, d/2 Aug 43, No. 732.

1. "Considerable damage to soyer stoves is reported as the result of negligent handling. Personnel concerned must be warned that if only a few inches of water are left in the boiler while the fire is burning, the heat will cause the tin to run from the rest of the boiler which will consequently rust. Care will be taken to ensure that boilers are not burnt out through the water being allowed to dry out completely while the fire is still alight".

68. RETURN - WIRELESS RECEPTION SETS

The following is an extract from Area R.O., Serial 56, d/2 Aug 43, No. 735.

1. "A return will be rendered by all units to this Headquarters by 6 Aug 43, indicating the number, if any, of Type C, No. 2 Wireless Reception Sets held".

69. SIDE ARMS

1. Officers will wear side arms at all times when proceeding on duty beyond a six mile area from 1 C.B.R.D. and at all other times when parading with troops.

70. EQUIPMENT - TRAINING - EAR PROTECTION

The following is an extract from O.R.O. No. 3615, d/12 Jul 43.

1. "Investigations show that modern weapons are causing considerable damage to the ears of personnel who refrain from wearing ear protectors

(Cont'd)

64. PREVENTION OF DISEASES (Cont'd.)

2. In the event of being bitten by a dog, medical treatment will be sought without delay in accordance with instructions given in G.R.O. 183/43. Every effort will be made to identify the dog and get it tied up and isolated".

65. SAFEGUARDING MOTOR VEHICLES

The following is an extract from Area R.O.,Serial 56,d/2 Aug 43, No. 728.

1. "All motor vehicles, when not attended to under charge of a guard will be locked up in a garage or immobilised. If a vehicle contains stores or equipment, the driver will sleep in the vehicle at night whenever the vehicle or its contents cannot otherwise be safeguarded".

66. TRANSIT RATIONS

The following is an extract from Area R.O.,Serial 56,d/2 Aug 43, No. 730.

1. "In view of the delays attendant upon railway journeys in this theatre, troops travelling by rail are normally issued with a proportion of rations in excess of strict requirements, in order to cover such contingencies. Soldiers should, however, be instructed that any rations not consumed must be handed in to the unit ration stores on completion of the journey; the retention by the soldier of any excess is forbidden".

67. BOILERS, STOVES SOYER

The following is an extract from Area R.O. Serial 56,d/2 Aug 43, No. 732.

1. "Considerable damage to soyer stoves is reported as the result of negligent handling. Personnel concerned must be warned that if only a few inches of water are left in the boiler while the fire is burning, the heat will cause the tin to run from the rest of the boiler which will consequently rust. Care will be taken to ensure that boilers are not burnt out through the water being allowed to dry out completely while the fire is still alight".

68. RETURN - WIRELESS RECEPTION SETS

The following is an extract from Area R.O.,Serial 56,d/2 Aug43, No. 735.

1. "A return will be rendered by all units to this Headquarters by 6 Aug 43, indicating the number, if any, of Type C, No. 2 Wireless Reception Sets held".

69. SIDE ARMS

1. Officers will wear side arms at all times when proceeding on duty beyond a six mile area from 1 C.B.R.D. and at all other times when parading with troops.

70. EQUIPMENT - TRAINING - EAR PROTECTION

The following is an extract from G.R.O. No. 3615, d/12 Jul 43.

1. "Investigations show that modern weapons are causing considerable damage to the ears of personnel who refrain from wearing ear protectors

(Cont'd)

1 C.B.R.D. PART I ORDER, NO. 8, d/7 AUG 43 (CONT'D.)

70. EQUIPMENT - TRAINING - EAR PROTECTION (Cont'd.)

2. Instructions will, therefore, be issued by commanders concerned to ensure that ear protectors are worn during firing by the following:-

Gun detachments of Field, Medium and Heavy Artillery.
Gun detachments of Light AA, Heavy AA and Coast Arty Units.
Gun detachments of R.C.A. and Infantry A. Tk. units.
Infantry squads for Projectors, Infantry A. Tk and Mortars.

3. The ideal protector should prevent injury, be readily available, enable the wearer to hear, be easily inserted and harmless. These requirements can be fulfilled by a piece of clean, dry cotton wool. It should be large enough to block the entrance to the ear passage, small enough to lie comfortably in position and inserted firmly enough to remain in position until removed by the wearer".

71. EQUIPMENT FOR AUXILIARY SERVICES SUPERVISORS - ISSUE

The following is an extract from O.R.O. 3629, d/12 Jul 43.

1. "Auxiliary Services Supervisors may be issued with the following items of equipment, if required:-

Helmets, steel, Mk II.....1
Web equipment, Patt.'37, sets.....1
Kits, camp equipment, officers, sets.....1
Respirators, A.G., complete(if not in possession on arrival from Canada.1

2. These items will be a free issue and will be recorded on Part III to M.B.M.1 which will be retained by the supervisors.

3. Auxiliary Services personnel issued with these items, will be responsible for their care and custody. When no longer required, the equipment will be withdrawn by the unit to which the personnel is attached and struck off Part III to M.B.M.1 accordingly".

72. MOVEMENT BY TRAIN

1. Personnel, Offrs or ORs travelling by train will not at any time ride on the top of railway cars. Several fatalities have recently occurred and it will be stressed to all ranks that this unnecessary risk of life will not be permitted.

73. STORES - ANTI-MOSQUITO CREAM

1. Bn. Comds are reminded that the small tins containing Anti-Mosquito cream are NOT expendable and that every care must be taken to ensure that these containers are not thrown away.

2. Refills for these tins are provided by Bn. Quartermasters, who draw this material in bulk.

L. J. Flynn

(L. J. Flynn)Major
D.A.A. & Q.M.G.
1 C.B.R.D.

N O T I C E

1. LOST - M.B.M.1, Part II (Pay Book), property of C21400,Pte. McKinnon, D., Depot H.Q., 1 C.B.R.D.

"D"

M.F.B. 355
22M—9-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A9258	Pte	Dolson, C.L.	3 Bn 1 C.E.R.D.

1. The following is a fair and true summary of the entries in the ~~Regimental and Squadron Battery~~ and/or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AA 15(1)	6	times	AA 15(1)	16 times
For AA 40	2	times	AA 40	3 times
For AA 10(4)	1	times	AA 10(4)	1 times
For AA 19	1	times	AA 19	2 times

Number of instances of gallantry or distinguished conduct

or

~~There are no entries in the conduct sheets of the accused~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and SIX days in military custody, making a total of SIX days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his attestation paper is 30 years 262 days

6. The date of his attestation specified in his attestation paper is 11 Sep 39

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 355 days

8. The accused is entitled to reckon 3 yrs 355 days service for the purpose of determining his pension, etc.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number.....Rank.....

Unit Regiment

Name.....of.....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 1st day of Sept 1943 Adjutant

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

XXX-119

Ste Dominique Pj.

DPK

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F.50455 PTE. DOMINIQUE, P.J. N.N.S. HIGHRS.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd	Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lass of kit see RP 44 fn 6.)

DPK

~~At present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of NO days, of which NO days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(1) To undergo detention for a period of twenty eight days.

(2) To forfeit all ordinary pay for a period of ~~twenty~~ fifty days DPK

(Sgd) _____ Judge-Advocate, if any.

8 Sep 1944 Date awarded.

(Sgd) D.P. Kennedy A/Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings and sentences of the court.

~~I direct that the accused be put committed to prison or detention barracks until further orders.~~ (1. AA 57A. Delete if not used.)

(Sgd) Jos Rockingham Brig

Date 9 Sep 44 Commanding 9 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused F.50455 Pte. Dominique, P.J. Date 14 Sept 44 Signature of Offr J.C. Sparks Majr

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 1 OCT 1944 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160, XXX-1179

FIELD GENERAL COURT-MARTIAL

CPA66 (In lieu of AFA81) 40/P & B/1688 (6644) 4/388

Convened by Order of Brig J.M. Rockingham Comd 9 C I B dated 7 Sep 1944

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
F.50455	Pte	Peter Joseph	Dominique	N.N.S. Highrs

PROCEEDINGS REVIEWED / Cdn HHH

JAC W.C. Bach Capt

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED DJAG Date 2 OCT 1944 Office of DJAG GHQ 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) FRANCE. on (date(s)) 8 SEPT. 1944.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 10/37

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1755 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the O.C.~~ DPK

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N.A. as interpreter? Ans _____

The Interpreter is sworn.(1) Do you object to N.A. as shorthand writer? Ans _____

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(1)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 31, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	A/MAJOR	D.P. KENNEDY	H.L.I. of C.
Member	A/Capt	J.A. WATT	S.D. & T. HIGHRS.
Member	Lieut	D.C. STEWART	S.D. & T. HIGHRS.
Judge-Advocate			
Prosecutor	A/Capt	D. EASTMAN	N.N.S. HIGHRS
Defending Offr	A/Major	A.W. JEFFERSON	N.N.S. HIGHRS

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See p 3.)

A8. The accused F.50455 PTE. DOMINIQUE, P.J. before arraignment make(s) (no) ~~no~~ plea

N.A.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) DPK arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below,* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA (if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on Three charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on~~ ~~charge(s).~~ Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex *A*, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A)(b).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....Do you intend to call witnesses on your behalf ?
Ans.....Are they witnesses as to character only ? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 46 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 43, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Yes
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex *B* and Ex *C* respectively.(3)
(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 556. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes Sir. (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its powers, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(B), 68(7), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

DPK

The accused, No. F50455 Private Peter Joseph DOMINIQUE, North Nova Scotia Highlanders, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Section 19
Army Act

When on Active Service, Drunkenness

in that he

in the Field, on the 23rd July 1944, at approximately 2200 hours, was drunk.

Second Charge
Section 11
Army Act

When on Active Service,
Neglecting to obey camp orders

in that he

in the Field, on the 23rd July 1944, at approximately 2200 hours, contrary to this unit's Part I Order No 170 dated 17th July, 1944, did enter the lines of the 7th Canadian Infantry Brigade without being in possession of proper authority.

Third Charge
Section 40
Army Act

When on Active Service,
Conduct to the prejudice of good order and military discipline

in that he

in the Field, on the 23rd July, 1944, at approximately 2200 hours, did create a disturbance in the lines of 7th Canadian Infantry Brigade.

(D.F. Forbes) Lt. Col.,
Commanding,
North Nova Scotia Highlanders

In the Field
6 Aug 44

To be tried by FIELD GENERAL COURT-MARTIAL.

In the Field
7 Sep 44

(J M Rockingham) Brig
Comd 9 Cdn Inf Bde

DPK

DP Kennedy A/Maj

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F-50455	Pte		Peter Joseph	Dominique	NNS Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Sep 44 endorsed by me, (~~or by an offr of my staff for me~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
A/Major	D.P. Kennedy	RLI of C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A/Capt	J.A. Watt	SD & G Highrs
Lt	D.C. Stewart	SD & G Highrs

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	C. Boulton	RLI of C

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in France (Country.)

Dat 7 Sep 44

J.M. Rockingham (Signed personally. RP 105 fn 2.)

Brig. (Rank.)

Commanding 9 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

8 Sep 44

I certify that No. F50455 Pte Dominique, N.J., North Nova Scotia Highlanders, is fit to undergo trial by Court Martial.

DPM

R O Campbell Capt
Signature of the Medical Officer

Statement of the accused

F.50455 Pte. Dominique P.J. N.N.S. Highrs.

Sir on the night of the 23rd of July 1944. I know I have taken some drinks of a kind that I had never tasted before. I was alone, by myself, after being given the drinks by some of the boys. For awhile I seemed to lose my senses, I roamed around and thought I was at a dance. There were people talking and I remember getting a blow on my forehead and remember nothing after. I do not know how I got into the 7th C.I.Bde lines. That is all Sir.

Pte Dominique P.J.

D.R.Kennedy Capt

DPK

Pte Dominique P.S. joined the Can. Army in Feb. 1941, came to the N.N.S. Highrs. and in May 1941 also put in the battalion pipe band. Since that time he has done his job well and his record is good, as he has no charges against him on the N.N.S.H.

On the night of the 23rd July 1944 Pte Dominique did get a hold of some liquor and apparently got in a mix up in the 7th C.I.B. area.

At this time I would like to point out to the Court that the 7th C.I.B area was just across the road from our "A" Echelon so that Pte Dominique did not wander very far from our lines and was taken in the 7th C.I.B guard room by the guard as the evidence shows.

I would also like to point out to the Court that the accused was not in the front lines at this time although he had just returned a few days before from there where he had been since "D. Day" & prior to his being picked up by the guard at 7th C.I.B. he had not been issued for any duty.

I would like the court to take into consideration that some types of liquor in this country are very strong compared to the liquor in England and in Canada. And unless one was warned of the effects this may have on them, they might easily drink too much and there are things which they would not ordinarily do.

Dismissed by Army [signature] Major

President:- Duce: Do you wish to call a character witness.
Regarding 086 : Yes.

F. 47909 C.Q.M.S. Mc KINNON J.F. N.N.S. HIGHRX. H.Q.Coy.
Sir I have been a member of H.Q. Co since 1940. I have known the accused Pte Dominigue P.J. since June 1940. And have had no trouble in regard to obeying orders or carrying out any duty he was called upon to do, by myself as an N.C.O. That is all sir.

C.Q.M.S. J.F. McKinnon

D.P.Kennedy Capt

D.P.K

Ex A

DPK

SUMMARY OF EVIDENCE IN THE CASE OF Number F50455 P. J. Dominique, Nth. N. S. Highrs., a soldier of the Cdn. Army Overseas, charged with:

First Charge A.A. Section 19	When on active service is charged with drunkedness.
Second Charge A.A. Sec. 11	When on active service is charged with being out of bounds.
Third Charge A.A. Sec. 40	When on active service is charged with conduct to the Prejudices of Good Order and Military Discipline

The accused is informed of his rights.

The accused does not demand and the C.O. does not direct the evidence to taken upon oath.

First Witness — States:
Capt. R. A. Couche, R.C.R.
Camp Commandant, 7 C.I.B.

I am Capt. R.A. Couche, R.C.R., Camp Commandant, 7 C.I.B. at approximately 2200 hrs., 23 July, 1944, MaJ. MacDonald 4th Cdn. A/Tk Bty., informs me that a fight was taking place in the Brigade Area. I gathered together two sections of the Lorne Scots, Defense Platoon and proceeded at once to the scene of the fracas. I found a bitter arguement taking place and attempts to break it up were unsuccessful. I therefor ordered the four men to be taken into custody and removed to the Brigade Guard Room. The four men were: Ptes. Elliott, Dominique; Mills, and Wheaton. All appeared to be drunk. They remained in custody until an escort arrived from their unit and removed them to their unit locality.

Whilst awaiting arrival of the unit escort one of the accused soldiers, Pte. Wheaton broke away from his escort and smashed his fist through a window, severing the artery of his right hand. He was removed to the C.D.S. under escort.

The accused declined to cross-examine the witness.

R A Couche Capt.
(R. A. Couche) R.C.R.
Camp Commandant, 7 C.I.B.

Second Witness — States:
Capt. W. R. Burnett, Nth. N. S. Highrs.
O.C. H.Q. Coy.

I am Capt. W. R. Burnett, O;C, H.Q. COY., Nth. N. S. Highrs. Personnel in "A" Ech. were acquainted with the rules and regulations which governed the actions in places in which Ech. was located. Among these rules was one which stated that personnel were not to leave their immediate area without first obtaining proper authority. This rule was based on Part 1 order, dated 17 July, 44 with particular reference to para. 170. Pte. Dominique and Mills were picked up out of bounds.

The accused declined to cross-examine the witness.

W R Burnett Capt.
(W. R. Burnett)
Nth. N. S. Highrs. O;C. H.Q. Coy

DPK

Second Witness (Contd.)

The Part 1 Order referred to by the witness is produced, read over to the accused, marked Exhibit "A", signed by me and attached hereto.

[signature] Capt.
(F. M. Sutherland)
Nth. N. S. Highrs.
Officer detailed to take Summary of Evidence.

Question to the Accused

Do you wish to make any statement ot to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer: No.

Do you wish to call any witnesses, etc in your defence at this point?

Answer: No.

Rules of Procedure 4(C), (D), (E), (F) and (G) have been complied with.

I certify that the foregoing Summary of Evidence consisting of Two pages was taken down by me in writing in the presence and hearing of the accused this 3rd day of August, 1944.

[signature] Capt.
(F. M. Sutherland) Nth. N.S. Highrs.
Officer detailed to take the Summary of Evidence

DPKennedy A/Maj

DPK

XXX-119

EXHIBIT "A"

Copy of NNSH Part I Order No 170 of 17 Jul 44.

170. Standing Orders for the Control of Towns

Application

1. These orders will apply in general to all towns in Second Army Area which are notified as being out of bounds. They may be modified as necessary on instructions from this HQ where circumstances or local conditions require.

Bounds

2. The town is "out of bounds" to all ranks except for:

(a) Personnel on duty in or passing through the town.
(b) Personnel actually billetted in the town.
(c) Organized parties under Comd of an Offr (see para 4)

Parking of Vehicles

3. There will be NO parking of vehs in the town except in the established official car park.

Organized Parties

4. Organized parties may enter the town if under Comd of an Offr, but will be subject to the following restrictions:-

(a) An organized party will only enter the town for the purpose of bathing, attending a welfare entertainment, or for such other purposes as may from time to time be authorized by HQ Second Army. It will be marched direct to and from its destination.
(b) If the party arrives in vehs, the vehs will proceed direct to the official car park where the party will debus.
(c) The party will be marched direct from the official car park to its destination. It will NOT be permitted to fall out and disperse in the town at any time during its visit.
(d) Immediately on completion of the purpose for which it entered the town, the party will fall in and march back to the car park where it will embus and move off.

General Rules

5. All personnel quartered in the town will carry a pass stamped by the Unit.

6. All ranks will be back in billets by 2200 hrs unless they are on duty.

7. The permit for Estaminets and hotels to serve drinks will be 1200 hrs to 1400 hrs and 1600 hrs to 2100 hrs. Light wines and beers only may be served to ORs.

(over)

8. All brothels are out of bounds.

9. All Offrs in the town will be prepared to est their identity, on the demand of any offr or member of the CMP.

(3 Cdn Inf Div Order 45)

No. F50455 Name Dominique, P.J. Sqn., Battery, or Company — Corps CIC — Date of enlistment — G.C. Badges — Service or Proficiency Pay

M.F.M. 6
(A.F. B.122)
[illegible] (2965)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. R.R. Bibram Capt — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Temporary Sheet.									

Certified true copy of temporary conduct sheet in my custody.
Original not yet received from Rft Bn.

H.M. Cunningham Capt

(H.M. Cunningham) Capt. Adjt,
North Nova Scotia Highlanders.
(Custodian of regimental documents)

D.P. Kennedy A/Maj

(P.T.O.)

Ex. B.

D.P. Kennedy A/Maj

ARMY FORM B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
P50455	Pte	Dominique, P.J.	Nth N.S. Highrs

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given to the most recent offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

Number of instances of gallantry or distinguished conduct. Nil

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted. [redacted]

3. The accused is not under sentence at the present time. [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and no days in military custody, making a total of no days, of which no days were spent in hospital.

5. The present age of the accused according to his record of service is 24 years.

6. The date of his attestation specified in his record of service is 18 Feb 41

7. [redacted]

8. [redacted]

9. [redacted]

10. The accused is in possession of [redacted] (*state any military decoration or reward*). Canadian Volunteer Service Medal

11. [redacted]

12. [redacted]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. F50455 Rank Pte Name Dominique, P.J. of NNS Highrs Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
		------ N I L ------		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7th day of August, 1944

(H.M. Cunningham) Capt. Adjt.,
North Nova Scotia Highlanders.

DPK

I, F50455 Pte Dominique, P.J., desire to have an officer assigned to defend me at my Court Martial.

P.J. Dominique
(Signature of accused)

1566. A/Sgt. Dominiques

REGIMENTAL DOCUMENTS

H.Q. FILE No.

NAME ARCHER JOHN EDWARD

REGIMENTAL No. J 75726

UNIT OF ENLISTMENT TORONTO SCOTTISH REGT

RANK L/CPL

CONTENTS	NON-EFFECTIVE BY
COMBINED DECLARATION FORM OR ATTESTATION AND MEDICAL HISTORY (M.F.M.1 & 1A) OR (M.F.M.2 & 2A)	DEATH
SERVICE AND CASUALTY FORM (M.F.M.4 & 4A) (A.F.B.103)	DATE
PARTICULARS OF FAMILY (M.F.M.5)	CAUSE
FIELD CONDUCT SHEET (M.F.M.6) (A.F.B.122)	AUTHORITY
CERTIFICATE OF SERVICE (M.F.M.8) COPY OF, OR DISCHARGE CERTIFICATE (M.F.M.7) COPY OF	
FORM OF WILL (M.F.M.10 OR M.F.M.10A)	
DENTAL HISTORY SHEET	DISCHARGE
MEDICAL REPORT OR CASE HISTORY SHEET	DATE
MEDICAL EXAMINATION ON LEAVING THE SERVICE	REASON
TRANSFER CLOTHING STATEMENT	AUTHORITY
LAST PAY CERTIFICATE (M.F.D.930A)	
PROCEEDINGS ON DISCHARGE	
PROCEEDINGS COURT OF ENQUIRY	DESERTION
DECLARATIONS COURT OF ENQUIRY	DATE
PAY SHEETS	AUTHORITY
CARDS	
[illegible]	

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 9th day of August, 1941.

Whereas it appears to me, the undersigned, an officer in Command of Canadian Military Headquarters, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial in reference to a superior qualified officer~~;

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

*~~I am unable to appoint~~:—

*~~three Officers to form the Court~~;

*~~a Field Officer as President~~;

*~~three Officers having more than one year's service~~;

~~[illegible]~~

Rank.	Name.	Regiment.
	Judge Advocate	
Lieut.	J.R.A. Beullac	J.A.G. Branch, CMHQ.
	President.	
Major	P.J.Kennedy	104 A/Tk Bty.R.C.A.
	Members.	

Members to be detailed by O.C. 3 Lt. A.A. Regt. R.C.A.

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

PROCEEDINGS REVIEWED. 22/8/41

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

P J Montague

*Signed (P.J.Montague) Major-General
Commanding Canadian Military Headquarters.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
L.190 Gnr (A/L/Sgt) DOMINIQUE, T.J. 1 Lt.A.A.Regt.RCA	First Charge A.A.Sec 9(2)	Not Guilty	Acquitted	
	Second Charge A.A.Sec 15(1)	Guilty	Guilty	
			To undergo detention for 35 days Aug 28, 1941. J/K JRAB	I confirm the finding and sentence but remit 25 days of the detention awarded P.J.Montague (P.J.Montague)Maj-Gen Senior Officer Canadian Military Headquarters

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(*Signed*) P.J.Montague (P.J.Montague)Major-General (*Signed*) J/Kennedy Major
Commanding Canadian Military Headquarters *President*
Convening Officer (*c*) JRABullas Lieut
Judge Advocate

(*a*) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of August, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) shorthand writer JRAB
*(4. ~~The officers under instruction~~) Judge Advocate JRAB

* Omit if not applicable.

were duly sworn.

Signed this 28th day of August 1941.

J/Kennedy Major
President of the Court Martial.
JRABullas Lieut
Judge Advocate

C. Certificate in case of death sentence.

* See footnote (*b*) on page 766 M.M.L. 1939.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~I direct that the whole remainder of the sentence be remitted and~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or having such authority, recommends suspension.

Signed this 11th day of September 1941
P.J.Montague
(P.J.Montague) Major-General
Senior Officer
Canadian Military Headquarters.
Confirming Officer.

(P.J.Montague) Major-General Senior Officer Canadian Military Headquarters SEP 1941

Promulgated and extracts taken in the case of L190 Gnr (A/L/Sgt) DOMINIQUE, T.J. 1 Lt. A.A. Regt. R.C.A.

(*a*) (Dated) SEP 15 1941 (Signed) W.H.Lyster Lt.Col. for Commanding 1 L.A.A. Regt. R.C.A.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, No. L.190 Gnr. (A/L/Sgt.) DOMINIQUE, Theodore John, 1 Lt. A.A. Regt. R.C.A., a soldier of the Canadian Army Army (Overseas), is charged with:

FIRST CHARGE
SEC 9 (2)
ARMY ACT

When on Active Service, disobeying a lawful command given by his superior officer,

in that he

at Colchester, Essex, on 23 Jun 41, did not proceed to Bisley Camp, Brookwood, for the purpose of attending N.C.O's Platoon Weapons Course C.M.H.Q. No. 304, when ordered to do so by Lieut. W.A. Clarke, 89 Lt. A.A. Bty., 1 Lt. A.A. Regt., R.C.A.

SECOND CHARGE
SEC 15 (1)
ARMY ACT

Absenting himself without leave,

in that he

at Bisley Camp, Brookwood, absented himself without leave from 0600 hours 24 Jun 41 till 2057 hours 5 Jul 41.

W.E. Huckvale

(W.E. Huckvale) Lt.-Col.
Commanding
1 Lt. A.A. Regiment R.C.A.

Colchester, Essex.

5 Aug 41.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

P/Kennedy Maj RCA
pro DAA & QMG

P.J. Montague

(P.J. Montague) Major-General
Commanding
Canadian Military Headquarters.

9 Aug 41.

I certify that I have this morning examined No L 190 Ons. (A/L/Sjt.) Dominique T.J. 1st Lt. A.A Regt. R.C.A. and in my opinion he is ~~unfit~~ fit to undergo trial by Court-Martial.

Place : Petawawa

Date : Aug 28/41

T. A. Sharman

(1gd.)
rank. C.-M.
corps 1st H. A. A.

F. A. Kennedy. Major R.C.A

FIELD GENERAL COURT MARTIAL

Evidence taken down at the trial by F.G.C.M. of L-190 Gnr. (A/L/Sgt) Dominque, T.J., 1 LAA Regt. R.C.A. Canadian Army (Overseas) held at Colchester, Essex on 28 Aug 41.

The Order convening the Court (R.P. 105) the Charge Sheet (R.P. 108) and the Summary of Evidence ~~(45)~~ are laid before the Court (R.P. 22A) The Court complies with Rs. P. 22 and 23 (Legal constitution of the Court ~~(47)~~ amenability of the accused and validity of the charge.

At 1400 hours the Court opens.

The accused is brought in.

Prosecutor--Lieut. R.G.B. Dickison

Defending Officer-- Lieut. Munroe.

Judge-Advocate--Lieut. J.R.A. Beullac, C.M.H.Q.

Medical Certificate is laid before the Court by the Prosecutor and signed by the President.

The Convening Order is read by the President to the accused. The president and the members of the court answer their names (Rs.P. 25-110)

By the President to the accused:-

Q.1 - Do you object to be tried by me as President or by any of the officers whose names you have heard read?

A.1.- No, Sir.

The President and members are duly sworn (R.P. 111) by the Judge-Advocate.

The Waiting Member is excused.

Q.2 - Do you object to G5033 Bdr. MacBean, E.B. acting as shorthand writer (R.P. 72) ~~(110)~~

A.2- No, Sir.

The Court Stenographer is duly sworn (R.P. 27)

Judge-Advocate ~~(if present)~~ was sworn by the President (21) J.R.A.B. J.A.

The Charge Sheet is signed by the President and annexed to the Proceedings.

By the President:-

Q.4 - Are you guilty or not guilty of the first charge against you which you have heard read?

A.4- Yes, Sir.

Q.5 - Are you guilty or not guilty of the second charge against you which you have heard read?

A.5 - Yes, Sir.

Q.6 - Do you understand the nature of the charge, that no more evidence will be received unless the Court requires it, that ~~the accused~~ you J.R.A.B. will not be able to testify except on the matter of character and in mitigation of sentence and that ~~he is~~ you are J.R.A.B. now liable to be sentenced as the Court decides.

A.7 - Yes, Sir.

R.P. 35 (b) complied with.

Court is Closed.

Court re-opened, and the accused brought in.

President:- The Court is not satisfied with the plea of "Guilty" to the First Charge.

Defending Officer - Is the Court entering a plea of "Not Guilty" to the First Charge?

President - Yes.

By the Prosecuting Officer:- The prosecution will endeavour to trace the movements of the accused during a period June 22 to July 25. We will endeavour to prove by witnesses that the J.R.A.B.

accused was given a command which was a lawful command, given in connection with a military duty and was given by a superior Officer and that this command was disob yed in that the accused did not proceed on the course which he was sent on, but instead stayed in London.

First Witness for the Prosecution. D-6139 A/Bdr. WRIGLEY, F. 89 LAA Bty., R.C.A. having been duly sworn in is examined by the Prosecutor.

Q. 1 Bdr. Will you give the Court your Name, Number, Rank, Battery?

A. 1 Bdr. Wrigley, F., D-6139 of the 89 LAA Bty. R.C.A.

Q. 2 Bdr., How are you employed?

A. 2 Orderly Room Clerk.

Q. 3 Were you so employed June Last?

A. 3 Yes Sir.

Q. 4 Do you recall the events that took place?

A. 4 A few days before the Course was to begin, I had instructions from Lt. W.A. Clarke, Troop Commander of "F" Troop, to cancel the Small Arms Course for Gnr. Deutch, D. and substitute in his place L/Bdr. Dominique, T.J. I warned him on the night of the 22nd to be at R.H.Q. at 1000 hrs. the following morning for transportation to the Station to go on his course.

Q. 5 Do you recall the details of the Course?

A. 5 No, Sir, I don't.

Q. 6 You don't know what it was for, do you?

A. 6 Yes, It was a Small Arms Course.

Q. 7 Do you recognise Gnr. Dominique,

A. 7 Yes, Sir.

Q.8 Can you identify him?

A.8 I only knew him since he came to the Battery

Q.9 Can you po nt him out in the Court?

A.9 Right here, Sir (Pointing to the Accused)

Prosecutor:- That will be all.

Defender:- May I cross-examine the witness? In your evidence you said that the accused was told to take a certain train to Bisley Camp, Brookwood. Was the accused told to report to any one at Bisley Camp.

Witness:- He was ordered to go to R.H.Q. and he had joining instructions.

Q.11 - Was he ordered to report to anyone at Bisley Camp?

A.11 - I cannot say whether he was ordered to report to any one person at Bisley Camp or whether he was ordered to catch any special train.

By the President:-

Q.12 - What was the official position of the Officer who issued these Orders to Dominique?

A.12 - Lieut. W.A. Clarke, Troop Commander of "F" Troop.

Q.13 - Was he Troop Commander of the Troop that Dominique was in?

A.13 - Yes, Sir.

Q.14 - You have just said that you told the accused to report at R.H.Q. the following morning, is that right?

A.14 - Yes, Sir.

Q.15 - Were you at R.H.Q. the next morning?

A.15 - No, Sir.

President:- Alright, Bdr., that is all.

By the Prosecutor:- Sgt. Morris, P., Please.

Second witness for the prosecution was brought in and sworn.

By the Prosecutor:-

Q.1 - Sgt., Give the Court your name and number, and umit.

A.1.- K.7126 A/L/Sgt. Morris, P., R.H.Q. 1 LAA Regt. R.C.A.

Q.2 - Sgt. Morris, How are you employed.

A.2 - As clerk in R.H.Q., 1 LAA Regt. R.C.A.

Q.3 - Are you responsible for getting out orders?

A.3 - Yes, Sir.

Q.4 - What does this purporte to be?

A.5 - Daily Order, Part II, No. 50, Dated 23 June 1941, of the 1 LAA Regt. R.C.A.

Q.6 - Whose signature is this?

A.6 - The Adjutant's -- R.H. Jorgens, Captain.

Q.7 - And he signs on the bhealf of the Regt.?

A.7 - Yes, Sir.

Prosecutor:- I tender this Part II Order as exhibit "A" for the prosecution.

Defending Officer:- The accused declines to cross-examine the witness.

Court Closed.

Court Re-opened.and accused brought in.

Third Witne s for the Prosecution brought in and sworn.

Prosecutor:- Tell the Court Who you are.

Witness:- 5377978 L/Cpl. Pierpoint, B. C.M.P.

Prosecutor:- Tell the Court all you know about this case.

Witness:- On the 5 of July, 1941 I was detailed for duty on No. 5 beat, No. 3 Patrol in company of L/Cpl. Marjoram RAF when patroling along Victoria Street, towards Westminister Bridge, I saw a young lady RAF

coming towards us. As she drew close to us she said "Will you follow me, policeman?" She then crossed over to the opposite side of the road and started to walk up towards Victoria Street in company of L/Sgt. Dominique, T.J., L-190 of the 1 LAA. I and my collegue followed them along and when I got up to them I approached the Sgt and asked him if he was on pass. He stated "No" He said that he was going on a Course but did'nt state the nature of such. The young landy then stated that the Sgt. was absent. I asked him if this was correct and he stated "no". I inspected his A.B. 64 Part I and Part II and found that he was ranked as a L/Bdr. I told him that I was'nt satisfied with his statements and his books and that he would have to accompany me to the Canadian Provost Corps at Henrietta Street, he did so and I also took the young lady with me for questioning at the Canadian Provost Headquarters. He admitted being absent.

Prosecutor:- Were you present when he was questioned?

Witness:- Yes, sir. I then handed him over to the N.C.O. i/c to be detained and I also left the young lady, Miss Josephine Waltenburg of No. 2 Charleton Place, London to be interrogated by the Civil Police.

Prosecutor:- I think that will be about everything Cpl.

President:- Do you wish to examine the witness?

Defending Officer:- Yes, Sir,. You say that when you asked the accused if he was on pass he said he was going on a course.

Witness:- Yes, he said that he was going on a course.

President:- You and the other witness can go back to your duties.

Witness:- Right, Sir.

Fourth Witness for the Prosecution brought in and sworn.

Prosecution:- Give your name, number, rank to the Court.

Witness:- B76047 Sgt. H.W. Chester, Special Investigation Department

of the Canadian Provost Corps, C.M.H.Q.

Prosecutor:- Sgt. you tell the Court what you know about this case.

Witne s:- On the 6 of July, 1941 I was called to question the accused with reference to a complaint laid by Miss Waltenburg. The accused voluntaired a statement and then proceeded to Miss Waltenburh's home.

President:- In reference to this statement--was the accused warned?

Witness:- Yes he was warned by the Sergeant-Major in my presence.

President:- Did you make any threat or promise?

Witne s:- No, Sir!

President:- Is this the statement?

Witness:- Yes, Sir.

President:- Tell the Court About it.

Witness:- It is a statement voluntaired by Bdr. Dominique having been duly cautioned that anything he said would be taken down in writing and used as evidence.

Prosecutor:- I tender this certificate as exhibit "B" for the prosecution. Is there anything further, Sgt., that you wish to tell the court?

Witness:- No, Sir.

Defending Officer:- Sgt. Chester, did you see the accused sign this statement:

Witness:- Yes, Sir.

Defending Officer:- This is the statement bearing his signature.

Witness:- Yes, Sir.

President:- You can go about your duties now, Sgt. Chester.

Defending Officer:- The accused, through his counsel, will agree to the admission of that part of the Summary of Evidence given by Lieut. W.A. Clarke, to the officer taking the Summary, this witness still confined to the hospital is unable to be present.

President:- Have you any other witness?

Prosecution:- That closes the case for the prosecution.

Defending Officer:- I would like to put the accused on the witness stand.

The President explained to the accused that he could give evidence if he wished to. But in such case he would be sworn. Subject to cross-examination. J.R.A.B. F.A.

President:- Do you wish to give evidence on oath or ~~make a statement~~

Witness is sworn.

Defending Officer:- Will you tell the Court, your rank, number, and name.

Witness:- L/190 Gnr. Dominique, T.J. of the 1 LAA Regt. R.C.A.

Defending Officer:- Will you tell the court what order you recieved from Lt. W.A. Clarke on or about the 22 of June.

Witness:- On or about the 22 of June, while on parade, Lt. W.A. Clarke informed me that I was to be send on a course not stating where the course was to be held or when I was to leave.

Defending Officer:- Did you not recieve any further orders in regard to this course?

Witness:- On the night before I was to leave for the course Bdr. Wrigley told methat I was to report to R.H.Q. for transportation to the station and that I was to proceed to Brockwood on course. No time for the trains or anything was given to me.

Defending Officer:- You were'nt given any other orders?

Accused:- No other orders, sir.

Prosecution:- Where were you supposed to be going?

Witness:- I was proceeding on my way to the course in Brockwood.

Prosecution:- What sort of a school was it?

Witness:- I donot know what kind of a school it was.

President:- You tell the court, Dominique, what Lt. W.A. Clarke said to you

J.R.A.B.

Witness:- Lieut. Clarke informed me that I was going on course in place of Gnr. Duetch. And he also informed me that I would be promoted to the rank of L/Sgt. for the duration of the Course.

Prosecution:- Did you inquire of him of the nature of the Course.

Witness:- No., I was on parade and did'nt get a chance at the time.

Prosecution:- Did you attend that course.

Witness:- I was on my way to it.

Prosecution:- Did you attend that course.

Witness:- No.

Prosecution:- That is all.

President:- Who gave you the railroad warrant?

Witness:- A sgt. in R.H.Q.

President:- On the 23 June 41, you left Colchester and took a train, having this warrant with you--from what station did you leave in Colchester.

Witness March Station

President:- Did you make any inquiries as how to reach Brookwood at the station.

Witness:- Yes I made inquiries at North Station in Colchester and was informed thatI would have to change at Liverpool and Waterloo Stations. in London.

President:- Could you get to Brookwood by any other way?

Witness:- No.

President:- On arriving at Liverpool Station what was the first thing you did?

Witness.- I tried to make inquiries as to what time the train ~~the train~~ left for Brookwood.

President:- When you left Liverpool Station did you have any idea how long

be before the train left for Brookwood?

Witness:- No, Sir.

President (To the Defence) Would you like to make a final statement?

Defending Officer:- In summing up the evidence I would like to point out that by evidence given by Lieut. Clarke, the only order given to the accused was to report to R.H.Q. The Accused understood that he was to proceed on course. The accused did obey the order given to him as brought out in the evidence of the Prosecution when apprehended in London the accused signified his intention of proceeding on course. That is all, Sir.

Judge-Advocate:- I merely wish to refer the Court to MML chapter 3, Para. 10 on page 17 and Army Act--Section 9, Foot Notes 1, 5 and 7.

President:- The Court is closed for consideration of the evidence.

The Court is re-opened, and the accused brought in.

President:- The Court finds that the accused is "Not Guilty" of the First Charge. The Defending Officer has something to say--

Defending Officer:- On behalf of the accused I agree to admitting the evidence in the statement made by the accused in London on the 6 of July 1941.

President (To the Accused) Do you understand that?

Accused:- I did'nt hear it all, Sir.

Defending Officer:- On behalf of the accused I agree to admitting the evidence in the statement made by the accused in London on the 6 of July 1941.

President:- I declare the Court closed.

The Court is re-opened and the accused brought in.

President (to the Prosecuting Officer) Have you any evidence to produce

as to the character of the accused:

Prosecuting ~~Defending~~ Officer:- I produce Army Form B 296. Statement as to character of the accused L/190 Gnr. (A/L/Sgt.) Dominique, T.J. of the 1 LAA Regt. R.C.A. and a certified copy of M.F.M. 6, the conduct of the accused. that RAB

President:- ~~Did you ever get the above statement from Regimental Books?~~ Is the accused the person named in the statement which you have heard read?

Prosecution Officer:- Yes, Sir.

President:- Have you compared the contents of the above statement with the regimental books?

Prosecution--Yes, Sir.

President:- Are they true extracts from the Regimental Books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Prosecution:- Yes, Sir.

President:- Have you any other evidence?

Prosecution:- No, Sir.

President (to the defending Officer) Do you wish to cross examine the witness:

Defending Officer:- No, Sir.

President:- Do you wish to address the court?

Defending Officer:- I do Sir:- In making a plea in mitigation of the sentence for this charge I would point out on behalf of the accused tht he has ~~xxxxx~~ saved much of the Courts time and effort by pleading guilty to the absence without leave charge and also that at the Orderly Room hearing of this case on the 8 of July, 1941 the accused was reduced in rank from L/Bdr. to Gunner presumably in RAB

punishement for the offence for which he is now on trial. The Accused was committed to the guard detention room where contrary to regulations set forth in Para 611 K.R. Can, he carried out punishement with offenders already under sentence. Wanting to be of some use while awaiting trial the accused went to work in the Officers Mess at Sobraon Barracks without escort on or about the 16 of August 1941 andhas well and duly performed all duties required of him. He returned to the Guard Room each night where he was placed in confinement. The accused has been under close arreat for 54 days Until now the accused has been guilty of no crime during his five years with the Royal Canadian Mounted Police and his 18 months with the Canadian Forces. That is All.

President:- The court is closed for consideration of the evidence.

JROB.

JROB

2

SUMMARY OF EVIDENCE

in the case of

L-190 Gnr. (A/L/Sgt.) DOMINIQUE, Theodore John, 89 LAA Bty.

FIRST WITNESS

Lieut. W. A. Clarke, 89 Lt. A. A. Bty., 1 Lt. A. A. Regt. R.C.A., having been duly sworn, states:-

"I am Lieut. W. A. Clarke, Troop Officer in the 89 Lt. A. A. Bty. R.C.A. On or about 22 Jun 41, I told the accused that he had been selected to attend a Small Arms Course, and that he would report to R.H.Q. at 1000 hours 23 Jun 41. I also informed the accused that he would be appointed an Acting Lance-Sergeant for the duration of the course.

W A Clarke Lieut.

I hereby certify that the above witness was unable to be present during the taking of the summary of evidence due to the fact that he was confined to hospital. (R.P. 4(G))

W Vaughan Lieut.
Officer Taking the Summary

I do not demand the attendance of this witness for cross examination.

T J Dominique
L-190 Gnr. (A/L/Sgt.) Dominique, T.J.

V.J.H.

SUMMARY OF EVIDENCE

in the case of

(A/L/
L-190 Gnr. Sgt.) DOMINIQUE, Theodore John, 89 LAA Bty.,

1 Light Anti-Aircraft Regt. RCA.

SECOND WITNESS

D-6139 A/Bdr. WRIGLEY, F., 89 LAA Bty., 1 L.A.A. Regt. R.C.A., having been duly sworn, states:-

First Charge : Sec. 9 (2) Army Act.

"I am D-6139 A/Bdr. Wrigley, F., Battery Orderly Room Clerk of the 89th Battery. I had instructions from Lieut. W.A. Clarke to cancel the Small Arms Course for D-6050 Gnr. Deutch D., and substitute L-190 A/L/Bdr. Dominique, T.J. Lieut. J. Dick took away some information concerning the course which he gave to the accused. The course was to commence on the 23rd of June 1941, and the accused was to report to R.H.Q. at 1000 hours 23rd of June for transportation to the station. I warned the accused to be at R.H.Q. at 1000 hours on June 23rd on the night of June 22nd. I again warned him on the morning of June 23rd. A couple of days before the course was to commence Lieut. W.A. Clarke informed the accused in my presence that he was being promoted to A/L/Sgt. for the duration of the course. He also informed me to have it published in Orders."

The accused declines to cross-examine this witness.

F. Wrigley
(F. Wrigley) A/Bdr.

THE ACCUSED was asked:-

Do you wish to make any statement, or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing and may be given in evidence.

The accused declined to make any statement.

Rules of Procedure No. 4 (C), (D) and (E) have been complied with.

Taken down by me in the presence of the accused persons at Sobraon Barracks, Colchester, Essex, this 15th day of July 1941.

J.J. Taugher Lieut.
(J.J. Taugher) Lieut.
A/Adjutant
1 L.A.A. Regiment R.C.A.

F/K

SUMMARY OF EVIDENCE

in the case of

L.190 Gnr. (A/L/Sgt.) DOMINIQUE, Theodore John, 89 LAA Bty.

1 Light Anti-Aircraft Regt. R.C.A.

THIRD WITNESS

K.7126 A/L/Sgt. MORRIS, P., R.H.Q., 1 L.A.A. Regt., R.C.A. having been duly sworn, states:-

First Charge : Sec. 9 (2) Army Act.

"I am K.7126 A/L/Sgt. Morris, P., Orderly Room Clerk, R.H.Q. 1 L.A.A. Regiment R.C.A. I produce Daily Order Part II No. 50 dated 23 Jun 41, and testify that it is a true copy of the original Daily Order Part II No. 50 dated 23 Jun 41 issued by the C.O. 1 L.A.A. Regiment R.C.A."

The accused declines to cross-examine this witness.

K 7126 A/L/Sgt. P. Morris

(P. Morris, A/L/Sgt.)

The ACCUSED was asked:-

Do you wish to make any statement, or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

The accused declined to make any statement.

Rules Of Procedure No. 4 (C), (D) and (E) have been complied with.

Taken down by me in the presence ~~xxxxxx~~ of the accused person at Sobraon Barracks, Colchester, Essex, this 23rd days of July 1941.

J. Taugher Lieut.

(J. Taugher) Lieut.
1 L.A.A. Regiment R.C.A.

P.M.K.

CANADIAN MILITARY HEADQUARTERS

CANADIAN PROVOST CORPS
(Special Investigation Department)

F.J. Kennedy Maj. R.C.A.

STATEMENT of WITNESS

LONDON, 6 July 41.

NAME - DOMINIQUE, Theodore John

REG.No. L-190, RANK - L/Bdr. AGE - 29 MARRIED

UNIT - 89th Battery, 1st L/A/A Reg't., R.C.A.

STATEMENT:

I have been cautioned by C.S.M. AYRE in the presence of Sgt. CHESTER that I need not say anything unless I wish to do so but that anything I do say will be taken down in writing and may be used in evidence and to show that I understand this I sign my name here

T.J. Dominique

I left my unit at Colchester on the 23rd of June, 1941, with instructions to report to a school at Brookwood for the purpose of taking a small arms course. I am a L/Bdr. and I was appointed a L/Sgt. for the duration of the course. I did not report to the school. I stopped off in London on the way to Brookwood. I had in my possession £11-10-0 of my own money.

I was walking around Waterloo Station about an hour after getting off the Colchester Train - I was waiting for the train to Brookwood - when I met Miss Josephine WALTENBURG. I had met her in London before and I thought she was a prostitute. We went and had a few drinks. I had intended to catch the train for Brookwood but I got drunk and went home with her and stayed with her for the night.

I told her that I was supposed to be on a course at Brookwood and that if I didn't go I would be A.W.L. She asked me to stay with her for a while and I agreed. We stayed at two other places before we went to Charlewood Place, and she helped me to spend what money I had. About the first of July, she and another fellow whom she says is her brother - I know he is not - went to 2 Charlewood Place and rented a room for her and I and one for the other fellow. I had nothing to do with the arrangements but I gave her £1-10-0 to pay for the rent of our room. I moved in with her the same night. I do not know what she told the landlady about me. I did not know until yes-terday that the Landlady understood us to be man and wife. I have never pretended to anyone or told anyone that I worked at C.M.H.Q. and I have not told anyone that I was getting married and was drawing my deferred pay. I have not promised to marry Mis WALTENBURG. I am a married man, my wife is in Canada. I have been going around with several women in London and Miss WALTENBURG knows about it. She also knew that I was absent without leave.

I had no reason to suspect that she was going to turn me over to the Military Police as she did. I told her on the afternoon of the 5 July 41 that I was going to report back to my unit and I had all my belongings packed ready to go last night. I have a Railway Warrant for the journey. She did not want me to go and she pleaded and begged me to stay with her. I think she was angry because I insisted on going back and that is why she had me arrested. I think that she went to C.M.H.Q. just to find out how she could have me arrested.

This Statement has been read over to me and it is true.

(Signature)..T.J. Dominique.....

(Witness to Signature).....F.J. Ayre.....C.S.M.

(2nd Witness to Signature).....W.H. Chester.....Sgt.

F/K

A

V.J. Kennedy Hugo R.A.

Page 1.

Corps Troops

22 June 41.

Army Order No. 49 dated 20 June 41.

1. [illegible]

(a) [illegible] to R.C.S. on posting from [illegible] and appointed to 35 Sqn. w.e.f. 16 Jun 41.

(b) A.O. [illegible] No. 49 d. 20 Jun 41, para 1 (a) [illegible] w.e.f. 19 June 41."

2. [illegible]

A.O. para No. 5 d. 18 Jun 41, para 2 (a) [illegible] w.e.f. 17 Apr. 41"

[illegible]

3. [illegible]

(a) [illegible] w.e.f. 12 Apr. 41.

(b) [illegible] w.e.f. 1 Jun 41.

(c) [illegible] w.e.f. 23 Jun 41.

(d) [illegible] w.e.f. 23 Jun 41.

(e) [illegible] w.e.f. 23 Jun 41.

(f) [illegible] w.e.f. 23 Jun 41.

4. [illegible]

(a) [illegible] w.e.f. 22 Jun 41.

[illegible]

(b) [illegible] w.e.f. 23 Jun 41.

(c) [illegible] w.e.f. 23 Jun 41.

(d) [illegible] w.e.f. 23 Jun 41.

(e) [illegible] w.e.f. 23 Jun 41.

5. [illegible]

(a) [illegible] w.e.f. 23 Jun 41.

(b) [illegible] w.e.f. 22 Jun 41.

(c) [illegible] w.e.f. 23 Jun 41.

(d) [illegible] w.e.f. 23 Jun 41.

(e) [illegible] w.e.f. 23 Jun 41.

[illegible]

[illegible] w.e.f. 4 Jun 41.

[illegible]

No. L190 Name DOMINIQUE, T. Sqn., Battery, or Company 396 A.A. Corps R.C.A. Date of enlistment 5.2.40 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 50M - 8-39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet 27/7/40 No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
PETAWAWA	27.7.40	A/L/Bdr		A.W.L. 12 days	L/Cpl Caiger	Reduced to perm. grade 29/7/40 Forfeit 12 days pay		Maj. Holt	
C.A.S.F.	Dec 3 Aug 40			This soldier completed 6 months service and in accordance with P.C. 71 the above entry was transferred from previous sheet which was destroyed.					

R. J. Kennedy, Lieut.
President

Certified true copy.
(G.J. Taugher) Lieut.
A/Adj. 1 Lt. A. A. Regt. R.C.A.

(P.T.O.)

3. The accused is not under sentence at the present time,

or,

4. The accused has been in confinement, awaiting trial on the present charges

days in Military Custody.

Total 16 54 days.

Of which 80 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 29 years

6. The date of his attestation specified in his attestation paper is 5 Feb 40

10. The accused is in possession of, or entitled to, no military decoration or military reward

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

	Date of Promotion.
In the rank of	
In the rank of	years.
In the rank of	years.

(Insert here any matter in any of the above paragraphs cannot be stated from the regimental books the foregoing must be struck through.)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name 1-190 Gnr. (A/L/Sgt.) Dominique, T.J. of the 1 Light Anti-Aircraft Regiment R.C.A.

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
		N I L		

(Continued overleaf.

Description of Court by which Tried, or name of Officer who disposed of the charge on dispensing with Trial	Date and place of Trial or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25th day of July 1941

(J.J. Taugher) Lieutenant
A/Adjutant
1 L.A.A. Regiment R.C.A.

7

H. Kennedy, Major R.C.A.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

L-190 Gnr.(A/L/Sgt.) Dominique, Theodore John, of the 1st Lt. A. A. Regiment R.C.A.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced to Court with this statement but are not to be assessed to the proceedings.

Army Forms B.B. 1805.

*The numbers inserted should correspond with the number of Entries in the Conduct sheets, preliminary here, given to the navy, warrant officers, chief petty officers and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.		*Since Enlistment.	
For Sec. 15 (1) A.A. Absence without leave	1	times	1	times.
For		times		times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct.

or,

[redacted]

2. The accused has not been previously convicted,

or,

[redacted]

1 LIGHT ANTI-AIRCRAFT REGIMENT R.C.A.

I, No. L.190 Gnr. (A/L/Sgt.) DOMINIQUE, Thedore John, hereby acknowledge receipt of the following documents:

1. Charge Sheet - 1 copy
2. Summary of Evidence - 1 copy
3. List of Witnesses - 1 copy
4. List of Members of the Court - 1 copy.

T. Dominique
(L.190 Gnr. (A/L/Sgt. Dominique)

Colchester.
21 Aug 41

1 LIGHT ANTI-AIRCRAFT REGIMENT R.C.A.

LIST OF WITNESSES FOR THE PROSECUTION

in the case of

L-190 Gnr. (A/L/Sgt. DOMINIQUE, Theodore John, 89LAA Bty.
I Light Anti-Aircraft Regt. R.C.A.

Lieut. W.A. CLARKE	-	No.2 C.A.H.U.
D-6139 A/Bdr. WRIGLEY F.	-	89 LAA Bty., 1 LAA Regt. RCA
K-7126 A/L/Sgt. MORRIS P.	-	RHQ, 1 LAA Regt. RCA
Miss Josephine WALTENBURG	-	2 Charlewood Place, London, S.W.1.
Mrs. Ellen PICKETT	-	2 Charlewood Place, London S.W.1.
L/Cpl. PIERPOINT B.	-	C.M. Police
L/Cpl. MARJORAM O.	-	C.M. Police

6 - - - - - - - - - - - -

LIST OF WITNESSES FOR THE DEFENCE

NIL

- - - - - - - - - - - - -

5

1 LIGHT ANTI-AIRCRAFT REGIMENT R.C.A.

LIST OF EXHIBITS

in the case of

L-190 Gnr. (A/L/Sgt.) DOMINIQUE, Theodore, John, 89 LAA Bty.,
1 Light Anti-Aircraft Regt. RCA

1. 1 L.A.A. Regiment R.C.A. letter 4-6, dated 20 Jun 41
2. 1 L.A.A. Regiment R.C.A. Part II Order No. 50, dated 23 June 41.
3. Charge of A.W.L. preferred by C.M. Police, London Area.
4. Statement of accused made to C.M. Police, London Area, following his arrest.
5. Statement by Josephine Waltenburg to C.M. Police.
6. Statement by (Mrs.) Ellen Pickett to C.M. Police.
7. Letter from Commandant, Small Arms School.

1 LIGHT ANTI-AIRCRAFT REGIMENT R.C.A.

STATEMENT

I, L-190 Gnr. (A/L/ Sgt) DOMINIQUE, Theodore John, wish to have an officer assigned by the convening officer to represent me at the trial.

T J Dominique

Dated at Colchester, Essex, this 15th day of July 1941.

4A-20

Pte Dompierre, J L G.

RECORDED AT CMHQ IN AB 160 4A-20

FIELD GENERAL COURT-MARTIAL

(CFA98 (To Encl of AFA3) 10/P & S/1668 (2864))

Convened at Office of C. E. Bulmer Lt Col HQ RCASC, Comd 1 Cdn C Tps dated 22 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D 126883	Pte	Joseph Leo Easton	Dompierre	Coy RCASC

PROCEEDINGS REVIEWED 19 Oct 44

J C Campbell Major

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Italy on (*date(s)*) 25 Sept 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3) AB.

(1. As to use of Summary of Evidence see RP 17 fn a. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1200 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ AB.

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter? Ans ~~—~~

~~The interpreter is sworn.(1)~~ Do you object to Capt K. A. Paynter as shorthand writer? Ans No. For AB.
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E. B. Davey	41 Cdn Army Tk Bde Coy RCASC
Member	Capt	L. A. Handley	32 Cdn C Tps Comp Coy RCASC
Member	Capt	J. R. Hearn	1 Cdn M.A.C. RCASC
Judge-Advocate	Capt	A. A. McKinnon	ADJ & JA 1 Cdn Corps
Prosecutor	Capt	J. W. Stewart	31 Cdn C Tps Comp Coy RCASC
Defending Offr	Lieut	P. A. Eaton	31 Cdn C Tps Comp Coy RCASC

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings fnc information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ~~—~~ before arraignment makes(s) (no) plea (3) AB.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. AB.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B AB.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2/2

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 126883 Pte Joseph Leo Easton Dompierre

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA. 15 (1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn b.)

A1 ~~present under sentence for~~ beginning on (*date*) ~~—~~ (1) AB.

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which N/A days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer Field Punishment No 2 for 21 days and to forfeit his ordinary pay for a period of 21 days

(Sgd) Rhys Davies Capt 25 Sept 44 (Sgd) [illegible] (RP 45, 50)

Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ~~—~~ (Sgd) ~~—~~ Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn f.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the ~~finding~~ and the ~~sentence~~ of the Court.

I direct that the accused be ~~not committed to prison or detention barracks until further orders.~~(1) CRO

(1. AA 57A. Delete if not used.)

(Sgd) C E Bulmer Lt Col

Date 29 Sept 44 Commanding HQ Cond RCASC 1 Cdn C Tps

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

Promulgated 30 Sep 44. [illegible] Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans No Sir.[5]
(*1. RP D*(*B*). *2. RP* 37(*D*) *fn* 6. *3. RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. *4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.[1]
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charge(s) on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 below proceeding with C 2.[1]
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B4 to B5 of Record Form B above.[1]
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....[1]
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.[1]
(*1. RP* 39(*B*), 40(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.[1]
(*1. RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*F*).)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ! Ans .....
(*1. RP* 115. *2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AFS. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 41, 103(*e*).)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.
(*1. RP* 42, 117(*A*). *See Notes in Part I of Schedule. 2. RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.[1]
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]
(*1. AA* 54(3) (*b*), *RP* 45, 120(*A*). *2. AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?[1]
Ans No Sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 6. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (~~extract~~) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(2) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex C respectively.[3]
(*1. AFB 355 or AFB 256. 2. MFM 6. 3. RP 46, KR Con 538. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?[1] Ans Only to say that I am sorry for what I have done Sir.[2]
(*1. RP* 37(*C*), 46(*D*). *2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to persist on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(*1. AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]
(*1. When several accused tried separately see RP* 30(*C*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 89, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas KO* 308, 2323, *MML p* 90, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(3), 68(1), *KR Can* 564. *2. RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

AD

D-126883 Private DOMPIERRE, Joseph Leo Gaston Jos, of 31 Canadian Corps Troops Composite Company, Royal Canadian Army Service Corps, a soldier of the Canadian Army Overseas, is charged with:

First Charge
Army Act
Section 15 (1)

WHILST ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he

in the field, in Italy, did absent himself without leave from 0700 hours 4 September 1944 until apprehended by C.M. Police at SPOLETO, ITALY, at approximately 1115 hours 16 September 1944. Absent 12 days 4 hours 15 mins.

W.P. Bailie

(W.P. Bailie) Major
Officer Commanding,
31 Cdn C Tps Comp Coy.,
R.C.A.S.C.

In The Field
21 Sep 44

To be tried by R.C.M.

22 Sep 44 C, RCASC 1 Cdn C Tp

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/FMS/1497 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-126883	Pte.		Joseph, Leo, Gaston	DOMPIERRE	31 Cdn C Tps Comp Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 Sept 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [illegible]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F.B. Davey	41 Cdn Army Tpt Coy RCASC

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt.	To be appointed by O.C. 32 Cdn C Tps Comp Coy RCASC	
Capt.	To be appointed by O.C. 1 Cdn M.A.C. RCASC	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt.	To be appointed by O.C. 31 Cdn C Tps Comp Coy RCASC	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt.	DesRosiers	A.D.J.A. 1 Cdn Corps

On Active Service in the Fd

in ITALY (Country.)

Date 22 Sept 44

(Signed personally. RP 105 fn 2.) C.E. Bulmer (Rank.)

Commanding (C.E. Bulmer) Lt.-Col. HQ RCASC 1 Cdn C Tps
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

WAR DEPARTMENT (A.G.O. Form 0-8)

48

I certify that I have this morning conferred No. O 126873 Pte

DEMPIERRE, S. of 31 Adm. P.O. Corps of RCASC and in my opinion he is

(fit) to undergo trial by Court-martial.

(unfit)

Field

Date 25 Sept 44

J.H. Humfrey Roderick

Medical Officer

SUMMARY OF EVIDENCE IS HEAD BEFORE THE COURT

Q: Do you wish to give evidence yourself or call any witnesses as to your character?

The accused addresses the Court himself in medigation

" Before, I used to be with 81 Arty Coy with friends. About one third of the personnel in that Coy were French speaking. I didn't transfer to 31 Coy. I never asked for transfer to 31 Coy. In this Coy it is mostly English speaking and I have trouble speaking English. If at all possible I would like to be transferred from 31 Coy. This is all I have to say.

Taken down by me this 25th day of September, 1944

K.A. Paynter

C-11517 Cpl. Paynter, KA
HQ RCASC 1 Cdn C Troops.

Ex "A" to D.

SUMMARY OF EVIDENCE

Summary of evidence in the case of No.D-126883 Private Dompierre, J.L.G. of 31 Canadian Corps Troops Composite Company, Royal Canadian Army Service Corps, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on Oath.

First Witness for the prosecution

No. D-91720 L/Sgt Luker, O., of 31 Canadian Corps Troops Composite Company, Royal Canadian Army Service Corps, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

At "A" Platoon lines of 31 Canadian Corps Troops Composite Company, Royal Canadian Army Service Corps, on 4 Sep 44 at 0700 hours, acting in my capacity as Lance-Sergeant of the Platoon I went through the platoon lines checking to see if all the men were up, I found that D-126883 Pte Dompierre, J.L.G. was not in or around his tent and his bed hadn't been slept in. I couldn't find him in the platoon lines and reported him to Coy HQ Orderly Room as AWL as of 0700 hrs 4 Sep 44. I had not seen him in the platoon or company area until 20 Sep 44 when he was returned under escort.

O Luker L/Sgt

The accused declines to cross-examine the witness.

Second Witness for the prosecution

No. 6347918 Sgt Brooks, W. of C.M.Police. A written statement of this witness' evidence purporting to be signed by him and corroborated and signed by 5491984 L/Cpl Carrey, F. of C.M. Police has been read to the accused and is icluded in this summary of evidence and marked Exhibit "A".

Having regard to the exigencies of the service attendance of these witnesses cannot in my opinion be readily procured.

J W Stewart Capt
(J.W. Stewart) Captain
Officer detailed to take the Summary of Evidence.

The accused does not demand the attendance of this witness for cross-examination.

The accused was cautioned as follows: " Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused was also cautioned in French as follows: "Desirez-vous faire une declaration ou rendre temoignage sous serment ? Vous n'etes pas oblige de dire quoi que ce soit ni de rendre temoignage a moins que vous ne le desiriez mais tout ce que vous ferez sera pris par ecrit et pourra servir de preuve."

The accused declines to make a statement and reserves his defence.

I certify that the forsgoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c),(d),(e), (f) and (g) have been complied with.

J W Stewart Capt
(J.W. Stewart) Captain
Officer detailed to take the Summary of Evidence

In The Field
21 Sep 44

Exhibit "A" to Statutory Decl.

ATTENTION IS DRAWN TO GRO 19
DATED 5/2/43 AND AGI 1911/41.

18.

B 252

CHARGE

(See King's Regulations)

ROYAL CANADIAN ARMY SERVICE CORPS. Regiment

31. ~~Battery~~ ~~Squadron~~ ~~Troop or~~ Company

CHARGE against No. 126883. Rank PTE.

Name DOMPIERRE. J. H.

Place Date of Offence

OFFENCE WOAS.

ABSENT FROM ? UNTIL APPREHENDED BY THE MILITARY POLICE AT SPOLETO ON 16TH. SEPTEMBER 1944. ABOUT 1115 HRS.

[signature] DATE 17 SEPTEMBER 44

Names of Witnesses:

6347918. SGT. W. BROOKS. C.M. POLICE.

5491484. L/CPL. F. CARREY. C.M. POLICE.

~~6347731~~ CPL. R. LILLEY. NCO I/C GUARD. CMP GUARD STATEMENT ATTD

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

Statement of EVIDENCE in the case of:-

D. 126 813. PTE. J.H. DOMPIERRE.
31. COMPANY
ROYAL CANADIAN ARMY SERVICE CORPS.

Sir:- At SPOLETO on the 16th. September 1944. about 1115 hours. I was proceeding along the SPOLETO - PERUGIA ROAD. in the company of 5491984. Sgt. F. CARREY. C.M. POLICE. when I saw two soldiers sitting at the side of the road.

I stopped & questioned the A/N soldier as to the reason of him being there. He replied, "I am waiting for a vehicle" On being asked to produce a leave pass, he was unable to do so. I arrested & conducted him to Coy H.Q. PERUGIA where I handed him over to be detained.

PERUGIA
16. 9. 44.

W. Brooks. Sgt
C.M. POLICE

REMARKS

Sir:- I have read over & corroborate the above statement.

PERUGIA.
16. 9. 44.

J. Carrey. Sgt.
C.M. Police.

Ex "B"

M.F.B. 155
2234—5-41 (372-3)
H.Q. 1772-39-626
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-126883	Pte	Dompierre, Joseph Lucien Tom	31 Cdn C Tps Comp Coy R.C.A.S.C.

1. The following is a fair and true summary of the entries in the Regimental Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. 39(1): 10 (4)	One time	Two times
For A.A. 39(1): 15 (1)	One times	Six times
For A.A. 39(1): 15 (2)	Nil times	One times
For A.A. 39(2): 40	Two times	Two times

Number of instances of gallantry or distinguished conduct

There are no entries in the conduct sheets of the accused

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

Previous convictions of the accused by a court-martial or civil court of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 39 are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time.

The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 9 days in military custody, making a total of 9 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 24 years

6. The date of his attestation specified in his attestation paper 3 Mar 42

7. The service which the accused is allowed to reckon towards discharge is 2years 6 months

8. The accused is entitled to reckon 2½yrs service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to). State any air force decoration or reward. military military C.V.S.M.&Clasp military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated N/A, and in his regiment (or corps), the rank of

N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of N/A years.

In the rank of N/A years.

In the rank of N/A years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank Unit

Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

J.W. Stewart Capt.

Signed this 22nd day of September 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F. B.127)
40/F & /8130 (2065)

No. D-126803 Name Dompierre, G. | Sqn., Battery, or Company | Corps R.C.A.M.C. | Date of enlistment 2 Oct 41 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Sheet destroyed	2 Apr 42			Last entry NIL Cases of drunkeness NIL					Forf 6 days pay and cost of apprehn $13.53
Camp Borden	5 May 42	Pte		AA 3EO:15 (1) AWL 5 days 4 hrs 45 mins.	Documentary	Admonished	12 Jun 42	Capt Wilson	
Camp Borden	6 JUN 42	Pte		AA 3EO:15 (1)AWL 6 hrs 30 mins	Documentary	Admonished	7 Jul42	Capt w Wilson	Forf 1 dy pay
Camp Borden	2 Sep 42	Pte		AA 3EO:15(2) Failing to appear at the place of parade appointed by his C.O.	Sgt Lockerbie	7 days C.B.	3 Sep42	Capt Wilson	
Camp Borden	30 Sep 42	Pte		AA 3EO:15 (1) AWL 5 dys 10 hrs 25 mins	Documentary	28 dys det	13 Oct 42	Capt Wilson	Forf 6 dys pay Forf 40 dys
				AA 3EO:10(4) Breaking out of barracks, not in possession of pass	(Cost of apprehension and	Trans $17.72 meals			$3.00 plus cos

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	27 Nov42	Pte		AA 3EC:15(1) AWL 5 days 17 hrs	Documentary	28 days det	8 Dec 42	Major Copeland	Forf 6 days pay & allow PM&I
BathurstN.B.	28 Dec42	Pte		AA 3EC:15(1) AWL 20 hrs 30 mins	Documentary	28 days det	27 Jan43	Lt-col Andrew	Forf 58 days pay & cost of apprehension
Field	19 Apr43	Pte		AA 3EC:10(4) Breaking out of barracks after Tattoo Roll call	Documentary	5 days extra fatigue	20 Apr 43	Lt Rutledge	
Field 19/6/43		Pte		AA 3EC:15(1) AWL 1 day 11hrs 30 mins	L/C Loiselle L/C Godlien L/C Demers	7 days F.P.	22/6/43	Lt-col Fletcher	Forf 2 dys pay148 (1)(a)7 dys pay 149 (1)(b) PM&I
Field 16/9/43		Pte		AA 40 Improperly dressed	Documentary Pte Young	3 days Pay	17/9/43	CaptCampbell	
Field 15/8/44		Pte		AA 40 Not wearing crash helmet while riding M/C	Documentary	7 days pay PM&I 149(2)	17/8/44	CaptCampbell	

Certified True Copy J.W. Stuart Capt
O i/c Regt Books 31 Cdn Tr Regt Comp Coy
R.C.A.S.C. 21 Sep 44

COUNTER NUMBER 3144

HOUR 11.50

OPERATOR'S INITIALS GmB

RELIEVING OPERATOR

Affidavit

PROVINCE OF ONTARIO
COUNTY OF CARLETON
TO WIT:

I, Gisèle Boileau of the City of Ottawa, in the County of Carleton, an employee of the Department of National Defence, make oath and say:

1. THAT I am presently employed as a camera operator making microphotographic copies of Departmental documents for the purpose of providing a permanent record of same.

2. THAT on the date indicated therein I did make microphotographic copies of files listed in Appendix "A" hereto and of all documents contained thereon.

3. THAT the said microphotographic copies may be identified from the indexing data and the job and reel numbers contained in Appendix "A".

SWORN before me at the City of Ottawa, in the County of Carleton, this day of A.D. 19

CAMERA OPERATOR

A NOTARY PUBLIC

Dated November 24th, 1952

APPENDIX "A" TO THE AFFIDAVIT

CAMERA OPERATOR'S REPORT

PRODUCTION DATA	DATE	HOUR
STARTED		
FINISHED		
TOTAL NO. OF HOURS		5 2/3
TOTAL NO. OF IMAGES		5144

JOB NO. 44 REEL NO. 17

BOOK NO. 12-1

INDEXING DATA 44-17A 44-17B

BEGINS WITH	DESLAURIERS,R.	DIMAURIZIO,J.A.
1.	DESROSIERS,L.A.	DIXON,C.H.
2.	DEVOE,L.J.	DOBBINS,J.J.
3.	DICKINSON,A.E.	DOIRON,L.G.
ENDS WITH	DILLON,S.A.	DOMPIERRE, J.L.G. J.B.D.

END

SECOND

SIDE

44.17